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CURRENT LEGISLATION AND
RELATED EXECUTIVE ORDERS

U.S. SENATE

U.S. HOUSE OF REPRESENTATIVES

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FOREWORD

This volume of legislation and related material is part of a five volume set of laws and related material frequently referred to by the Committees on Foreign Relations of the Senate and International Relations of the House of Representatives, amended to date and annotated to show pertinent history or cross references.

Volumes I (A and B), II, III and IV contain legislation and related material and are republished with amendments and additions on a regular basis. Volume V, which contains treaties and related material, will be revised as necessary.

We wish to express our appreciation to Dianne E. Rennack and C. Winston Woodland of the Foreign Affairs, Defense, and Trade Division of the Congressional Research Service of the Library of Congress who prepared volume I–A of this year's compilation.

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations.

HENRY J. HYDE,
Chairman, Committee on International Relations.

February 28, 2005.

EXPLANATORY NOTE

The body of statutory law set out in this volume was in force, as amended, at the end of 2004.

This volume sets out "session law" as originally enacted by Congress and published by the Archivist of the United States as "slip law" and later in the series *United States Statutes at Large* (as subsequently amended, if applicable). Amendments are incorporated into the text and distinguished by a footnote. Session law is organized in this series by subject matter in a manner designed to meet the needs of the Congress.

Although laws enacted by Congress in the area of foreign relations are also codified by the Law Revision Counsel of the House of Representatives, typically in title 22 United States Code, those codifications are not positive law and are not, in most instances, the basis of further amendment by the Congress. Cross references to the United States Code are included as footnotes for the convenience of the reader.

All Executive orders and State Department delegations of authority are codified and in force as of February 1, 2005.

Corrections may be sent to Dianne E. Rennack at Library of Congress, Congressional Research Service, Washington D.C., 20540–7460, or by e-mail at drennack@crs.loc.gov.

ABBREVIATIONS

Bevans	Treaties and Other International Agreements of the United States of America, 1776–1949, compiled under the direction of Charles I. Bevans.
CFR	Code of Federal Regulations.
EAS	Executive Agreement Series.
F.R	Federal Register.
LNTS	League of Nations Treaty Series.
I Malloy, II Malloy	Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1776–1909, compiled under the direction of the United States Senate by William M. Malloy.
Stat	United States Statutes at Large.
TIAS	Treaties and Other International Acts Series.
TS	Treaty Series.
UNTS	United Nations Treaty Series.
U.S.C	United States Code.
UST	United States Treaties and Other International Agreements.

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[redacted]

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NOTE.—Volume I is printed in two parts, I–A and I–B, effective 1994. Volume I–B contains legislation and Executive orders relating to other foreign assistance matters, the Armed Forces, agricultural commodities, and the Peace Corps.

1. Foreign Assistance and Arms Export Acts *

a. The Foreign Assistance Act of 1961, as Amended

Public Law 87–195 [S. 1983], 75 Stat. 424, approved September 4, 1961, as amended by Public Law 87–329 [Foreign Assistance and Related Agencies Appropriation Act, 1962; H.R. 9033], 75 Stat. 717, approved September 30, 1961; Public Law 87–565 [Foreign Assistance Act of 1962, S. 2996], 76 Stat. 255, approved August 1, 1962; Public Law 87–793 [Postal Service and Federal Employees Salary Act of 1962, H.R. 7927], 76 Stat. 832, approved October 11, 1962; Public Law 88–205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963; Public Law 88–426 [Government Employees Salary Reform Act of 1964, H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88–448 [Dual Compensation Act, H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 88–633 [H.R. 11380], 78 Stat. 1009, approved October 7, 1964; Public Law 88–638 [Amendments to Agricultural Trade Development and Assistance Act of 1954, as amended; S. 2687], 78 Stat. 1035, approved October 8, 1964; Public Law 89–171 [Foreign Assistance Act of 1965; H.R. 7750], 79 Stat. 653, approved September 6, 1965; Public Law 89–371 [H.R. 12169], 80 Stat. 74, approved March 18, 1966; Public Law 89–583 [Foreign Assistance Act of 1966; H.R. 15750], 80 Stat. 795, approved September 19, 1966; Public Law 90–137 [Foreign Assistance Act of 1967; S. 1872], 81 Stat. 445, approved November 14, 1967; Public Law 90–554 [Foreign Assistance Act of 1968; H.R. 15263], 82 Stat. 960, approved October 8, 1968; Public Law 90–629 [Foreign Military Sales Act, H.R. 15681], 82 Stat. 1320, approved October 22, 1968; Public Law 91–175 [Foreign Assistance Act of 1969; H.R. 14580], 83 Stat. 805, approved December 30, 1969; Public Law 91–652 [Special Foreign Assistance Act of 1971, H.R. 19911], 84 Stat. 1942, approved January 5, 1971; Public Law 92–226 [Foreign Assistance Act of 1971; S. 2819], 86 Stat. 20, approved February 7, 1972; Public Law 92–352 [Foreign Relations Authorization Act of 1972, H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93–189 [Foreign Assistance Act of 1973; S. 1443], 87 Stat. 714, approved December 17, 1973; Public Law 93–333 [Foreign Disaster Assistance Act of 1974, H.R. 12412], 88 Stat. 290, approved July 8, 1974; Public Law 93–390 [Overseas Private Investment Corporation Amendments Act of 1974, S. 2957], 88 Stat. 763, approved August 27, 1974; Public Law 93–559 [Foreign Assistance Act of 1974; S. 3394], 88 Stat. 1795, approved December 30, 1974; Public Law 94–104 [S. 2230], 89 Stat. 508, approved October 6, 1975; Public Law 94–161 [International Development and Food Assistance Act of 1975; H.R. 9005], 89 Stat. 849, approved December 20, 1975; Public Law 94–273 [Fiscal Year Adjustment Act; S. 2445], 90 Stat. 375, approved April 21, 1976, Public Law 94–276 [Guatemala Relief and Rehabilitation Act of 1976; S. 3056], 90 Stat. 397, approved April 21, 1976; Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976; H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95–21 [Romanian Relief and Rehabilitation; H.R. 5717], 91 Stat. 48, approved April 18, 1977; Public Law 95–23 [Supplemental Military Assistance to Portugal for Fiscal Year 1977; S. 489], 91 Stat. 54, approved April 30, 1977; Public Law 95–88 [International Development and Food Assistance Act of 1977; H.R. 6714], 91 Stat. 533, approved August 3, 1977; Public Law 95–92 [International Security Assistance Act of 1977; H.R. 6884], 91 Stat. 614, approved August 4, 1977; Public Law 95–105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 846, approved August 17, 1977; Public Law 95–268 [OPIC Amendments Act of 1978; H.R. 9179], 92 Stat. 213, approved April 24, 1978; Public Law 95–384 [International Security Assistance Act of 1978; S. 3075], 92 Stat. 730, approved September

* NOTE.—The Foreign Assistance Act will be referred to as the FA Act and "this Act."

26, 1978; Public Law 95–424 [International Development and Food Assistance Act of 1978; H.R. 12222], 92 Stat. 937, approved October 6, 1978; Public Law 96–35 [Special International Security Assistance Act of 1979; S. 1007], 93 Stat. 89, approved July 20, 1979; Public Law 96–53 [International Development Cooperation Act of 1979; H.R. 3324], 93 Stat. 359, approved August 14, 1979; Public Law 96–92 [International Security Assistance Act of 1979; H.R. 3173], 93 Stat. 701, approved October 29, 1979; Public Law 96–109 [Caribbean Hurricane Relief Assistance Authorization; H.R. 5218], 93 Stat. 842, approved November 9, 1979; Public Law 96–110 [Cambodian Disaster Relief Assistance Authorization; H.R. 4995], 93 Stat. 843, approved November 13, 1979; Public Law 96–257 [Special Central American Assistance Act of 1979; H.R. 6081], 94 Stat. 422, approved May 31, 1980; Public Law 96–327 [S. 1916], 94 Stat. 1026, approved August 8, 1980; Public Law 96–450 [Intelligence Authorization Act for Fiscal Year 1981; S. 2597], 94 Stat. 1975 at 1981, approved October 14, 1980; Public Law 96–465 [Foreign Service Act of 1980; H.R. 6790], 94 Stat. 2071 at 2158; Public Law 96–525 [H.R. 8388], 94 Stat. 3043, approved December 12, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980; H.R. 6942], 94 Stat. 3131, approved December 16, 1980; Public Law 97–65 [OPIC Amendments Act of 1981; H.R. 3136], 95 Stat. 1021, approved October 16, 1981; Public Law 97–113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 97–164 [Federal Courts Improvement Act; H.R. 4482], 96 Stat. 25 at 48, approved April 2, 1982; Public Law 97–208 [Humanitarian Assistance for the People of Lebanon; H.R. 6631], 96 Stat. 138, approved June 30, 1982; Public Law 97–377 [Further Continuing Appropriations Act, 1983; H.J. Res. 631], 96 Stat. 1830 at 1831, approved December 21, 1982; Public Law 97–438 [H.R. 7143], 96 Stat. 2286, approved January 8, 1983; Public Law 98–151 [Further Continuing Appropriations, 1984; H.J. Res. 413], 97 Stat. 964, approved November 14, 1983; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 98–473 [Continuing Appropriations, 1985; H.J. Res. 648], 98 Stat. 1837 at 1884, approved October 12, 1984; Public Law 99–8 [African Famine Relief and Recovery Act of 1985; S. 689], 99 Stat. 21, approved April 2, 1985; Public Law 99–64 [Export Administration Amendments Act of 1985; S. 883], 99 Stat. 156, approved July 12, 1985, Public Law 99–83 [International Security and Development Cooperation Act of 1985; S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99–93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 442, approved August 16, 1985; Public Law 99–204 [Overseas Private Investment Corporation Amendments Act of 1985; S. 947], 99 Stat. 1669 approved December 23, 1985; Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99–440 [Comprehensive Anti-Apartheid Act of 1986; H.R. 4868], 100 Stat. 1086, approved October 2, 1986; Public Law 99–529 [Special Foreign Assistance Act of 1986; S. 1917], 100 Stat. 3010, approved October 24, 1986; Public Law 99–570 [Anti-Drug Abuse Act of 1986; H.R. 5484], 100 Stat. 3207, approved October 27, 1986; Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987; S. 2368], 100 Stat. 3816, approved November 14, 1986; Public Law 100–202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100–204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988; H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 100–461 [Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 100–690 [International Narcotics Control Act of 1988; H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101–165 [Department of Defense Appropriations Act, 1990; H.R. 3072], 103 Stat. 1112, approved November 21, 1989; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101–179 [Support for East European Democracy (SEED) Act of 1989; H.R. 3402], 103 Stat. 1298, approved November 28, 1989; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101–218 [Renewable Energy and Energy

Efficiency Technology Competitiveness Act of 1989; S. 488], 103 Stat. 1868, approved December 11, 1989; Public Law 101–222 [Anti-Terrorism and Arms Export Amendments Act of 1989; H.R. 91], 103 Stat. 1892, approved December 12, 1989; Public Law 101–231 [International Narcotics Control Act of 1989; H.R. 3611], 103 Stat. 1954, approved December 13, 1989; Public Law 101–240 [International Development and Finance Act of 1989; H.R. 2494], 103 Stat. 2492, approved December 19, 1989; Public Law 101–302 [Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991; H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101–604 [Aviation Security Improvement Act of 1990; H.R. 5732], 104 Stat. 3066, approved November 16, 1990; Public Law 101–623 [International Narcotics Control Act of 1990; H.R. 5567], 104 Stat. 3350, approved November 21, 1990; Public Law 102–88 [Intelligence Authorization Act, Fiscal Year 1991; H.R. 1455], 105 Stat. 429, approved August 14, 1991; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993; H.R. 2100], 105 Stat. 1290, approved December 5, 1991; H.R. 2621 as passed by the House on June 19, 1991 [parts of which were enacted by reference in Public Law 102–145, as amended by Public Law 102–266, 106 Stat. 92, approved April 1, 1992]; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–549 [Jobs Through Exports Act of 1992; H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 102–550 [Housing and Community Development Act of 1992; H.R. 5334], 106 Stat. 3672, approved October 28, 1992; Public Law 102–572 [Federal Courts Administration Act of 1992; S. 1569], 106 Stat. 4506, approved October 29, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103–87 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994; H.R. 2295], 107 Stat. 931, approved September 30, 1993; Public Law 103–149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 103–392 [Jobs Through Trade Expansion Act of 1994; H.R. 4950], 108 Stat. 4098, approved October 22, 1994; Public Law 103–437 [United States Code Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691, approved November 2, 1994; Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in section 301 of H.R. 2880, 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–114 [Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996; H.R. 927], 110 Stat. 785, approved March 12, 1996; Public Law 104–132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104–164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996; Public Law 104–188 [Small Business Job Protection Act of 1996; H.R. 3448], 110 Stat.

1755, approved August 20, 1996; Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104–319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864, approved October 19, 1996; Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105–214 [Tropical Forest Conservation Act of 1998; H.R. 2870], 112 Stat. 885, approved July 29, 1998; Public Law 105–277 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999; Foreign Affairs Reform and Restructuring Act of 1998; and Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105–292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October 27, 1998; Public Law 105–320 [Torture Victims Relief Act of 1998; H.R. 4309], 112 Stat. 3016, approved October 30, 1998; Public Law 105–362 [Federal Reports Elimination Act of 1998; S. 1364], 112 Stat. 3280, approved November 10, 1998; Public Law 106–31 [1999 Emergency Supplemental Appropriations Act; H.R. 1141], 113 Stat. 57, approved May 21, 1999; Public Law 106–87 [Torture Victims Relief Reauthorization Act of 1999; H.R. 2367], 113 Stat. 1301, approved November 3, 1999; Public Law 106–113 [Silk Road Strategy Act of 1999; Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3324 enacted by reference in sec. 1000(a)(2) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427 enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Arms Control, Nonproliferation, and Security Assistance Act of 1999; division B of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–158 [Export Enhancement Act of 1999; H.R. 3381], 113 Stat. 1745, approved December 9, 1999; Public Law 106–200 [African Growth and Opportunity Act; title I of H.R. 434], 114 Stat. 252, approved May 18, 2000; Public Law 106–264 [Global AIDS and Tuberculosis Relief Act of 2000; H.R. 3519], 114 Stat. 748, approved August 19, 2000; Public Law 106–280 [Security Assistance Act of 2000; H.R. 4919], 114 Stat. 845, approved October 6, 2000; Public Law 106–309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000; H.R. 1143], 114 Stat. 1078, approved October 17, 2000; Public Law 106–373 [Famine Prevention and Freedom From Hunger Improvement Act of 2000; H.R. 4002], 114 Stat. 1427, approved October 27, 2000; Public Law 106–386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat.1464, approved October 28, 2000; Public Law 106–429 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; H.R. 5526, enacted by reference in H.R. 4811], 114 Stat. 1900A–3, approved November 6, 2000; Public Law 107–26 [H.R. 2131], 115 Stat. 206, approved August 17, 2001; Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; Public Law 107–246 [Russian Democracy Act of 2002; H.R. 2121], 116 Stat. 1511, approved October 23, 2002; Public Law 107–372 [H.R. 4883], 116 Stat. 3078, approved December 19, 2002; Public Law 108–25 [United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003; H.R. 1298], 117 Stat. 711, approved May 27, 2003; Public Law 108–31 [H.R. 192], 117 Stat. 775, approved June 17, 2003; Public Law 108–158 [Overseas Private Investment Corporation Amendments Act of 2003; S. 1824], 117 Stat. 1949, approved December 3, 2003; Public Law 108–193 [Trafficking Victims Protection Reauthorization Act of 2003; H.R. 2620], 117 Stat. 2875, approved December 19, 2003; Public Law 108–287 [Department of Defense Appropriations Act, 2005; H.R. 4613], 118 Stat. 951, approved August 5, 2004; Public Law 108–323 [H.R. 4654], 118 Stat. 1218, approved October 6, 2004; Public Law 108–332 [Global Anti-Semitism Review Act of 2004; S. 2292], 118 Stat. 1282, approved October 16, 2004; Public Law 108–447 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004; Public Law 108–458 [Intelligence Reform and

Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2005; and Public Law 108–484 [Microenterprise Results and Accountability Act of 2004; H.R. 3818], 118 Stat. 3922, approved December 23, 2004

AN ACT To promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Foreign Assistance Act of 1961." [1]

PART I

Chapter 1—Policy; Development Assistance Authorizations [2]

Sec. 101.[3] **General Policy.**—(a) The Congress finds that fundamental political, economic, and technological changes have resulted in the interdependence of nations. The Congress declares that the individual liberties, economic prosperity, and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms and which work together to use wisely the world's limited resources in an open and equitable international economic system. Furthermore, the Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.

Therefore, the Congress declares that a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives.

United States development cooperation policy should emphasize five [4] principal goals:

(1) the alleviation of the worst physical manifestations of poverty among the world's poor majority;

(2) the promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits;

(3) the encouragement of development processes in which individual civil and economic rights are respected and enhanced; [5]

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[1] Sec. 111 of the Foreign Assistance and Related Agencies Appropriation Act, 1962 (Public Law 87–329; 75 Stat. 719) added the short title.

[2] Sec. 101(a) of the FA Act of 1963 struck out the words "**Short Title and**" in the chapter heading, which formerly read "**Short Title and Policy**". Sec. 2(1) of the FA Act of 1973 added the following words to the chapter heading: "**Development Assistance Authorizations**".

[3] 22 U.S.C. 2151. Sec. 101 was added by sec. 101 of the International Development and Food Assistance Act of 1978 (92 Stat. 937). Previously, sec. 101 had related to the short title before being repealed by the FA Act of 1963. This general policy statement was formerly contained in sec. 102 before 1978.

[4] Sec. 203(a)(1) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1091) struck out "four" and inserted in lieu thereof "five".

[5] Sec. 203(a) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1091) struck out "and" at the end of para. (3), replaced a period at the end of para. (4) with "; and", and added a new para. (5).

(4) the integration of the developing countries into an open and equitable international economic system; and

(5)[5] the promotion of good governance through combating corruption and improving transparency and accountability.

The Congress declares that pursuit of these goals requires that development concerns be fully reflected in United States foreign policy and that United States development resources be effectively and efficiently utilized.

(b)[6] Under the policy guidance of the Secretary of State, the agency primarily responsible for administering this part should have the responsibility for coordinating all United States development-related activities.

Sec. 102.[7] **Development Assistance Policy.**—(a) The Congress finds that the efforts of developing countries to build and maintain the social and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

Provision of development resources must be adapted to the needs and capabilities of specific developing countries. United States assistance to countries with low per capita incomes which have limited access to private external resources should primarily be provided on concessional terms. Assistance to other developing countries should generally consist of programs which facilitate their access to private capital markets, investment, and technical skills, whether directly through guarantee or reimbursable programs by

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[6] The responsibilities of the Agency mentioned in this subsection were transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The responsibilities of the Secretary of State, insofar as they relate to policy guidance other than foreign policy guidance, were also transferred to the Director. Subsequently, the Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

Sec. 1413 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6563; 112 Stat. 2681–791), furthermore, provided the following:

"SEC. 1413. STATUS OF AID.

"(a) IN GENERAL.—Unless abolished pursuant to the reorganization plan submitted under section 1601, and except as provided in section 1412, there is within the Executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5, United States Code.

"(b) RETENTION OF OFFICERS.—Nothing in this section shall require the reappointment of any officer of the United States serving in the Agency for International Development of the United States International Development cooperation Agency as of the day before the effective date of this title.".

Sec. 1522 of that Act (22 U.S.C. 6592; 112 Stat. 2681–794), furthermore, provided the following:

"SEC. 1522. ADMINISTRATOR OF AID REPORTING TO THE SECRETARY OF STATE.

"The Administrator of the Agency for International Development, appointed pursuant to section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.".

[7] 22 U.S.C. 2151–1. Sec. 101 of the International Development and Food Assistance Act of 1978 (92 Stat. 927) struck out sec. 102, which concerned a statement of policy, and added a new sec. 102.

the United States Government or indirectly through callable capital provided to the international financial institutions.

Bilateral assistance and United States participation in multilateral institutions shall emphasize programs in support of countries which pursue development strategies designed to meet basic human needs and achieve self-sustaining growth with equity.

The Congress declares that the principal purpose of United States bilateral development assistance is to help the poor majority of people in developing countries to participate in a process of equitable growth through productive work and to influence decisions that shape their lives, with the goal of increasing their incomes and their access to public services which will enable them to satisfy their basic needs and lead lives of decency, dignity, and hope. Activities shall be emphasized that effectively involve the poor in development by expanding their access to the economy through services and institutions at the local level, increasing their participation in the making of decisions that affect their lives, increasing labor-intensive production and the use of appropriate technology, expanding productive investment and services out from major cities to small towns and rural areas, and otherwise providing opportunities for the poor to improve their lives through their own efforts. Participation of the United States in multilateral institutions shall also place appropriate emphasis on these principles.

(b) Assistance under this chapter should be used not only for the purpose of transferring financial resources to developing countries, but also to help countries solve development problems in accordance with a strategy that aims to insure wide participation of the poor in the benefits of development on a sustained basis. Moreover, assistance shall be provided in a prompt and effective manner, using appropriate United States institutions for carrying out this strategy. In order to achieve these objectives and the broad objectives set forth in section 101 and in subsection (a) of this section, bilateral development assistance authorized by this Act shall be carried out in accordance with the following principles:

(1) Development is primarily the responsibility of the people of the developing countries themselves. Assistance from the United States shall be used in support of, rather than substitution for, the self-help efforts that are essential to successful development programs and shall be concentrated in those countries that take positive steps to help themselves. Maximum effort shall be made, in the administration of this part, to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local governmental activities and institution building appropriate to the requirements of the recipient countries.

(2) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

(3) United States bilateral development assistance should give high priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of

their countries, while also helping such governments enhance their planning, technical, and administrative capabilities needed to insure the success of such undertakings.

(4) Development assistance provided under this chapter shall be concentrated in countries which will make the most effective use of such assistance to help satisfy basic human needs of poor people through equitable growth, especially in those countries having the greatest need for outside assistance. In order to make possible consistent and informed judgments in this respect, the President shall assess the commitment and progress of countries in moving toward the objectives and purposes of this chapter by utilizing criteria, including but not limited to the following:

(A) increase in agricultural productivity per unit of land through small-farm, labor-intensive agriculture;

(B) reduction of infant mortality;

(C) control of population growth;

(D) promotion of greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers;

(E) reduction of rates of unemployment and underemployment;[8]

(F) increase in literacy; and

(G)[8] progress in combating corruption and improving transparency and accountability in the public and private sector.

(5) United States development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries; food production and nutrition; rural development and generation of gainful employment; population planning and health; environment and natural resources; education, development administration, and human resources development; and energy development and production.[9]

(6) United States assistance shall encourage and promote the participation of women in the national economies of developing countries and the improvement of women's status as an important means of promoting the total development effort.

(7) United States bilateral assistance shall recognize that the prosperity of developing countries and effective development efforts require the adoption of an overall strategy that promotes the development, production,[9] and efficient utilization of energy and, therefore, consideration shall be given to the full implications of such assistance on the price, availability, and consumption of energy in recipient countries.

(8) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in

[8] Sec. 203(b)(1) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1092) struck out "and" at the end of subpara. (E), replaced a period at the end of subpara. (F) with "; and", and added a new subpara. (G).

[9] The reference to energy development and production was added by sec. 104(a) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 360).

the developing areas, such as educational institutions, cooperatives, credit unions, free labor unions, and private and voluntary agencies.

(9) To the maximum extent practicable, United States private investment should be encouraged in economic and social development programs to which the United States lends support.

(10) Assistance shall be planned and utilized to encourage regional cooperation by developing countries in the solution of common problems and the development of shared resources.

(11) Assistance efforts of the United States shall be planned and furnished to the maximum extent practicable in coordination and cooperation with assistance efforts of other countries, including the planning and implementation of programs and projects on a multilateral and multidonor basis.

(12) United States bilateral development assistance should be concentrated on projects which do not involve large-scale capital transfers. However, to the extent that such assistance does involve large-scale capital transfers, it should be furnished in association with contributions from other countries working together in a multilateral framework.

(13)[10] United States encouragement of policy reforms is necessary if developing countries are to achieve economic growth with equity.

(14)[10] Development assistance should, as a fundamental objective, promote private sector activity in open and competitive markets in developing countries, recognizing such activity to be a productive and efficient means of achieving equitable and long-term economic growth.

(15)[10] United States cooperation in development should recognize as essential the need of developing countries to have access to appropriate technology in order to improve food and water, health and housing, education and employment, and agriculture and industry.

(16)[10] United States assistance should focus on establishing and upgrading the institutional capacities of developing countries in order to promote long-term development. An important component of institution building involves training to expand the human resource potential of people in developing countries.

(17)[11] Economic reform and development of effective institutions of democratic governance are mutually reinforcing. The successful transition of a developing country is dependent upon the quality of its economic and governance institutions. Rule of law, mechanisms of accountability and transparency, security of person, property, and investments, are but a few of the critical governance and economic reforms that underpin the sustainability of broad-based economic growth. Programs in support of such reforms strengthen the capacity of people to hold

[10] Paras. (13), (14), (15), and (16) were added by sec. 301 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190).

[11] Sec. 203(b)(2) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1092) added para. (17).

their governments accountable and to create economic opportunity.

(c) The Congress, recognizing the desirability of overcoming the worst aspects of absolute poverty by the end of this century by, among other measures, substantially lowering infant mortality and birth rates, and increasing life expectancy, food production, literacy, and employment, encourages the President to explore with other countries, through all appropriate channels, the feasibility of a worldwide cooperative effort to overcome the worst aspects of absolute poverty and to assure self-reliant growth in the developing countries by the year 2000.

NOTE.—Foreign assistance appropriations for fiscal year 2005 are included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of the Consolidated Appropriations Act, 2005; Public Law 108–447; 118 Stat. 2809). Amounts appropriated by that Act to carry out the purposes of provisions contained in the Foreign Assistance Act of 1961, during fiscal year 2005 unless otherwise specified, are included in footnotes.

NOTE.—Prior to fiscal year 1992, Congress appropriated funds for each of the Development Assistance functional accounts authorized in sections 103 through 106 of the Foreign Assistance Act of 1961. For fiscal year 1992 through fiscal year 1995, however, Congress made appropriations in one lump sum for all programs within sections 103 through 106, with the exception of "Population, Development Assistance". In fiscal year 1996, Congress made appropriations in one lump sum for Development Assistance. Since fiscal year 1997, Congress has made appropriations to two development accounts: "Development Assistance" and "Child Survival and Disease Programs Fund". In fiscal year 2005, the latter account is referred to as the "Child Survival and Health Programs Fund".

For fiscal year 2005, for the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961 (Development Assistance and Development Fund for Africa), Congress appropriated $1,460,000,000, to remain available until September 30, 2006. Congress also appropriated $1,550,000,000 in fiscal year 2005, to remain available until September 30, 2006, for child survival, reproductive health/family planning, assistance to combat tropical and other infectious diseases, and related activities. Congress also appropriated $70,000,000 for international disaster and famine assistance, to remain available until expended, in the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1010).

NOTE.—Transfers. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"TRANSFERS

"SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

"(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

"(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than 5 days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

"(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided,* That funds transferred under such authority may be made available for the cost of such audits.".

NOTE.—Availability of Funds. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"AVAILABILITY OF FUNDS

"SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading 'Assistance for Eastern Europe and the Baltic States', shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.".

NOTE.—Notification Requirements. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"NOTIFICATION REQUIREMENTS

"SEC. 515. For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for 'Child Survival and Health Programs Fund', 'Development Assistance', 'International Organizations and Programs', 'Trade and Development Agency', 'International Narcotics Control and Law Enforcement', 'Andean Counterdrug Initiative', 'Assistance for Eastern Europe and the Baltic States', 'Assistance for the Independent States of the Former Soviet Union', 'Economic Support Fund', 'Global HIV/AIDS Initiative', 'Peacekeeping Operations', 'Capital Investment Fund', 'Operating Expenses of the United States Agency for International Development', 'Operating Expenses of the United States Agency for International Development Office of Inspector General', 'Nonproliferation, Anti-terrorism, Demining and Related Programs', 'Millennium Challenge Corporation' (by country only), 'Foreign Military Financing Program', 'International Military Education and Training', 'Peace Corps', and 'Migration and Refugee Assistance', shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under title II of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity,

program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.".

NOTE.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"SPECIAL AUTHORITIES

"SEC. 534. (a) AFGHANISTAN, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 512 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

"(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: *Provided,* That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

"(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided,* That not more than 10 of such contractors shall be assigned to any bureau or office: *Provided further,* That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

"(d)(1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

"(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

"(e) SMALL BUSINESS.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

"(f) CONTINGENCIES.—During fiscal year 2005, the President may use up to $45,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling in section 451(a).

"(g) RECONSTITUTING CIVILIAN POLICE AUTHORITY.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

"(h) WORLD FOOD PROGRAM.—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of the United States Agency for International Development, from this or any other Act, not less than $6,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

"(i) NATIONAL ENDOWMENT FOR DEMOCRACY.—Funds appropriated by this Act that are provided to the National Endowment for Democracy may be provided notwithstanding any other provision of law or regulation.

"(j) * * * [amends other legislation]

"(k) * * * [amends other legislation]

"(l) UNIVERSITY PROGRAMS.—Notwithstanding any other provision of law, funds made available in this Act under the heading 'Development Assistance' may be made available to American educational institutions for programs and activities in the People's Republic of China relating to the environment, democracy, and the rule of law: *Provided,* That funds made available pursuant to this authority shall be subject to the regular notification procedures of the Committees on Appropriations.

"(m) * * * [amends other legislation]

"(n) * * * [amends other legislation]

"(o) ENDOWMENTS.—

oi2 "(1) Of the funds appropriated by this Act and prior Acts making appropriations for foreign operations, export financing, and related programs, that are available for assistance for Cambodia, the following amounts should be made available as follows:

oi3 "(A) $2,000,000 for an endowment for a Cambodian nongovernmental organization to document genocide and crimes against humanity in Cambodia; and

oi3 "(B) $3,750,000 for an endowment for an American nongovernmental organization to sustain rehabilitation programs in Cambodia for persons suffering from physical disabilities.

oi2 "(2) Such organizations may place amounts made available under this subsection in interest bearing accounts and any interest earned on such investment shall be used for the purpose for which funds were made available under this subsection.

"(p) * * * [amends other legislation]

"(q) * * * [amends other legislation]

NOTE.—The Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 109 Stat. 707), as amended, modified or eliminated numerous reporting requirements in law. Sec. 3003(a) of that Act provided that, subject to certain restrictions, "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list [prepared by the Clerk of the House of Representatives for the first session of the 103rd Congress, House Document No. 103–7] * * * shall cease to be effective, with respect to that requirement, May 15, 2000.".

Sec. 3003(d) of that Act, however, exempted certain sections of law from the application of subsec. (a). Among those exempted were several reports required by the Foreign Assistance Act of 1961 in secs. 116, 240A, 306, 489, 502B, and 634. Among those exempted were several reports required by the Arms Export Control Act in secs. 25, 28, and 36. Among those exempted was sec. 502 of the International Security and Development Cooperation Act of 1985. See sec. 3003(a) of Public Law 104–66 for a complete list of exempted sections of law.

Sec. 209(e) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), continued the requirement of several reports to which Public Law 104–66 would otherwise have applied, including those required in secs. 118(f), 239(c), and 620C(c) of the Foreign Assistance Act of 1961; sec. 1205 of the International Security and Development Cooperation Act of 1985; secs. 533(b) and 586J(c)(4) of the Foreign Assistance Appropriations Act, 1991. For a complete list of sections of law exempted from the application of sec. 3003(a) of Public Law 104–66 by the Nance/Donovan Act, see sec. 209(e) of Public Law 106–113.

Sec. 103.[12] **Agriculture, Rural Development, and Nutrition.**—(a)(1) In recognition of the fact that the great majority of the people of developing countries live in rural areas and are dependent on agriculture and agricultural-related pursuits for their livelihood, the President is authorized to furnish assistance, on

[12] 22 U.S.C. 2151a. Sec. 103, as added by sec. 2(3) of the FA Act of 1973 (87 Stat. 715), was amended and restated by sec. 103(a) of the International Development and Food Assistance Act of 1978 (92 Stat. 943). Previous amendments to sec. 103 were made by sec. 2 of Public Law 93–559 (88 Stat. 1795), sec. 302 of Public Law 94–161 (89 Stat. 856), and by sec. 102 of Public Law 95–88 (91 Stat. 534).

such terms and conditions as he may determine, for agriculture, rural development, and nutrition—

(A) to alleviate starvation, hunger, and malnutrition;

(B) to expand significantly the provision of basic services to rural poor people to enhance their capacity for self-help; and

(C) to help create productive farm and off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural poor people to the economic and social development of their countries.

(2) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $760,000,000 for the fiscal year 1986 and $760,000,000 for the fiscal year 1987.[13] Of these amounts, the President may use such amounts as he deems appropriate to carry out the provisions of section 316 of the International Security and Development Cooperation Act of 1980.[14]

(3)[15] Of the amounts authorized to be appropriated in paragraph; (2) for the fiscal year 1987, not less than $2,000,000 shall be available only for the purpose of controlling and eradicating amblyomman variegatum (heartwater) in bovine animals in the Caribbean.

(b)(1) Assistance provided under this section shall be used primarily for activities which are specifically designed to increase the productivity and income of the rural poor, through such means as creation and strengthening of local institutions linked to the regional and national levels; organization of a system of financial institutions which provide both savings and credit services to the poor; stimulation of small, labor-intensive enterprises in rural towns; improvement of marketing facilities and systems; expansion of rural infrastructure and utilities such as farm-to-market roads, water management systems, land improvement, energy, and storage facilities; establishment of more equitable and more secure land tenure arrangements; and creation and strengthening of systems to provide other services and supplies needed by farmers, such as extension, research, training, fertilizer, water, forestry, soil conservation, and improved seed, in ways which assure access to them by small farmers.

(2) In circumstances where development of major infrastructure is necessary to achieve the objectives set forth in this section, assistance for that purpose should be furnished under this chapter in association with significant contributions from other countries working together in a multilateral framework. Infrastructure projects so assisted should be complemented by other measures to ensure that the benefits of the infrastructure reach the poor.

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[13] The authorization figures for fiscal years 1986 and 1987 were added by sec. 302 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Authorizations for recent years included: fiscal year 1975—$500,000,000; fiscal year 1976—$618,000,000; fiscal year 1977—$745,000,000; fiscal year 1978—$580,000,000; fiscal year 1979—$665,231,000; fiscal year 1980—$659,000,000; fiscal year 1981—$713,500,000; fiscal year 1982—$700,000,000; fiscal year 1983—$700,000,000; fiscal year 1984—$725,213,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

[14] Sec. 316 of the International Security and Development Cooperation Act of 1980 concerns world hunger and instructs the Director of IDCA to encourage the ongoing work of PVOs to deal with world hunger problems abroad.

[15] Sec. 1304 of Public Law 99–399 (100 Stat. 898) added para. (3).

(3)[16] The Congress recognizes that the accelerating loss of forests and tree cover in developing countries undermines and offsets efforts to improve agricultural production and nutrition and otherwise to meet the basic human needs of the poor. Deforestation results in increased flooding, reduction in water supply for agricultural capacity, loss of firewood and needed wood products, and loss of valuable plants and animals. In order to maintain and increase forest resources, the President is authorized to provide assistance under this section for forestry projects which are essential to fulfill the fundamental purposes of this section. Emphasis shall be given to community woodlots, agroforestry, reforestation, protection of watershed forests, and more effective forest management.

(c) The Congress finds that the greatest potential for significantly expanding availability of food for people in rural areas and augmenting world food production at relatively low cost lies in increasing the productivity of small farmers who constitute a majority of the agricultural producers in developing countries. Increasing the emphasis on rural development and expanded food production in the poorest nations of the developing world is a matter of social justice and a principal element contributing to broadly based economic growth, as well as an important factor in alleviating inflation in the industrialized countries. In the allocation of funds under this section, special attention shall be given to increasing agricultural production in countries which have been designated as "least developed" by the United Nations General Assembly.

(d) Assistance provided under this section shall also be used in coordination with programs carried out under section 104 to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people. In particular, the President is encouraged—

(1) to devise and carry out in partnership with developing countries a strategy for programs of nutrition and health improvement for mothers and children, including breast feeding; and

(2) to provide technical, financial, and material support to individuals or groups at the local level for such programs.

(e) Local currency proceeds from sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section.

(f)[16] The Congress finds that the efforts of developing countries to enhance their national food security deserves encouragement as a matter of United States development assistance policy. Measures complementary to assistance for expanding food production in developing countries are needed to help assure that food becomes increasingly available on a regular basis to the poor in such coun-

[16] Sc. 101 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 359) added para. (3) and subsec. (f).

tries. Therefore, United States bilateral assistance under this Act and the Agricultural Trade Development and Assistance Act of 1954, and United States participation in multilateral institutions, shall emphasize policies and programs which assist developing countries to increase their national food security by improving their food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing post-harvest food losses, and improving food distribution.

(g)[17] (1) In order to carry out the purposes of this section, the President may continue United States participation in and may make contributions to the International Fund for Agricultural Development.

(2) Of the aggregate amount authorized to be appropriated to carry out part I of this Act, up to $50,000,000 for fiscal year 1986 and up to $50,000,000 for fiscal year 1987 may be made available, by appropriation or by transfer, for United States contributions to the second replenishment of the International Fund for Agricultural Development.

Sec. 103A.[18] **Agricultural Research.**—Agricultural research carried out under this Act shall (1) take account of the special needs of small farmers in the determination of research priorities, (2) include research on the interrelationships among technology, institutions, and economic, social, environmental,[19] and cultural factors affecting small-farm agriculture, and (3) make extensive use of field testing to adapt basic research to local conditions. Special emphasis shall be placed on disseminating research results to the farms on which they can be put to use, and especially on institutional and other arrangements needed to assure that small farmers have effective access to both new and existing improved technology.

Sec. 104.[20] **Population and Health.**—(a) FINDINGS.—The Congress recognizes that poor health conditions and uncontrolled population growth can vitiate otherwise successful development efforts.

Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least affected by economic progress, as well as the result of a lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services and is often a matter of political and reli-

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[17] Sec. 1001 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) amended and restated subsec. (g). Subsec. (g) was originally added by sec. 301(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1532). It previously read as follows: "In order to carry out the purposes of this section, the President may continue to participate in and may provide, on such terms and conditions as he may determine, up to $180,000,000 to the International Fund for Agricultural Development. There are authorized to be appropriated to the President for the purposes of this subsection $180,000,000, except that not more than $40,500,000 may be appropriated under this subsection for the fiscal year 1982. Amounts appropriated under this subsection are authorized to remain available until expended.".

[18] 22 U.S.C. 2151a–1. Sec. 303 of Public Law 94–161 (89 Stat. 849) added sec. 103A.

[19] Sec. 103(d) of the International Development and Food Assistance Act of 1978 (92 Stat. 945) inserted "environmental,".

[20] 22 U.S.C. 2151b. Sec. 104, as added by sec. 2(3) of the FA Act of 1973 (87 Stat. 715), was amended and restated by sec. 104(a) of the International Development and Food Assistance Act of 1978 (92 Stat. 945). Previous amendments to sec. 104 were made by sec. 4(1) of Public Law 93–559 (88 Stat. 1795), sec. 304 of Public Law 94–161 (89 Stat. 857), and sec. 103 of Public Law 95–88 (91 Stat. 534).

gious sensitivity. While every country has the right to determine its own policies with respect to population growth, voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition.

Good health conditions are a principal element in improved quality of life and contribute to the individual's capacity to participate in the development process, while poor health and debilitating disease can limit productivity.

(b) ASSISTANCE FOR POPULATION PLANNING.—In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for voluntary population planning. In addition to the provision of family planning information and services, including also information and services which relate to and support natural family planning methods,[21] and the conduct of directly relevant demographic research, population planning programs shall emphasize motivation for small families.

(c)[22] ASSISTANCE FOR HEALTH AND DISEASE PREVENTION.—(1)[23] In order to contribute to improvements in the health of the greatest

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[21] Sec. 302(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3145) inserted ", including also information and services which related to and support natural family planning methods,".

[22] Sec. 301(a)(1) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) struck out paras. (4) through (7) of subsec. (c), originally added by sec. 111(a) and sec. 203 of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 751, 759). The paragraphs had read as follows:

"(4)(A) Congress recognizes the growing international dilemma of children with the human immunodeficiency virus (HIV) and the merits of intervention programs aimed at this problem. Congress further recognizes that mother-to-child transmission prevention strategies can serve as a major force for change in developing regions, and it is, therefore, a major objective of the foreign assistance program to control the acquired immune deficiency syndrome (AIDS) epidemic.

"(B) The agency primarily responsible for administering this part shall—

"(i) coordinate with UNAIDS, UNICEF, WHO, national and local governments, and other organizations to develop and implement effective strategies to prevent vertical transmission of HIV; and

"(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral drugs, replacement feeding, and other strategies.

"(5)(A) Congress expects the agency primarily responsible for administering this part to make the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS) a priority in the foreign assistance program and to undertake a comprehensive, coordinated effort to combat HIV and AIDS.

"(B) Assistance described in subparagraph (A) shall include help providing—

"(i) primary prevention and education;

"(ii) voluntary testing and counseling;

"(iii) medications to prevent the transmission of HIV from mother to child; and

"(iv) care for those living with HIV or AIDS.

"(6)(A) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $300,000,000 for each of the fiscal years 2001 and 2002 to carry out paragraphs (4) and (5).

"(B) Of the funds authorized to be appropriated under subparagraph (A), not less than 65 percent is authorized to be available through United States and foreign nongovernmental organizations, including private and voluntary organizations, for-profit organizations, religious affiliated organizations, educational institutions, and research facilities.

"(C)(i) Of the funds authorized to be appropriated by subparagraph (A), not less than 20 percent is authorized to be available for programs as part of a multidonor strategy to address the support and education of orphans in sub-Saharan Africa, including AIDS orphans.

"(ii) Assistance made available under this subsection, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries.

"(D) Of the funds authorized to be appropriated under subparagraph (A), not less than 8.3 percent is authorized to be available to carry out the prevention strategies for vertical transmission referred to in paragraph (4)(A).

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number of poor people in developing countries, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for health programs. Assistance under this subsection shall be used primarily for basic integrated health services, safe water and sanitation, disease prevention and control, and related health planning and research. The assistance shall emphasize self-sustaining community-based health programs by means such as training of health auxiliary and other appropriate personnel, support for the establishment and evaluation of projects that can be replicated on a broader scale, measures to improve management of health programs, and other services and suppliers to support health and disease prevention programs.

(2)[23] (A) In carrying out the purposes of this subsection, the President shall promote, encourage, and undertake activities designed to deal directly with the special health needs of children and mothers. Such activities should utilize simple, available technologies which can significantly reduce childhood mortality, such as improved and expanded immunization programs, oral rehydration to combat diarrhoeal diseases, and education programs aimed at improving nutrition and sanitation and at promoting child spacing.

"(E) Of the funds authorized to be appropriated by subparagraph (A), not more than 7 percent may be used for the administrative expenses of the agency primarily responsible for carrying out this part of this Act in support of activities described in paragraphs (4) and (5).

"(F) Funds appropriated under this paragraph are authorized to remain available until expended.

"(7)(A) Congress recognizes the growing international problem of tuberculosis and the impact its continued existence has on those nations that had previously largely controlled the disease. Congress further recognizes that the means exist to control and treat tuberculosis, and that it is therefore a major objective of the foreign assistance program to control the disease. To this end, Congress expects the agency primarily responsible for administering this part)—

"(i) to coordinate with the World Health Organization, the Centers for Disease Control, the National Institutes of Health, and other organizations toward the development and implementation of a comprehensive tuberculosis control program; and

"(ii) to set as a goal the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected, in those countries in which the agency has established development programs, by December 31, 2010.

"(B) There is authorized to be appropriated to the President, $60,000,000 for each of the fiscal years 2001 and 2002 to be used to carry out this paragraph. Funds appropriated under this subparagraph are authorized to remain available until expended.".

Sec. 103 of the International Malaria Control Act of 2000 (Public Law 106–570; 114 Stat. 3039; 22 U.S.C. 2151b–1) provided the following:

"SEC. 103. ASSISTANCE FOR MALARIA PREVENTION, TREATMENT, CONTROL, AND ELIMINATION.

"(a) ASSISTANCE.—

"(1) IN GENERAL.—The Administrator of the United States Agency for International Development, in coordination with the heads of other appropriate Federal agencies and nongovernmental organizations, shall provide assistance for the establishment and conduct of activities designed to prevent, treat, control, and eliminate malaria in countries with a high percentage of malaria cases.

"(2) CONSIDERATION OF INTERACTION AMONG EPIDEMICS.—In providing assistance pursuant to paragraph (1), the Administrator should consider the interaction among the epidemics of HIV/AIDS, malaria, and tuberculosis.

"(3) DISSEMINATION OF INFORMATION REQUIREMENT.—Activities referred to in paragraph (1) shall include the dissemination of information relating to the development of vaccines and therapeutic agents for the prevention of malaria (including information relating to participation in, and the results of, clinical trials for such vaccines and agents conducted by United States Government agencies) to appropriate officials in such countries.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out subsection (a) $50,000,000 for each of the fiscal years 2001 and 2002.

"(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.".

[23] The para. designation "(1)" and a new para. (2) were added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473). This amendment had been included as sec. 303 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 303 of H.R. 5119.

In carrying out this paragraph, guidance shall be sought from knowledgeable health professionals from outside the agency primarily responsible for administering this part. In addition to government-to-government programs, activities pursuant to this paragraph should include support for appropriate activities of the types described in this paragraph which are carried out by international organizations (which may include international organizations receiving funds under chapter 3 of this part) and by private and voluntary organizations, and should include encouragement to other donors to support such types of activities.

(B)[24] In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President

[24] Sec. 304 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) replaced an authorization figure of "$25,000,000" with "$25,000,000 for fiscal year 1986 and $25,000,000 for fiscal year 1987". Section 103(b) of Public Law 99–529 (100 Stat. 3010) replaced the $25,000,000 authorization for fiscal year 1987 with an authorization of $75,000,000.

Titles II and V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"(INCLUDING TRANSFER OF FUNDS)

"For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,550,000,000, to remain available until September 30, 2006: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $345,000,000 for child survival and maternal health; $30,000,000 for vulnerable children; $350,000,000 for HIV/AIDS including not less than $30,000,000 to support the development of microbicides as a means for combating HIV/AIDS; $200,000,000 for other infectious diseases; and $375,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: *Provided further,* That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the 'Global Fund'), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That of the funds appropriated under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, that were withheld from obligation to the Global Fund, not less than $87,800,000 shall be made available to the Global Fund, notwithstanding section 202(d)(4) of Public Law 108–25 which required such withholding from the Global Fund in fiscal year 2004: *Provided further,* That the funds made available in the previous proviso shall be subject to any withholding required by section 202(d)(4) of Public Law 108–25 for contributions made to the Global Fund in fiscal year 2005: *Provided further,* That up to 5 percent of the aggregate amount of funds made available to the Global Fund in fiscal year 2005 may be made available to the United States Agency for International Development for technical assistance related to the activities of the Global Fund: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, not less than $27,000,000 should be made available for the International AIDS Vaccine Initiative: *Provided further,* That of the funds appropriated under this heading, $65,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the United States Agency for International Development' for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding pro-

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visos: *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term 'motivate', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That to the maximum extent feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act or prior appropriations Acts that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States: *Provided further,* That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

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"CHILD SURVIVAL AND HEALTH ACTIVITIES

"SEC. 522. Up to $13,500,000 of the funds made available by this Act for assistance under the heading 'Child Survival and Health Programs Fund', may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided,* That up to $3,500,000 of the funds made available by this Act for assistance under the heading 'Development Assistance' may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further,* That funds appropriated by titles II and III of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading 'Child Survival and Health Programs Fund' and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.), as amended: *Provided further,* That of the funds appropriated under title II of this Act, not less than $441,000,000 shall be made available for family planning/reproductive health.".

In the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), see also: in title II, paragraph relating to assistance for the independent states of the Former Soviet Union; and in title V, sec. 515, relating to notification requirements; sec. 548, relating to prohibition of payment of certain expenses; sec. 549, relating to Haiti; sec. 560, relating to contribution to United Nations Population Fund;

$25,000,000 for fiscal year 1986 and $75,000,000 for fiscal year 1987 for use in carrying out this paragraph. Amounts appropriated under this subparagraph are authorized to remain available until expended.

(C) Appropriations pursuant to subparagraph (B) may be referred to as the "Child Survival Fund."

(3)[25] The Congress recognizes that the promotion of primary health care is a major objective of the foreign assistance program. The Congress further recognizes that simple, relatively low-cost means already exist to reduce incidence of communicable diseases among children, mothers, and infants. The promotion of vaccines for immunization, and salts for oral rehydration, therefore, is an essential feature of the health assistance program. To this end, the Congress expects the agency primarily responsible for administering this part to set as a goal the protection of not less than 80 percent of all children, in those countries in which such agency has established development programs, from immunizable diseases by January 1, 1991. Of the aggregate amounts made available for fiscal year 1987 to carry out paragraph (2) of this subsection (relating to the Child Survival Fund) and to carry out subsection (c) (relating to development assistance for health), $50,000,000 shall be used to carry out this paragraph.[26]

(4)[27] RELATIONSHIP TO OTHER LAWS.—Assistance made available under this subsection and sections 104A, 104B, and 104C, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection and the provisions cited in this paragraph, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries, except for the provisions of this subsection, the provisions of law cited in this paragraph, subsection (f), section 634A of this Act, and provisions of law that limit assistance to organizations that support or participate in a program of coercive abortion or involuntary sterilization included under the Child Survival and Health Programs Fund heading in the Consolidated Appropriations Resolution, 2003 (Public Law 108–7).

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sec. 566, relating to authority to engage in debt buybacks or sales; sec. 584, relating to Central America; sec. 592, relating to compliance with the Algiers Agreements (Ethiopia and Eritrea). In the Millennium Challenge Act of 2003 (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004), see sec. 605, relating to authorization of assistance.

Relating to family planning, see also the President's Memorandum of March 28, 2001, to the Administrator of the U.S. Agency for International Development, restoring the Mexico City Policy (66 F.R. 17303).

In a memorandum of August 29, 2003 (68 F.R. 52323), the President extended "the requirements of the March 28, 2001 memorandum to all assistance for voluntary population planning furnished to foreign nongovernmental organizations and appropriated pursuant to the Foreign Assistance Act, whether such assistance is furnished by USAID or any other bureau, office, or component of the Department of State. As set forth in the March 28, 2001, memorandum, this policy applies to certain assistance provided to foreign nongovernmental organizations. Such organizations do not include multilateral organizations that are associations of governments. This policy shall not apply to foreign assistance furnished pursuant to the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–125).".

[25] Sec. 305 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) added para. (3). Sec. 305(b) of the Act provides that: "Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act.".

[26] Sec. 103(a) of Public Law 99–529 (100 Stat. 3010) added the last sentence of para. (3).

[27] Sec. 303(c) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) added para. (4).

(d) INTEGRATION OF ASSISTANCE PROGRAMS.—(1) Assistance under this chapter shall be administered so as to give particular attention to the interrelationship between (A) population growth, and (B) development and overall improvement in living standards in developing countries, and to the impact of all programs, projects, and activities on population growth. All appropriate activities proposed for financing under this chapter shall be designed to build motivation for smaller families through modification of economic and social conditions supportive of the desire for large families, in programs such as education in and out of school, nutrition, disease control, maternal and child health services, improvements in the status and employment of women, agricultural production, rural development, and assistance to the urban poor, and through community-based development programs which give recognition to people motivated to limit the size of their families.[28] Population planning programs shall be coordinated with other programs aimed at reducing the infant mortality rate, providing better nutrition for pregnant women and infants, and raising the standard of living of the poor.

(2) Since the problems of malnutrition, disease, and rapid population growth are closely related, planning for assistance to be provided under subsections (b) and (c) of this section and under section 103 shall be coordinated to the maximum extent practicable.

(3) Assistance provided under this section shall emphasize low-cost integrated delivery systems for health, nutrition, and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

(e) RESEARCH AND ANALYSIS.—(1) Health and population research and analysis carried out under this Act shall—

(A) be undertaken to the maximum extent practicable in developing countries by developing country personnel, linked as appropriate with private and governmental biomedical research facilities within the United States;

(B) take account of the special needs of the poor people of developing countries in the determination of research priorities; and

(C) make extensive use of field testing to adapt basic research to local conditions.

(2) The President is authorized to study the complex factors affecting population growth in developing countries and to identify factors which might motivate people to plan family size or to space their children.

(f)[29] PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—(1) None of the funds made available to

[28] Sec. 102(b) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 360) added the reference to community-based development programs.

[29] Sec. 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), made a similar prohibition.

Sec. 605(e)(4) of the Millennium Challenge Act of 2003 (title VI of division D of Public Law 108–199; 118 Stat. 215), establishing the limitations on authorization of assistance, provided the following:

"(4) PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—The prohibitions on use of funds contained in paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)–(3)) shall apply to funds made available to

carry out this part may be used to pay for the performance of abortions as a method of family planning or to motivate[30] or coerce any person to practice abortions.

(2) None of the funds made available to carry out this part may be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.

(3)[31] None of the funds made available to carry out this part may be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(A) $290,000,000 for fiscal year 1986 and $290,000,000 for fiscal year 1987 to carry out subsection (b) of this section; and

(B) $205,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987 to carry out subsection (c) of this section.

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carry out this section to the same extent and in the same manner as such prohibitions apply to funds made available to carry out part I of such Act. The prohibition on use of funds contained in any provision of law comparable to the eleventh and fourteenth provisos under the heading 'Child Survival and Health Programs Fund' of division E of Public Law 108–7 (117 Stat. 162) shall apply to funds made available to carry out this section for fiscal year 2004.".

[30] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), under "Child Survival and Health Programs Fund", provided the following:

"That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term 'motivate', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961:".

Relating to family planning, see also the President's Memorandum of March 28, 2001, to the Administrator of the U.S. Agency for International Development, restoring the Mexico City Policy (66 F.R. 17303).

[31] Sec. 302(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1532) added para. (3).

(2) Funds appropriated under this subsection are authorized to remain available until expended.[32]

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[32] The authorization figures for fiscal years 1986 and 1987 to carry out subsecs. (b) and (c) were added by sec. 303 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Subsequently, sec. 404 of Public Law 99–529 (100 Stat. 3341) replaced the $205,000,000 authorization for subsec. (c) with an authorization of $180,000,000. Authorizations under subsec. (b) in recent years include: fiscal year 1978—$167,000,000; fiscal year 1979—$224,745,000; fiscal year 1980—$201,000,000; fiscal year 1981—$238,000,000; fiscal year 1982—$211,000,000; fiscal year 1983—$211,000,000; fiscal year 1984—$244,600,000; fiscal year 1985—no authorization; fiscal years 1988 through 2004—no authorization.

Authorizations under subsec. (c) in recent years include: fiscal year 1978—$107,700,000; fiscal year 1979—$148,494,000; fiscal year 1980—$141,000,000; fiscal year 1981—$145,300,000; fiscal year 1982—$133,405,000; fiscal year 1983—$133,405,000 (of the 1982 and 1983 subsec. (c) authorizations, not less than 16 percent or $38,000,000 whichever amount is less was made available for United Nations Fund for Population Activities); fiscal year 1984—$133,404,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirement for authorization, and title II of that Act (118 Stat. 2809) provided the following:

"UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"(INCLUDING TRANSFER OF FUNDS

"* * * *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term 'motivate', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That to the maximum extent feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act or prior appropriations Acts that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States: *Provided further,* That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.".

SEC. 104A.[33] ASSISTANCE TO COMBAT HIV/AIDS.

(a) FINDING.—Congress recognizes that the alarming spread of HIV/AIDS in countries in sub-Saharan Africa, the Caribbean, and

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See also sec. 518 of that Act, relating to the prohibition on funding for abortions and involuntary sterilization, sec. 522, relating to child survival and health activities, sec. 548, relating to Haiti, sec. 560, relating to contributions to United Nations Population Fund, and sec. 584, relating to Central America.

Relating to family planning, see also the President's Memorandum of March 28, 2001, to the Administrator of the U.S. Agency for International Development, restoring the Mexico City Policy (66 F.R. 17303).

[33] 22 U.S.C. 2151b–2. Sec. 301(a)(2) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) added sec. 104A.

Sec. 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2809), provided the following:

"HIV/AIDS

"SEC. 525. (a)(1) Notwithstanding any other provision of this Act, 25 percent of the funds that are appropriated by this Act for a contribution to support the Global Fund to Fight AIDS, Tuberculosis and Malaria (the 'Global Fund') shall be withheld from obligation to the Global Fund until the Secretary of State certifies to the Committees on Appropriations that the Global Fund—

"(A) is establishing a full time, professional, independent office which reports directly to the Global Fund Board regarding, among other things, the integrity of processes for consideration and approval of grant proposals, and the implementation, monitoring and evaluation of grants made by the Global Fund;

"(B) is strengthening domestic civil society participation, especially for people living with HIV/AIDS, in country coordinating mechanisms;

"(C) is establishing procedures to assess the need for, and coordinate, technical assistance for Global Fund activities, in cooperation with bilateral and multilateral donors;

"(D) has established clear progress indicators upon which to determine the release of incremental disbursements;

"(E) is releasing such incremental disbursements only if positive results have been attained based on those indicators; and

"(F) is providing support and oversight to country-level entities, such as country coordinating mechanisms, principal recipients, and local Fund agents, to enable them to fulfill their mandates.

"(2) The Secretary of State may waive paragraph (1) of this subsection if he determines and reports to the Committees on Appropriations that such waiver is important to the national interest of the United States.

"(b)(1) In furtherance of the purposes of section 104A of the Foreign Assistance Act of 1961, and to assist in providing a safe, secure, reliable, and sustainable supply chain of pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally (the 'Coordinator') is authorized to establish an HIV/AIDS Working Capital Fund (in this section referred to as the 'HIV/AIDS Fund').

"(2) Funds deposited during any fiscal year in the HIV/AIDS Fund shall be available without fiscal year limitation and used for pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, including, but not limited to—

"(A) anti-retroviral drugs;

"(B) other pharmaceuticals and medical items needed to provide care and treatment to persons with HIV/AIDS and related infections;

"(C) laboratory and other supplies for performing tests related to the provision of care and treatment to persons with HIV/AIDS and related infections;

"(D) other medical supplies needed for the operation of HIV/AIDS treatment and care centers, including products needed in programs for the prevention of mother-to-child transmission;

"(E) pharmaceuticals and health commodities needed for the provision of palliative care; and

"(F) laboratory and clinical equipment, as well as equipment needed for the transportation and care of HIV/AIDS supplies, and other equipment needed to provide prevention, care and treatment of HIV/AIDS described above.

"(3) There may be deposited during any fiscal year in the HIV/AIDS Fund payments for HIV/AIDS pharmaceuticals and products provided from the HIV/AIDS Fund received from applicable appropriations and funds of the United States Agency for International Development, the Department of Health and Human Services, the Department of Defense, or other Federal agencies and other sources at actual cost of the HIV/AIDS pharmaceuticals and other products, actual cost plus the additional costs of providing such HIV/AIDS pharmaceuticals and other products, or at any other price agreed to by the Coordinator or his designee.

"(4) There may be deposited in the HIV/AIDS Fund payments for the loss of, or damage to, HIV/AIDS pharmaceuticals and products held in the HIV/AIDS Fund, rebates, reimbursements, refunds and other credits applicable to the operation of the HIV/AIDS Fund.

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other developing countries is a major global health, national security, development, and humanitarian crisis.

(b) POLICY.—It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, treatment, and control of HIV/AIDS. The United States and other developed countries should provide assistance to countries in sub-Saharan Africa, the Caribbean, and other countries and areas to control this crisis through HIV/AIDS prevention, treatment, monitoring, and related activities, particularly activities focused on women and youth, including strategies to protect women and prevent mother-to-child transmission of the HIV infection.

(c) AUTHORIZATION.—

(1) IN GENERAL.—Consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for HIV/AIDS, including to prevent, treat, and monitor HIV/AIDS, and carry out related activities, in countries in sub-Saharan Africa, the Caribbean, and other countries and areas.

(2) ROLE OF NGOS.—It is the sense of Congress that the President should provide an appropriate level of assistance under paragraph (1) through nongovernmental organizations (including faith-based and community-based organizations) in countries in sub-Saharan Africa, the Caribbean, and other countries and areas affected by the HIV/AIDS pandemic.

(3) COORDINATION OF ASSISTANCE EFFORTS.—The President shall coordinate the provision of assistance under paragraph (1) with the provision of related assistance by the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the United Nations Development Programme (UNDP), the Global Fund to Fight AIDS, Tuberculosis and Malaria and other appropriate international organizations (such as the International Bank for Reconstruction and Development), relevant regional multilateral development institutions, national, state, and local governments of foreign countries, appropriate governmental and nongovernmental organizations, and relevant executive branch agencies.

(d) ACTIVITIES SUPPORTED.—Assistance provided under subsection (c) shall, to the maximum extent practicable, be used to carry out the following activities:

(1) PREVENTION.—Prevention of HIV/AIDS through activities including—

(A) programs and efforts that are designed or intended to impart knowledge with the exclusive purpose of helping individuals avoid behaviors that place them at risk of HIV infection, including integration of such programs into health programs and the inclusion in counseling programs

"(5) At the close of each fiscal year the Coordinator may transfer out of the HIV/AIDS Fund to other HIV/AIDS programmatic areas such amounts as the Coordinator determines to be in excess of the needs of the HIV/AIDS Fund.

"(6) At the close of each fiscal year the Coordinator shall submit a report to the Committees on Appropriations detailing the financial activities of the HIV/AIDS Fund, including sources of income and information regarding disbursements. ".

See also in that Act: sec. 531, relating to Burma, sec. 553, relating to authorization requirements, sec. 554, relating to Cambodia, and sec. 562, relating to user fees.

of information on methods of avoiding infection of HIV, including delaying sexual debut, abstinence, fidelity and monogamy, reduction of casual sexual partnering, reducing sexual violence and coercion, including child marriage, widow inheritance, and polygamy, and where appropriate, use of condoms;

(B) assistance to establish and implement culturally appropriate HIV/AIDS education and prevention programs that focus on helping individuals avoid infection of HIV/AIDS, implemented through nongovernmental organizations, including faith-based and community-based organizations, particularly those organizations that utilize both professionals and volunteers with appropriate skills, experience, and community presence;

(C) assistance for the purpose of encouraging men to be responsible in their sexual behavior, child rearing, and to respect women;

(D) assistance for the purpose of providing voluntary testing and counseling (including the incorporation of confidentiality protections with respect to such testing and counseling);

(E) assistance for the purpose of preventing mother-to-child transmission of the HIV infection, including medications to prevent such transmission and access to infant formula and other alternatives for infant feeding;

(F) assistance to ensure a safe blood supply and sterile medical equipment;

(G) assistance to help avoid substance abuse and intravenous drug use that can lead to HIV infection; and

(H) assistance for the purpose of increasing women's access to employment opportunities, income, productive resources, and microfinance programs, where appropriate.

(2) TREATMENT.—The treatment and care of individuals with HIV/AIDS, including—

(A) assistance to establish and implement programs to strengthen and broaden indigenous health care delivery systems and the capacity of such systems to deliver HIV/AIDS pharmaceuticals and otherwise provide for the treatment of individuals with HIV/AIDS, including clinical training for indigenous organizations and health care providers;

(B) assistance to strengthen and expand hospice and palliative care programs to assist patients debilitated by HIV/AIDS, their families, and the primary caregivers of such patients, including programs that utilize faith-based and community-based organizations; and

(C) assistance for the purpose of the care and treatment of individuals with HIV/AIDS through the provision of pharmaceuticals, including antiretrovirals and other pharmaceuticals and therapies for the treatment of opportunistic infections, nutritional support, and other treatment modalities.

(3) PREVENTATIVE INTERVENTION EDUCATION AND TECHNOLOGIES.—(A) With particular emphasis on specific popu-

lations that represent a particularly high risk of contracting or spreading HIV/AIDS, including those exploited through the sex trade, victims of rape and sexual assault, individuals already infected with HIV/AIDS, and in cases of occupational exposure of health care workers, assistance with efforts to reduce the risk of HIV/AIDS infection including post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(B) Bulk purchases of available test kits, condoms, and, when proven effective, microbicides that are intended to reduce the risk of HIV/AIDS transmission and for appropriate program support for the introduction and distribution of these commodities, as well as education and training on the use of the technologies.

(4) MONITORING.—The monitoring of programs, projects, and activities carried out pursuant to paragraphs (1) through (3), including—

(A) monitoring to ensure that adequate controls are established and implemented to provide HIV/AIDS pharmaceuticals and other appropriate medicines to poor individuals with HIV/AIDS;

(B) appropriate evaluation and surveillance activities;

(C) monitoring to ensure that appropriate measures are being taken to maintain the sustainability of HIV/AIDS pharmaceuticals (especially antiretrovirals) and ensure that drug resistance is not compromising the benefits of such pharmaceuticals; and

(D) monitoring to ensure appropriate law enforcement officials are working to ensure that HIV/AIDS pharmaceuticals are not diminished through illegal counterfeiting or black market sales of such pharmaceuticals.

(5) PHARMACEUTICALS.—

(A) PROCUREMENT.—The procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections.

(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiretroviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

(6) RELATED ACTIVITIES.—The conduct of related activities, including—

(A) the care and support of children who are orphaned by the HIV/AIDS pandemic, including services designed to care for orphaned children in a family environment which rely on extended family members;

(B) improved infrastructure and institutional capacity to develop and manage education, prevention, and treatment programs, including training and the resources to collect and maintain accurate HIV surveillance data to target programs and measure the effectiveness of interventions; and

(C) vaccine research and development partnership programs with specific plans of action to develop a safe, effective, accessible, preventive HIV vaccine for use throughout the world.

(7) COMPREHENSIVE HIV/AIDS PUBLIC-PRIVATE PARTNERSHIPS.—The establishment and operation of public-private partnership entities within countries in sub-Saharan Africa, the Caribbean, and other countries affected by the HIV/AIDS pandemic that are dedicated to supporting the national strategy of such countries regarding the prevention, treatment, and monitoring of HIV/AIDS. Each such public-private partnership should)

(A) support the development, implementation, and management of comprehensive HIV/AIDS plans in support of the national HIV/AIDS strategy;

(B) operate at all times in a manner that emphasizes efficiency, accountability, and results-driven programs;

(C) engage both local and foreign development partners and donors, including businesses, government agencies, academic institutions, nongovernmental organizations, foundations, multilateral development agencies, and faith-based organizations, to assist the country in coordinating and implementing HIV/AIDS prevention, treatment, and monitoring programs in accordance with its national HIV/AIDS strategy;

(D) provide technical assistance, consultant services, financial planning, monitoring and evaluation, and research in support of the national HIV/AIDS strategy; and

(E) establish local human resource capacities for the national HIV/AIDS strategy through the transfer of medical, managerial, leadership, and technical skills.

(e) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the implementation of this section for the prior fiscal year.

(2) REPORT ELEMENTS.—Each report shall include—

(A) a description of efforts made by each relevant executive branch agency to implement the policies set forth in this section, section 104B, and section 104C;

(B) a description of the programs established pursuant to such sections; and

(C) a detailed assessment of the impact of programs established pursuant to such sections, including

(i)(I) the effectiveness of such programs in reducing the spread of the HIV infection, particularly in women and girls, in reducing mother-to-child transmission of the HIV infection, and in reducing mortality rates from HIV/AIDS; and

(II) the number of patients currently receiving treatment for AIDS in each country that receives assistance under this Act.

(ii) the progress made toward improving health care delivery systems (including the training of adequate numbers of staff) and infrastructure to ensure increased access to care and treatment;

(iii) with respect to tuberculosis, the increase in the number of people treated and the increase in number of tuberculosis patients cured through each program, project, or activity receiving United States foreign assistance for tuberculosis control purposes; and

(iv) with respect to malaria, the increase in the number of people treated and the increase in number of malaria patients cured through each program, project, or activity receiving United States foreign assistance for malaria control purposes.

(f) FUNDING LIMITATION.—Of the funds made available to carry out this section in any fiscal year, not more than 7 percent may be used for the administrative expenses of the United States Agency for International Development in support of activities described in section 104(c), this section, section 104B, and section 104C. Such amount shall be in addition to other amounts otherwise available for such purposes.

(g) DEFINITIONS.—In this section:

(1) AIDS.—The term "AIDS" means acquired immune deficiency syndrome.

(2) HIV.—The term "HIV" means the human immunodeficiency virus, the pathogen that causes AIDS.

(3) HIV/AIDS.—The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(4) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term "relevant executive branch agencies" means the Department of State, the United States Agency for International Development, the Department of Health and Human Services (including its agencies and offices), and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or this Act.

SEC. 104B.[34] ASSISTANCE TO COMBAT TUBERCULOSIS.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress recognizes the growing international problem of tuberculosis and the impact its continued existence has on those countries that had previously largely controlled the disease.

[34] 22 U.S.C. 2151b–3. Sec. 302(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) added sec. 104B.

(2) Congress further recognizes that the means exist to control and treat tuberculosis through expanded use of the DOTS (Directly Observed Treatment Short-course) treatment strategy, including DOTS-Plus to address multi-drug resistant tuberculosis, and adequate investment in newly created mechanisms to increase access to treatment, including the Global Tuberculosis Drug Facility established in 2001 pursuant to the Amsterdam Declaration to Stop TB and the Global Alliance for TB Drug Development.

(b) POLICY.—It is a major objective of the foreign assistance program of the United States to control tuberculosis, including the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected, not later than December 31, 2005, in those countries classified by the World Health Organization as among the highest tuberculosis burden, and not later than December 31, 2010, in all countries in which the United States Agency for International Development has established development programs.

(c) AUTHORIZATION.—To carry out this section and consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of tuberculosis.

(d) COORDINATION.—In carrying out this section, the President shall coordinate with the World Health Organization, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, and other organizations with respect to the development and implementation of a comprehensive tuberculosis control program.

(e) PRIORITY TO DOTS COVERAGE.—In furnishing assistance under subsection (c), the President shall give priority to activities that increase Directly Observed Treatment Short-course (DOTS) coverage and treatment of multi-drug resistant tuberculosis where needed using DOTS-Plus, including funding for the Global Tuberculosis Drug Facility, the Stop Tuberculosis Partnership, and the Global Alliance for TB Drug Development. In order to meet the requirement of the preceding sentence, the President should ensure that not less than 75 percent of the amount made available to carry out this section for a fiscal year should be expended for antituberculosis drugs, supplies, direct patient services, and training in diagnosis and treatment for Directly Observed Treatment Short-course (DOTS) coverage and treatment of multi-drug resistant tuberculosis using DOTS-Plus, including substantially increased funding for the Global Tuberculosis Drug Facility.

(f) DEFINITIONS.—In this section:

(1) DOTS.—The term "DOTS" or "Directly Observed Treatment Short-course" means the World Health Organization-recommended strategy for treating tuberculosis.

(2) DOTS-PLUS.—The term "DOTS-Plus" means a comprehensive tuberculosis management strategy that is built upon and works as a supplement to the standard DOTS strategy, and which takes into account specific issues (such as use of second line anti-tuberculosis drugs) that need to be addressed in areas where there is high prevalence of multi-drug resistant tuberculosis.

(3) GLOBAL ALLIANCE FOR TUBERCULOSIS DRUG DEVELOPMENT.—The term "Global Alliance for Tuberculosis Drug Development" means the public-private partnership that brings together leaders in health, science, philanthropy, and private industry to devise new approaches to tuberculosis and to ensure that new medications are available and affordable in high tuberculosis burden countries and other affected countries.

(4) GLOBAL TUBERCULOSIS DRUG FACILITY.—The term "Global Tuberculosis Drug Facility (GDF)" means the new initiative of the Stop Tuberculosis Partnership to increase access to high-quality tuberculosis drugs to facilitate DOTS expansion.

(5) STOP TUBERCULOSIS PARTNERSHIP.—The term "Stop Tuberculosis Partnership" means the partnership of the World Health Organization, donors including the United States, high tuberculosis burden countries, multilateral agencies, and non-governmental and technical agencies committed to short- and long-term measures required to control and eventually eliminate tuberculosis as a public health problem in the world.

SEC. 104C.[35] ASSISTANCE TO COMBAT MALARIA.

(a) FINDING.—Congress finds that malaria kills more people annually than any other communicable disease except tuberculosis, that more than 90 percent of all malaria cases are in sub-Saharan Africa, and that children and women are particularly at risk. Congress recognizes that there are cost-effective tools to decrease the spread of malaria and that malaria is a curable disease if promptly diagnosed and adequately treated.

(b) POLICY.—It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, control, and cure of malaria.

(c) AUTHORIZATION.—To carry out this section and consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of malaria.

(d) COORDINATION.—In carrying out this section, the President shall coordinate with the World Health Organization, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, the Department of Health and Human Services (the Centers for Disease Control and Prevention and the National Institutes of Health), and other organizations with respect to the development and implementation of a comprehensive malaria control program.

Sec. 105.[36] Education and Human Resources Development.—(a)[37] In order to reduce illiteracy, to extend basic education, and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes,

[35] 22 U.S.C. 2151b–4. Sec. 303(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) added sec. 104C.

[36] 22 U.S.C. 2151c. Sec. 2(3) of the FA Act of 1973 added sec. 105.

[37] Sec. 305 of Public Law 94–161 (89 Stat. 849) added subsection designation "(a)" and new subsecs. (b) and (c).

$180,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987, which are authorized to remain available until expended.[38]

(b)[37, 39] Assistance provided under this section shall be used primarily to expand and strengthen nonformal education methods, especially those designed to improve productive skills of rural families and the urban poor and to provide them with useful information; to increase the relevance of formal education systems to the needs of the poor, especially at the primary level, through reform of curricula, teaching materials, and teaching methods, and improved teacher training; and to strengthen the management capabilities of institutions which enable the poor to participate in development. Assistance under this section shall also be provided for advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.[40]

(c)[41] * * * [Repealed—1979]

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[38] The authorization figures for fiscal years 1986 and 1987 were added by sec. 306 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Authorizations for recent years include fiscal year 1975—$92,000,000; fiscal year 1976—$89,200,000; fiscal year 1977—$101,800,000; fiscal year 1978—$84,900,000; fiscal year 1979—$126,244,000; fiscal year 1980—$105,000,000; fiscal year 1981—$101,000,000; fiscal year 1982—$103,600,000; fiscal year 1983—$103,600,000; fiscal year 1984—$121,477,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

[39] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this Act, providing for long-term development in sub-Saharan Africa, and made conforming amendments by striking out para. designation "(1)" and by striking out para. (2). Para. (2), previously added by sec. 201 of Public Law 99–440 (100 Stat. 1094), formerly read as follows:

"(2)(A)(i) Of the amounts authorized to be appropriated to carry out this section for the fiscal years 1987, 1988, and 1989, not less than $4,000,000 shall be used in each such fiscal year to finance education, training, and scholarships for the victims of apartheid, including teachers and other educational professionals, who are attending universities and colleges in South Africa. Amounts available to carry out this subparagraph shall be provided in accordance with the provisions of section 802(c) of the International Security and Development Cooperation Act of 1985.

"(ii) Funds made available for each such fiscal year for purposes of chapter 4 of part II of this Act may be used to finance such education, training, and scholarships in lieu of an equal amount made available under this subparagraph.

"(B)(i) In addition to amounts used for purposes of subparagraph (A), the agency primarily responsible for administering this part, in collaboration with other appropriate departments or agencies of the United States, shall use assistance provided under this section or chapter 4 of part II of this Act to finance scholarships for students pursuing secondary school education in South Africa. The selection of scholarship recipients shall be by a nationwide panel or by regional panels appointed by the United States chief of diplomatic mission to South Africa.

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act for the fiscal years 1987, 1988, and 1989, up to an aggregate of $1,000,000 may be used in each such fiscal year for purposes of this subparagraph.

"(C)(i) In addition to the assistance authorized in subparagraph (A), the agency primarily responsible for administering this part shall provide assistance for in-service teacher training programs in South Africa through such nongovernmental organizations as TOPS or teachers' unions.

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act, up to an aggregate of $500,000 for the fiscal year 1987 and up to an aggregate of $1,000,000 for the fiscal year 1988 may be used for purposes of this subparagraph, subject to standard procedures for project review and approval.".

[40] Sec. 103(b) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 360) added this sentence.

[41] Sec. 122 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366) repealed subsec. (c), which authorized funds during fiscal year 1977 and fiscal year 1978 for the southern African student program and the southern African training program.

Sec. 106.[42] **Energy, Private Voluntary Organizations, and Selected Development Activities.**—(a)(1)(A)[43] The Congress finds that energy development and production are vital elements in the development process, that energy shortages in developing countries severely limit the development process in such countries, that two-thirds of the developing countries which import oil depend on it for at least 90 percent of the energy which their economies require, and that the dramatic increase in world oil prices since 1973 has resulted in considerable economic hardship for many developing countries. The Congress is concerned that the value and purpose of much of the assistance provided to developing countries under sections 103, 104, and 105 are undermined by the inability of many developing countries to satisfy their energy requirements. Unless the energy deficit of the developing countries can be narrowed by more fully exploiting indigenous sources of energy such as oil, natural gas, and coal, scarce foreign exchange will increasingly have to be diverted to oil imports, primarily to the detriment of long-term development and economic growth.

(B)[43] The Congress recognizes that many developing countries lack access to the financial resources and technology necessary to locate, explore, and develop indigenous energy resources.

(C)[43] The Congress declares that there is potential for at least a moderate increase by 1990 in the production of energy for commercial use in the developing countries which are not members of the Organization of Petroleum Exporting Countries. In addition, there is a compelling need for vigorous efforts to improve the available data on the location, scale, and commercial exploitability of potential oil, natural gas, and coal reserves in developing countries, especially those which are not members of the Organization of Petroleum Exporting Countries. The Congress further declares that there are many benefits to be gained by the developing countries and by the United States and other developed countries through expanded efforts to expedite the location, exploration, and development of potential sources of energy in developing countries. These benefits include, but are not limited to, the following:

(i)[43] The world's energy supply would be increased and the fear of abrupt depletion would be lessened with new energy production. This could have a positive impact upon energy prices in international markets as well as a positive effect upon the balance of payments problems of many developing countries.

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[42] 22 U.S.C. 2151d. Sec. 106, as added by Public Law 94–161 (89 Stat. 849), was amended by sec. 104 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 360) by redesignating subsecs. (a) and (b) as (c) and (d) and by adding new subsecs. (a) and (b). Sec. 304(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3146) substituted the current section heading in lieu of "Technical Assistance, Energy, Research, Reconstruction, and Selected Development Activities". A prior version of sec. 106 (added in 1973 by Public Law 93–189) had also been repealed by Public Law 94–161.

See also the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2776), particularly title XII, as it relates to the export of renewable energy technologies, and title XIII, as it relates to the export of clean coal technology. See *Legislation on Foreign Relations Through 2004*, vol. IV, sec. L.

[43] Sec. 304(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3146) redesignated paras. (1), (2), (3), and (4) of subsec. (a) as subparas. (A), (B), (C), and (D), respectively; redesignated subparas. (A), (B), and (C) of former para. (3) as clauses (i), (ii), and (iii), respectively; and added a new para. (2).

(ii)[43] Diversification of the world's supplies of energy from fossil fuels would make all countries, developing and developed, less susceptible to supply interruptions and arbitrary production and pricing policies.

(iii)[43] Even a moderate increase in energy production in the developing countries would improve their ability to expand commercial trade, foreign investment, and technology transfer possibilities with the United States and other developed countries.

(D)[43] Assistance for the production of energy from indigenous resources, as authorized by subsection (b) of this section, would be of direct benefit to the poor in developing countries because of the overwhelming impact of imported energy costs upon the lives of the poor and their ability to participate in development.

(2)[43] The Congress also finds that energy production from renewable, decentralized sources and energy conservation are vital elements in the development process. Inadequate access by the poor to energy sources as well as the prospect of depleted fossil fuel reserves and higher energy prices require an enhanced effort to expand the energy resources of developing countries through greater emphasis on renewable sources. Renewable and decentralized energy technologies have particular applicability for the poor, especially in rural areas.

(b)[42] (1)[44] In order to help developing countries alleviate their energy problems by improving their ability to use indigenous energy resources to produce the energy needed by their economies, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to enable such countries to prepare for and undertake development of their energy resources. Such assistance may include data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy production.

(2)[44] The President is authorized to furnish assistance under this chapter for cooperative programs with developing countries in energy production and conservation through research on and development and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 103 of this Act. Such programs shall also be directed toward the earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another. Such programs may include research on and the development, demonstration, and application of suitable

[44] Sec. 304(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3146) redesignated paras. (1) and (2) of subsec. (b) as subparas. (A) and (B), respectively, and added a new para. (2). Subsequently, sec. 1211(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) struck out subpara. designation "(A)", and text of subpara. (B). Subpara. (B) previously read as follows:

"(B) Of the funds made available to carry out this section, up to $7,000,000 for the fiscal year 1981 shall be used for purposes of paragraph (A) to facilitate geological and geophysical survey work to locate potential oil, natural gas, and coal reserves and to encourage exploration for potential oil, natural gas, and coal reserves in developing countries which are not members of the Organization of Petroleum Exporting Countries.".

energy technologies (including use of wood); analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.

(c)[45] The agency primarily responsible for administering this part and the Department of Energy shall coordinate with one another, to the maximum extent possible, the planning and implementation of energy programs under this chapter.

(d)[45] The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the following activities, to the extent that such activities are not authorized by sections 103, 104, and 105 of this Act:

(1) programs of technical cooperation and development, particularly the development efforts of United States private and voluntary agencies and regional and international development organizations;

(2)[46] programs of research into, and evaluation of, the process of economic development in less developed countries and areas, into the factors affecting the relative success and costs of development activities, and into the means, techniques, and such other aspects of development assistance as the President may determine in order to render such assistance of increasing value and benefit;

(3)[46] programs of reconstruction following natural or man-made disasters and programs of disaster preparedness,[47] including the prediction of and contingency planning for natural disasters abroad;

(4)[46] programs designed to help solve special development problems in the poorest countries and to make possible proper utilization of infrastructure and related projects funded with earlier United States assistance; and

(5)[46] programs of urban development, with particular emphasis on small, labor intensive enterprises, marketing systems for small producers, and financial and other institutions which enable the urban poor to participate in the economic and social development of their country.

(e)[45] (1) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $207,000,000 for fiscal year 1986 and $207,000,000 for fiscal year 1987.[48]

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[45] Sec. 304 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3146) redesignated subsec. (c) as subsec. (d), amended former subsec. (d) and redesignated it as subsec. (e), and added a new subsec. (c).

[46] Sec. 104(b)(1) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 360) struck out para. (2), which concerned various programs designed to alleviate energy problems experienced by developing countries, and redesignated paras. (3) through (6) as paras. (2) through (5), respectively.

[47] Sec. 304(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1533) added the reference to the program of disaster preparedness.

[48] Sec. 309(b) of the International Security and Development Act of 1985 (Public Law 99–83; 99 Stat. 190) added the authorization figures for fiscal years 1986 and 1987. Authorizations for recent years included the following: fiscal year 1976—$99,550,000; fiscal year 1977—$104,500,000; fiscal year 1978—$105,000,000; fiscal year 1979—$126,244,000; fiscal year 1980—$125,000,000; fiscal year 1981—$140,000,000; fiscal year 1982—$147,200,000; fiscal year 1983—$147,200,000; fiscal year 1984—$160,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

Sec. 402 of the Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 (Public Law 106–309; 114 Stat. 1097), however, provided the following:

(2) Amounts appropriated under this section are authorized to remain available until expended.

(f)[49] Of the amounts authorized to be appropriated to carry out this chapter $5,000,000 for fiscal year 1986 and $5,000,000 for fiscal year 1987 shall be used to finance cooperative projects among the United States, Israel, and developing countries.

Sec. 107.[50] **Appropriate Technology.**—(a) In carrying out activities under this chapter, the President shall place special emphasis on the use of relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor.

(b) Funds made available to carry out this chapter should be used to the extent practicable for activities in the field of appropriate technology, including support of an expanded and coordinated private effort to promote the development and dissemination of appropriate technology in developing countries.

[SEC. 108.[51] **MICROENTERPRISE DEVELOPMENT CREDITS.** * * * [Transferred and redesignated as sec. 256—2004]]

"SEC. 402. FUNDING OF CERTAIN ENVIRONMENTAL ASSISTANCE ACTIVITIES OF USAID.

"(a) ALLOCATION OF FUNDS FOR CERTAIN ENVIRONMENTAL ACTIVITIES.—Of the amounts authorized to be appropriated for the fiscal year 2001 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.; relating to development assistance), there is authorized to be available at least $60,200,000 to carry out activities of the type carried out by the Global Environment Center of the United States Agency for International Development during fiscal year 2000.

"(b) ALLOCATION FOR WATER AND COASTAL RESOURCES.—Of the amounts made available under subsection (a), at least $2,500,000 shall be available for water and coastal resources activities under the natural resources management function specified in that subsection.".

Sec. 105 of Public Law 96–53 struck out language in subsec. (e) which provided $30,000,000 during the period July 1, 1975, to Sept. 3, 1977, for reimbursement to private voluntary agencies of the United States for costs incurred with respect to the shipment of food and nonfood commodities provided through private donations.

[49] Sec. 307(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) added subsec. (f).

[50] 22 U.S.C. 2151e. Sec. 107, as added by sec. 306 of Public Law 94–161, was amended and restated by sec. 107 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 947).

[51] Sec. 4 of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) moved sec. 108 from chapter 1 of part I to title VI of chapter 2 of part I, and redesignated it as sec. 256.

An earlier sec. 108 was added by the FA Act of 1973 (Public Law 93–189) and repealed by sec. 102(g)(2)(K)(i) of the International Development and Food Assistance Act of 1978 (92 Stat. 943).

Sec. 109.[52] **Transfer of Funds.**—Whenever[53] the President determines it to be necessary for the purposes of this chapter, not to exceed 15 per centum of the funds made available for any provision of this chapter may be transferred to, and consolidated with, the funds made available for any other provision of this chapter, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision. The authority of sections 610(a) and 614(a) of this Act may not be used to transfer funds made available under this chapter for use for purposes of any other provision of this Act except that the authority of such sections may be used to transfer for the purposes of section 667 not to exceed five per centum of the amount of funds made available for section 667(a)(1).[54]

Sec. 110.[55] **Cost-Sharing and Funding Limits.**—No assistance shall be furnished by the United States Government to a country under sections 103 through 106 of this Act until the country provides assurances to the President, and the President is sat-

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[52] 22 U.S.C. 2151g. Sec. 109 was added by sec. 2(3) of the FA Act of 1973.

Sec. 509 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"TRANSFERS

"SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

"(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

"(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than 5 days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

"(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided,* That funds transferred under such authority may be made available for the cost of such audits.".

See also in that Act, title II, para. relating to operating expenses of the USAID.

[53] Sec. 102(g)(2)(K)(ii) of the International Development and Food Assistance Act of 1978 (92 Stat. 943) struck out "Notwithstanding sec. 108 of this Act, whenever" and inserted in lieu thereof "Whenever".

[54] Sec. 129(b) of the International Development and Food Assistance Act of 1977 (91 Stat. 543) added the words to this point beginning with "except that the authority of such sections * * *".

[55] 22 U.S.C. 2151h. Sec. 2(3) of the FA Act of 1973 added sec. 110. Sec. 1211(a)(3) of the International Security and Development Cooperation Act of 1985 struck out subsec. (b) and struck out an "(a)" designation from the remaining text. Subsec. (b) previously read as follows:

"No grant assistance shall be disbursed by the United States Government under sections 103 through 106 of this Act for a project, for a period exceeding thirty-six consecutive months, without further justification satisfactory to the Congress and efforts being made to obtain sources of financing within that country and from other foreign countries and multilateral organizations.".

The initial phrase of subsec. (b), which had been added by Public Law 95–88 (91 Stat. 535), was struck by sec. 112(b)(2) of the International Development and Food Assistance Act of 1978 (92 Stat. 949). It previously read as follows:

"Except for grants to countries determined to be relatively least developed based on the United Nations Conference on Trade and Development list of 'relatively least developed countries',".

See also in this Act, sec. 124(d).

isfied, that such country provide at least 25 per centum of the costs of the entire program, project, or activity with respect to which such assistance is to be furnished, except that such costs borne by such country may be provided on an "in-kind" basis.[56]

Sec. 111.[57] **Development and Use of Cooperatives.**—In order to strengthen the participation of the rural and urban poor in their country's development, high priority shall be given to increasing the use of funds made available under this Act for technical and capital assistance in the development and use[58] of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.[59] In meeting the requirement of the preceding sentence, specific priority shall be given to the following:[60]

(1) AGRICULTURE.—Technical assistance to low income farmers who form and develop member-owned cooperatives for farm supplies, marketing and value-added processing.

(2) FINANCIAL SYSTEMS.—The promotion of national credit union systems through credit union-to-credit union technical assistance that strengthens the ability of low income people and micro-entrepreneurs to save and to have access to credit for their own economic advancement.

(3) INFRASTRUCTURE.—The support of rural electric and telecommunication cooperatives for access for rural people and villages that lack reliable electric and telecommunications services.

(4) HOUSING AND COMMUNITY SERVICES.—The promotion of community-based cooperatives which provide employment opportunities and important services such as health clinics, self-help shelter, environmental improvements, group-owned businesses, and other activities.

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[56] The following phrase, as added by the International Development and Food Assistance Act of 1975 (Public Law 94–161; 89 Stat. 849) and previously appearing at this point, was struck by sec. 112(b)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 949): "and except that the President may waive this cost-sharing requirement in the case of a project or activity in a country which the agency primarily responsible for administering part I of this Act determines is relatively least developed based on the United Nations Conference on Trade and Development list of 'relatively least developed countries'.".

[57] 22 U.S.C. 2151i. Sec. 111, as added by sec. 2(3) of the FA Act of 1973 (Public Law 93–189), was amended and restated by sec. 308 of Public Law 94–161 (89 Stat. 849). It formerly read as follows: "In order to strengthen the participation of the urban and rural poor in their country's development, not less than $20,000,000 of the funds made available for the purposes of this chapter shall be available during the fiscal years 1974 and 1975 only for assistance in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.".

[58] Sec. 107(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 535) struck out "assistance in the development" and inserted in lieu thereof "technical and capital assistance in the development and use".

[59] A sentence that earmarked funds specifically for technical assistance to carry out the purposes of this section and had previously appeared at this point was repealed by sec. 122 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366).

[60] Sec. 401(c)(2) of the Support for Overseas Cooperative Development Act (Public Law 106–309; 114 Stat. 1097) added this sentence and paras. (1) through (4). Sec. 401(d) of that Act provided the following:

"(d) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the United States Agency for International Development, in consultation with the heads of other appropriate agencies, shall prepare and submit to Congress a report on the implementation of section 111 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151i), as amended by subsection (c).".

Sec. 112.[61] **Prohibiting Police Training.** * * * [Repealed—1974]

Sec. 113.[62] **Integrating Women Into National Economies.**—(a) In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, this part shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort.

(b)[62] (1) Up to $10,000,000 of the funds made available each fiscal year under this chapter and chapter 10 of this part[63] shall be used, in addition to funds otherwise available for such purposes, for assistance on such terms and conditions as the President may determine to encourage and promote the participation and integration of women as equal partners in the development process in the developing countries. These funds shall be used primarily to support activities which will increase the economic productivity and income earning capacity of women.

(2) Nothing in this section shall be construed to authorize the establishment of a separate development assistance program for women.

(c)[62] Not less than $500,000 of the funds made available under this chapter for fiscal year 1982 shall be expended on international programs which support the original goals of the United Nations Decade for Women.

Sec. 114.[64] **Limiting Use of Funds for Abortions or Involuntary Sterilization.** * * * [Repealed—1978]

Sec. 115.[65] **Prohibiting Use of Funds for Certain Countries.** * * * [Repealed—1978]

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[61] Sec. 112, as added by sec. 2(3) of the FA Act of 1973, was repealed by sec. 30(b) of the FA Act of 1974. (See, however, sec. 660 of this Act, "Prohibiting Police Training".)

[62] 22 U.S.C. 2151k. Sec. 113, as added by sec. 2(3) of the FA Act of 1973, was amended and restated by sec. 108 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 536). Sec. 113 formerly read as follows:

"SEC. 113. INTEGRATING WOMEN INTO NATIONAL ECONOMIES.—Part I of this Act shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of foreign countries, thus improving their status and assisting the total development effort.".

Subsecs. (b) and (c), as added by Public Law 95–88 and which required a report from the President concerning the impact of development programs, projects, and activities on the integration of women into the developing economies of countries receiving assistance under this part, were repealed by sec. 122 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366) (such report was submitted to the Congress on August 3, 1978). This subsec. (b), originally added as subsec. (d) by Public Law 95–424 (92 Stat. 947), was redesignated as subsec. (b) by Public Law 96–53.

The current text of subsec. (c) was added by sec. 305 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1533).

[63] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this Act, providing for long-term development in sub-Saharan Africa, and made a conforming amendment by inserting "and chapter 10 of this part" here.

[64] Sec. 114, as added by the FA Act of 1973, was repealed by sec. 104(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 947). See sec. 104(f) of this Act for new language concerning this issue.

[65] Sec. 115, as added by the FA Act of 1974, was repealed by sec. 102(f) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

Sec. 116.[66] **Human Rights.**—(a) No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons,[67] or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

(b) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[68] of the House of Representatives may require the Administrator primarily responsible for administering part I of this Act to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 617 of this Act.

(b)[69] No assistance may be provided to any government failing to take appropriate and adequate measures, within their means, to protect children from exploitation, abuse or forced conscription into military or paramilitary services.

(c)[70] In determining whether or not a government falls within the provisions of subsection (a) and in formulating development assistance programs under this part, the Administrator shall consider, in consultation with the Assistant Secretary of State for De-

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[66] 22 U.S.C. 2151n. Sec. 310 of Public Law 94–161 (89 Stat. 849) added 116. See also in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005: sec. 534, relating to special authorities; and sec. 536, relating to eligibility for assistance.

[67] Sec. 701(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156) added text beginning with "causing the disappearance of * * *".

[68] Sec. 9(a)(6) of Public Law 103–437 (108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Subsequently, sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[69] Sec. 599D of the of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2066), added this second subsec. (b).

[70] Sec. 111 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 537) amended and restated subsecs. (c) and (d), and added a new subsec. (e). Subsecs. (c) and (d) formerly read as follows:

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

"(d) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, in the annual presentation materials on proposed economic development assistance programs, a full and complete report regarding the steps he has taken to carry out the provisions of this section.".

mocracy, Human Rights, and Labor[71] and in consultation with the Ambassador at Large for International Religious Freedom—[72]

(1) the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States;[73]

(2) specific actions which have been taken by the President or the Congress relating to multilateral or security assistance to a less developed country because of the human rights practices or policies of such country; and[73]

(3)[73] whether the government—

(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), when such efforts could have been reasonably undertaken.

(d)[70] The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25[74] of each year, a full and complete report regarding—

(1)[75] the status of internationally recognized human rights, within the meaning of subsection (a)—

(A) in countries that receive assistance under this part, and

(B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act;

(2)[76] wherever applicable, practices regarding coercion in population control, including coerced abortion and involuntary sterilization;

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[71] Sec. 162(e)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), struck out "Assistant Secretary for Human Rights and Humanitarian Affairs" and inserted in lieu thereof "Assistant Secretary of State for Democracy, Human Rights, and Labor". Previously, "Assistant Secretary" was inserted in lieu of "Coordinator" by sec. 109(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105; 91 Stat. 846).

[72] Sec. 421(a)(1) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2809) added "and in consultation with the Ambassador at Large for International Religious Freedom" after "Labor".

[73] Sec. 421(a) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2809) struck out "and" at the end of para. (1); replaced a period at the end of para. (2) with '; and"; and added para. (3).

[74] Sec. 2216(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681), struck out "January 31" and inserted in lieu thereof "February 25".

[75] Para. (1) was amended and restated by sec. 504 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 378) by adding the requirement contained in subpara. (B). Sec. 504 also required a report from the Secretary of State by November 15, 1979, on the impact on the foreign relations of the United States of the reports required by this Act on the human rights practices of foreign governments.

[76] Sec. 127 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1342) added a new para. (2), and redesignated former para. (2) as para. (3). Subsequently, sec. 201(a) of Public Law 104–319 (110 Stat. 3864) struck out "and" at the

(3)[77] the status of child labor practices in each country, including—

(A) whether such country has adopted policies to protect children from exploitation in the workplace, including a prohibition of forced and bonded labor and policies regarding acceptable working conditions; and

(B) the extent to which each country enforces such policies, including the adequacy of the resources and oversight dedicated to such policies;

(4)[76, 77] the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year;

(5)[76] the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement;[78]

(6)[76, 78] the steps the Administrator has taken to alter United States programs under this part in any country because of human rights considerations;

(7)[77, 78] wherever applicable, violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998);

(8)[79] wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur during the preceding year, including descriptions of—

(A) acts of physical violence against, or harassment of Jewish people, and acts of violence against, or vandalism of Jewish community institutions, including schools, synagogues, and cemeteries;

(B) instances of propaganda in government and nongovernment media that attempt to justify or promote racial hatred or incite acts of violence against Jewish people;

(C) the actions, if any, taken by the government of the country to respond to such violence and attacks or to eliminate such propaganda or incitement;

(D) the actions taken by such government to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people; and

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end of para. (2), redesignated para. (3) as para. (5), and added new paras. (3) and (4). See also footnote 77.

[77] Sec. 2216(2) and (3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681), redesignated paras. (3) through (6) as paras. (4) through (7) and added a new para. (3). At the time of enactment of Public Law 105–277, however, no para. (6) was contained in the section. Public Law 105–292 added para. (6) later, shown here redesignated as para. (7).

[78] Sec. 102(d)(1) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2794) struck out "and" at the end of para. (4); replaced a period at the end of this para. (5) with "; and"; and added a new para. (6). Paras. (4) and (5), however, had already been redesignated as paras. (5) and (6) by sec. 2216 of Public Law 105–277. Sec. 2216 of Public Law 105–277 also redesignated a then-nonexistent para. (6) as para. (7). The amendment has been made to the subsequently enacted para. (6), shown here as para. (7).

Sec. 806(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "and" at the end of para. (6), struck out a period at the end of para. (7) and inserted in lieu thereof "and", and added a new para. (8).

[79] Sec. 6(a)(1) of the Global Anti-Semitism Review Act of 2004 (Public Law 108–332; 118 Stat. 1285) redesignated paras. (8), (9), and (10) as paras. (9), (10), and (11), and added a new para. (8).

(E) the efforts of such government to promote anti-bias and tolerance education;

(9)[79] wherever applicable, consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987);

(10)[80] for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country; and

(11)[81] (A) wherever applicable, a description of the nature and extent)—

(i) of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, and the participation of such individuals in such groups; and

(ii) that such individuals take a direct part in hostilities;

(B) what steps, if any, taken by the government of the country to eliminate such practices; and

(C) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary.

(e)[70, 82] The President is authorized and encouraged to use not less than $3,000,000 of the funds made available under this chap-

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[80] Sec. 665(a) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1406) struck out "and" at the end of para. (7); replaced a period at the end of para. (8) with "; and"; and added a new para. (9), subsequently redesignated as para. (10) by sec. 6(a) of Public Law 108–332 (118 Stat. 1285). Sec. 665(c) of that Act further provided the following:

"(c) SEPARATE REPORT.—The information to be included in the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 pursuant to the amendments made by subsections (a) and (b) may be submitted by the Secretary as a separate report. If the Secretary elects to submit such information as a separate report, such report shall be submitted not later than 30 days after the date of submission of the report required by section 116(d) and 502B(b) of the Foreign Assistance Act of 1961.".

[81] Sec. 683(a) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1410) struck out "and" at the end of para. (8); replaced a period at the end of para (9) with "; and "; and added a new para. (10). Para. (1) was redesignated as para. (11) by sec. 6(a) of Public Law 108–332 (118 Stat. 1285), which added a new para. (8).

[82] Sec. 109(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 947) added "The President is authorized and encouraged to use not less than".

The authorization level of $3,000,000 and the reference to funds available under chapter 4 of part II were added by sec. 1002(a)(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1052). Previously, amendments by sec. 306 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1533), sec. 504 of Public Law 96–533 (94 Stat. 378), and sec. 109(2) of Public Law 95–424 (92 Stat. 947) authorized the use of $1,500,000 for this purpose in fiscal years 1982–1983, fiscal year 1981, and fiscal year 1979, respectively. The original text of subsec. (e), added by sec. 111 of Public Law 95–88 (91 Stat. 537), authorized the use of $750,000 for this purpose during fiscal year 1978.

The authorization level of $1,500,000 for the fiscal year 1986 and for each fiscal year thereafter was added by sec. 202 of Public Law 99–440 (100 Stat. 1095).

Para. designation "(1)" and a new para. (2) were added to subsec. (e) by sec. 1002(a)(3) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1052). Para. (2) subsequently was repealed by sec. 4(a)(3)(B) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505), and the designation for para. (1) was struck out.

ter, chapter 10 of this part,[83] and chapter 4 of part II for each fiscal year for studies to identify, and for openly carrying out, programs and activities which will encourage or promote increased adherence to civil and political rights, including the right to free religious belief and practice,[84] as set forth in the Universal Declaration of Human Rights, in countries eligible for assistance under this chapter or under chapter 10 of this part, except that funds made available under chapter 10 of this part may only be used under this subsection with respect to countries in sub-Saharan Africa. None of these funds may be used, directly or indirectly, to influence the outcome of any election in any country.

(f)[85] (1) The report required by subsection (d) shall include the following:

Para. (2) of subsec. (e) had stated a priority, with supporting guidelines and conditions, for giving grants to "nongovernmental organizations in South Africa promoting political, economic, social, juridical, and humanitarian efforts to foster a just society and to help victims of apartheid.".

Sec. 4(a)(3)(B) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505) also repealed subsecs. (f) and (g) of sec. 116, which had been added by sec. 202(b) of Public Law 99–440 (100 Stat. 1095).

Subsec. (f) directed not less than $500,000 under section (e)(2)(A) to be used "for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners, and for support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies * * *".

Subsec. (g) directed $175,000 each fiscal year to "be used for direct assistance to families of victims of violence such as 'necklacing' and other such inhumane acts", and another $175,000 to "be made available to black groups in South Africa which are actively working toward a multi-racial solution to the sharing of political power in that country through nonviolent, constructive means.".

[83] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this Act, providing for long-term development in sub-Saharan Africa, and made a conforming amendment by inserting ", chapter 10 of this part," here, and text at the end of the first sentence beginning at "or under chapter 10".

[84] Sec. 501(b) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2811) inserted ", including the right to free religious belief and practice" after "adherence to civil and political rights". Subsec. (a) of that sec. provided the following:

"SEC. 501. ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM.

"(a) FINDINGS.—Congress makes the following findings:

"(1) In many nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

"(2) Accordingly, in the provision of foreign assistance, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom.".

[85] Sec. 104(a) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1471) amended and restated subsec. (f). Originally added by sec. 597 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), the subsec. formerly read as follows:

"(f)(1) The report required by subsection (d) shall include—

"(A) a list of foreign states where trafficking in persons, especially women and children, originates, passes through, or is a destination; and

"(B) an assessment of the efforts by the governments of the states described in paragraph (A) to combat trafficking. Such an assessment shall address—

"(i) whether government authorities in each such state tolerate or are involved in trafficking activities;

"(ii) which government authorities in each such state are involved in anti-trafficking activities;

"(iii) what steps the government of each such state has taken to prohibit government officials and other individuals from participating in trafficking, including the investigation, prosecution, and conviction of individuals involved in trafficking;

"(iv) what steps the government of each such state has taken to assist trafficking victims;

"(v) whether the government of each such state is cooperating with governments of other countries to extradite traffickers when requested;

Continued

(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

(ii) Which government authorities in that country are involved in activities to combat such trafficking.

(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

"(vi) whether the government of each such state is assisting in international investigations of transnational trafficking networks; and

"(vii) whether the government of each such state refrains from prosecuting trafficking victims or refrains from other discriminatory treatment towards victims.

"(2) In compiling data and assessing trafficking for the purposes of paragraph (1), United States Diplomatic Mission personnel shall consult with human rights and other appropriate nongovernmental organizations.

"(3) For purposes of this subsection—

"(A) the term 'trafficking' means the use of deception, coercion, debt bondage, the threat of force, or the abuse of authority to recruit, transport within or across borders, purchase, sell, transfer, receive, or harbor a person for the purposes of placing or holding such person, whether for pay or not, in involuntary servitude, slavery or slavery-like conditions, or in forced, bonded, or coerced labor;

"(B) the term 'victim of trafficking' means any person subjected to the treatment described in subparagraph (A).".

(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.

Sec. 117.[86] **Assistance for Disadvantaged South Africans.** * * * [Repealed—1993]

Sec. 117.[87] **Environment and Natural Resources.**—(a) The Congress finds that if current trends in the degradation of natural resources in developing countries continue, they will severely undermine the best efforts to meet basic human needs, to achieve sustained economic growth, and to prevent international tension and conflict. The Congress also finds that the world faces enormous, urgent, and complex problems, with respect to natural resources, which require new forms of cooperation between the United States and developing countries to prevent such problems from becoming unmanageable. It is, therefore, in the economic and security interests of the United States to provide leadership both in thoroughly reassessing policies relating to natural resources and the environ-

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[86] Formerly at 22 U.S.C. 2151o. Sec. 4(a)(3)(B) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505) repealed sec. 117. It had been added originally by sec. 201(b) of Public Law 99–440 (100 Stat. 1094). Sec. 117 provided assistance for disadvantaged South Africans through South African nongovernmental organizations, such as the Educational Opportunities Council, the South African Institute of Race Relations, READ, professional teachers' unions, the Outreach Program of the University of the Western Cape, the Funda Center in Soweto, SACHED, UPP Trust, TOPS, the Wilgespruit Fellowship Center (WFC), and civic and other organizations working at the community level which did not receive funds from the Government of South Africa.

A previous sec. 117, relating to infant nutrition, was repealed in 1978.

[87] 22 U.S.C. 2151p. Sec. 117 was redesignated from "sec. 118" by sec. 301(1) of Public Law 99–529 (100 Stat. 3014), resulting in the creation of two sections 117. Sec. 301(2) of Public Law 99–529 further deleted subsec. (d) of that section, which dealt with tropical forests, and sec. 301(3) of Public Law 99–529 added a new section 118 entitled "Tropical Forests". This section, as added by sec. 113 of Public Law 95–88 (91 Stat. 537) and amended by sec. 110 of Public Law 95–424 (92 Stat. 948) and sec. 122 of Public Law 96–53 (93 Stat. 948), was further amended and restated by sec. 307 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1533). This section previously read as follows:

"Sec. 118. Environment and Natural Resources.—(a) The President is authorized to furnish assistance under this part for developing and strengthening the capacity of less developed countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible restore the land, vegetation, water, wildlife and other resources upon which depend economic growth and human well-being especially that of the poor.

"(b) In carrying out programs under this chapter, the President shall take into consideration the environmental consequence of development actions.".

See also sec. 517(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), relating to assistance to the new independent states of the former Soviet Union.

See also sec. 534 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1228), as amended, relating to "Global Warming Initiative".

See also sec. 533 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2013), as amended, relating to "Environment and Global Warming".

See also sec. 532 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1666), relating to "Environment".

ment, and in cooperating extensively with developing countries in order to achieve environmentally sound development.

(b) In order to address the serious problems described in subsection (a), the President is authorized to furnish assistance under this part for developing and strengthening the capacity of developing countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible to restore the land, vegetation, water, wildlife, and other resources upon which depend economic growth and human well-being, especially of the poor.

(c)(1) The President, in implementing programs and projects under this chapter and chapter 10 of this part,[88] shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for programs or projects under this chapter—

(A) to prepare and take fully into account an environmental impact statement for any program or project under this chapter significantly affecting the environment of the global commons outside the jurisdiction of any country, the environment of the United States, or other aspects of the environment which the President may specify; and

(B) to prepare and take fully into account an environmental assessment of any proposed program or project under this chapter significantly affecting the environment of any foreign country.

Such agencies and officials should, where appropriate, use local technical resources in preparing environmental impact statements and environmental assessments pursuant to this subsection.

(2) The President may establish exceptions from the requirements of this subsection for emergency conditions and for cases in which compliance with those requirements would be seriously detrimental to the foreign policy interests of the United States.

Sec. 118.[89] Tropical Forests.

(a) IMPORTANCE OF FORESTS AND TREE COVER.—In enacting section 103(b)(3) of this Act the Congress recognized the importance of forests and tree cover to the developing countries. The Congress is particularly concerned about the continuing and accelerating alteration, destruction, and loss of tropical forests in developing countries, which pose a serious threat to development and the environment. Tropical forest destruction and loss—

(1) result in shortages of wood, especially wood for fuel; loss of biologically productive wetlands; siltation of lakes, reservoirs, and irrigation systems; floods; destruction of indigenous peoples; extinction of plant and animal species; reduced capacity for food production; and loss of genetic resources; and

[88] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this Act, providing for long-term development in sub-Saharan Africa, and made a conforming amendment by inserting "and chapter 10 of this part" here.

[89] 22 U.S.C. 2151p–1. Sec. 301(3) of Public Law 99–529 (100 Stat. 3014) added sec. 118. See also footnote 87.

(2) can result in desertification and destabilization of the earth's climate.

Properly managed tropical forests provide a sustained flow of resources essential to the economic growth of developing countries, as well as genetic resources of value to developed and developing countries alike.

(b) PRIORITIES.—The concerns expressed in subsection (a) and the recommendations of the United States Interagency Task Force on Tropical Forests shall be given high priority by the President—

(1) in formulating and carrying out programs and policies with respect to developing countries, including those relating to bilateral and multilateral assistance and those relating to private sector activities; and

(2) in seeking opportunities to coordinate public and private development and investment activities which affect forests in developing countries.

(c) ASSISTANCE TO DEVELOPING COUNTRIES.—In providing assistance to developing countries, the President shall do the following:

(1) Place a high priority on conservation and sustainable management of tropical forests.

(2) To the fullest extent feasible, engage in dialogues and exchanges of information with recipient countries—

(A) which stress the importance of conserving and sustainably managing forest resources for the long-term economic benefit of those countries, as well as the irreversible losses associated with forest destruction, and

(B) which identify and focus on policies of those countries which directly or indirectly contribute to deforestation.

(3) To the fullest extent feasible, support projects and activities—

(A) which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and

(B) which help developing countries identify and implement alternatives to colonizing forested areas.

(4) To the fullest extent feasible, support training programs, educational efforts, and the establishment or strengthening of institutions which increase the capacity of developing countries to formulate forest policies, engage in relevant land-use planning, and otherwise improve the management of their forests.

(5) To the fullest extent feasible, help end destructive slash-and-burn agriculture by supporting stable and productive farming practices in areas already cleared or degraded and on lands which inevitably will be settled, with special emphasis on demonstrating the feasibility of agroforestry and other techniques which use technologies and methods suited to the local environment and traditional agricultural techniques and feature close consultation with and involvement of local people.

(6) To the fullest extent feasible, help conserve forests which have not yet been degraded, by helping to increase production on lands already cleared or degraded through support of reforestation, fuelwood, and other sustainable forestry projects and

practices, making sure that local people are involved at all stages of project design and implementation.

(7) To the fullest extent feasible, support projects and other activities to conserve forested watersheds and rehabilitate those which have been deforested, making sure that local people are involved at all stages of project design and implementation.

(8) To the fullest extent feasible, support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing, including reforestation, soil conservation, and other activities to rehabilitate degraded forest lands.

(9) To the fullest extent feasible, support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation, including research in agroforestry, sustainable management of natural forests, small-scale farms and gardens, small-scale animal husbandry, wider application of adopted traditional practices, and suitable crops and crop combinations.

(10) To the fullest extent feasible, conserve biological diversity in forest areas by—

(A) supporting and cooperating with United States Government agencies, other donors (both bilateral and multilateral), and other appropriate governmental, intergovernmental, and nongovernmental organizations in efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis;

(B) whenever appropriate, making the establishment of protected areas a condition of support for activities involving forest clearance of degradation; and

(C) helping developing countries identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas.

(11) To the fullest extent feasible, engage in efforts to increase the awareness of United States Government agencies and other donors, both bilateral and multilateral, of the immediate and long-term value of tropical forests.

(12) To the fullest extent feasible, utilize the resources and abilities of all relevant United States Government agencies.

(13) Require that any program or project under this chapter significantly affecting tropical forests (including projects involving the planting of exotic plant species)—

(A) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land, and

(B) take full account of the environmental impacts of the proposed activities on biological diversity,

as provided for in the environmental procedures of the Agency for International Development.

(14) Deny assistance under this chapter for—

(A) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an en-

vironmentally sound manner which minimizes forest destruction and that the proposed activity will produce positive economic benefits and sustainable forest management systems; and

(B) actions which significantly degrade national parks or similar protected areas which contain tropical forests or introduce exotic plants or animals into such areas.

(15) Deny assistance under this chapter for the following activities unless an environmental assessment indicates that the proposed activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development:

(A) Activities which would result in the conversion of forest lands to the rearing of livestock.

(B) The construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands.

(C) The colonization of forest lands.

(D) The construction of dams or other water control structures which flood relatively undegraded forest lands.

(d) PVOs AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Whenever feasible, the President shall accomplish the objectives of this section through projects managed by private and voluntary organizations or international, regional, or national nongovernmental organizations which are active in the region or country where the project is located.

(e) COUNTRY ANALYSIS REQUIREMENTS.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to achieve conservation and sustainable management of tropical forests, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(f)[90] ANNUAL REPORT.—Each annual report required by section 634(a) of this Act shall include a report on the implementation of this section.

Sec. 119.[91] **Renewable and Unconventional Energy Technologies.** * * * [Repealed—1980]

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[90] Sec. 209(e)(3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), stated that sec. 3003(a)(1) of Public Law 104–66 (109 Stat. 734) is not applicable to this subsection. Sec. 3003(a)(1) of that Act, as amended, provided that "* * * each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list * * * [prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress] shall cease to be effective, with respect to that requirement, May 15, 2000.".

[91] Sec. 119, as added by Public Law 95–88 (91 Stat. 528), amended by sec. 111 of the International Development and Food Assistance Act of 1978 (92 Stat. 948), and by sec. 107 of the International Development Cooperation Act of 1979 (93 Stat. 362), was repealed by sec. 304(g) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3147). See sec. 106 of this Act for text concerning energy technologies.

Sec. 119.[92] **Endangered Species.**—(a) The Congress finds the survival of many animal and plant species is endangered by overhunting, by the presence of toxic chemicals in water, air and soil, and by the destruction of habitats. The Congress further finds that the extinction of animal and plant species is an irreparable loss with potentially serious environmental and economic consequences for developing and developed countries alike. Accordingly, the preservation of animal and plant species through the regulation of the hunting and trade in endangered species, through limitations on the pollution of natural ecosystems, and through the protection of wildlife habitats should be an important objective of the United States development assistance.

(b)[92] In order to preserve biological diversity, the President is authorized to furnish assistance under this part, notwithstanding section 660,[93] to assist countries in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs. Special efforts should be made to establish and maintain wildlife sanctuaries, reserves, and parks; to enact and enforce anti-poaching measures; and to identify, study, and catalog animal and plant species, especially in tropical environments.

(c)[94] FUNDING LEVEL.—For fiscal year 1987, not less than $2,500,000 of the funds available to carry out this part (excluding funds made available to carry out section 104(c)(2), relating to the Child Survival Fund) shall be allocated for assistance pursuant to subsection (b) for activities which were not funded prior to fiscal year 1987. In addition, the Agency for International Development shall, to the fullest extent possible, continue and increase assistance pursuant to subsection (b) for activities for which assistance was provided in fiscal years prior to fiscal year 1987.

(d)[94] COUNTRY ANALYSIS REQUIREMENTS.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to conserve biological diversity, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(e)[94] LOCAL INVOLVEMENT.—To the fullest extent possible, projects supported under this section shall include close consultation with and involvement of local people at all stages of design and implementation.

(f)[94] PVOS AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Whenever feasible, the objectives of this section shall be accomplished through projects managed by appropriate private and voluntary organizations, or international, regional, or national nongovernmental organizations, which are active in the region or country where the project is located.

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[92] 22 U.S.C. 2151q. Sec. 702 of the International Environment Protection Act of 1983 (title VII of the Department of State Authorization Act, Fiscal Years 1984 and 1985, Public Law 98–164; 97 Stat. 1045) added subsecs. (a) and (b).

[93] Sec. 533(d)(4)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1227), added ", notwithstanding section 660," at this point.

[94] Sec. 302 of Public Law 99–529 (100 Stat. 3017) added subsecs. (c) through (h).

(g)[94] ACTIONS BY AID.—The Administrator of the Agency for International Development shall—

(1) cooperate with appropriate international organizations, both governmental and nongovernmental;

(2) look to the World Conservation Strategy as an overall guide for actions to conserve biological diversity;

(3) engage in dialogues and exchanges of information with recipient countries which stress the importance of conserving biological diversity for the long-term economic benefit of those countries and which identify and focus on policies of those countries which directly or indirectly contribute to loss of biological diversity;

(4) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity;

(5) whenever possible, enter into long-term agreements in which the recipient country agrees to protect ecosystems or other wildlife habitats recommended for protection by relevant governmental or nongovernmental organizations or as a result of activities undertaken pursuant to paragraph (6), and the United States agrees to provide, subject to obtaining the necessary appropriations, additional assistance necessary for the establishment and maintenance of such protected areas;

(6) support, as necessary and in cooperation with the appropriate governmental and nongovernmental organizations, efforts to identify and survey ecosystems in recipient countries worthy of protection;

(7) cooperate with and support the relevant efforts of other agencies of the United States Government, including the United States Fish and Wildlife Service, the National Park Service, the Forest Service, and the Peace Corps;

(8) review the Agency's environmental regulations and revise them as necessary to ensure that ongoing and proposed actions by the Agency do not inadvertently endanger wildlife species or their critical habitats, harm protected areas, or have other adverse impacts on biological diversity (and shall report to the Congress within a year after the date of enactment of this paragraph on the actions taken pursuant to this paragraph);

(9) ensure that environmental profiles sponsored by the Agency include information needed for conservation of biological diversity; and

(10) deny any direct or indirect assistance under this chapter for actions which significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas.

(h)[94] ANNUAL REPORTS.—Each annual report required by section 634(a) of this Act shall include, in a separate volume, a report on the implementation of this section.

Sec. 120.[95] **Sahel Development Program—Planning.**—(a) The Congress reaffirms its support of[96] the initiative of the United States Government in undertaking consultations and planning with the countries concerned, and with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program.

(b)[97] The President is authorized to develop a long-term comprehensive development program for the Sahel and other drought-stricken nations in Africa.

(c)[97] In developing this long-term program, the President shall—

(1) consider international coordination for the planning and implementation of such program;

(2) seek greater participation and support by African countries and organizations in determining development priorities; and

(3) begin such planning immediately.

(d)[97] * * * [Repealed—1978]

Sec. 121.[98] **Sahel Development Program—Implementation.** * * * [Repealed—1990]

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[95] 22 U.S.C. 2151r. Sec. 120, originally added as sec. 639B by sec. 20 of the FA Act of 1973 (Public Law 93–189) and later redesignated as sec. 494B by sec. 101(5) of Public Law 94–161 (89 Stat. 849), was again redesignated as sec. 120 by sec. 115(1) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 539).

Sec. 115(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 539) struck out "African Development Program" and inserted in lieu thereof "Sahel Development Program—Planning" in the section catchline.

[96] Sec. 101(7)(C) of Public Law 94–161 (89 Stat. 849) struck out "supports" and inserted in lieu thereof "reaffirms its support of".

[97] Sec. 101(7)(D) of Public Law 94–161 (89 Stat. 849) added subsecs. (b), (c), and (d). Subsec. (d) was subsequently repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[98] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this Act, providing for long-term development in sub-Saharan Africa, and made a conforming amendment by repealing sec. 121. Sec. 121, as added by sec. 115(3) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 53), and amended by sec. 108 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 363), sec. 809 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 263), International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984, Public Law 98–151; 97 Stat. 969), sec. 308 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535), and sec. 306 of Public Law 96–533 (94 Stat. 363), formerly read as follows:

"**Sec. 121. Sahel Development Program—Implementation.**—(a) The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the long-term development of the Sahelian region. Assistance furnished under this section shall be in accordance with a long-term, multidonor development plan which calls for equitable burden sharing with other donors and shall be furnished, whenever appropriate, in cooperation with an international coordinating mechanism.

"(b) The President shall prepare an annual report on the Sahel Development Program concerning the allocation of the United States contribution to the Program, the extent of the contributions from other donor countries, the effectiveness of the integrated effort through the Club des Amis du Sahel, and the progress made in achieving the objectives of the program.

"(c) There are authorized to be appropriated to the President for purposes of this section beginning in the fiscal year 1978, in addition to funds otherwise available for such purposes, $200,000,000, except that not to exceed $50,000,000, may be appropriated under this section for the fiscal year 1978. In addition to the amount authorized in the preceding sentence and to funds otherwise available for such purposes, there are authorized to be appropriated to the President for purposes of this section $25,000,000. In addition to the amounts authorized in the preceding sentences and to funds otherwise available for such purposes, there are authorized to be appropriated to the President for purposes of this section $86,558,000 for the fiscal year 1986 and $87,750,000 for the fiscal year 1987. Amounts appropriated under this section are authorized to remain available until expended.

"(d) Funds available to carry out this section (including foreign currencies acquired with funds appropriated to carry out this section) may not be made available to any foreign government for disbursement unless the Administrator of the Agency for International Development deter-

Sec. 122.[99] **General Authorities.**—(a) In order to carry out the purposes of this chapter, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to countries and areas through programs of grant and loan assistance, bilaterally or through regional, multilateral, or private entities.

(b)[99] The President is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine, in order to promote the economic development of countries and areas, with emphasis upon assisting long range plans and programs designed to develop economic resources and increase productive capacities. The President shall determine the interest payable on any loan. In making loans under this chapter, the President shall consider the economic circumstances of the borrower and other relevant factors, including the capacity of the recipient country to repay the loan at a reasonable rate of interest, except that loans may not be made at a rate of interest of less than 3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum, nor higher than the applicable legal rate of interest of the country in which the loan is made.

(c)[100] Dollar receipts paid during any fiscal year from loans made under this part or from loans made under predecessor foreign assistance legislation shall be deposited in the Treasury as miscellaneous receipts.

(d)[100] Not to exceed $10,000,000 of the funds made available each fiscal year for the purposes of this chapter may be used for assistance on such terms and conditions as the President may determine, to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

(e)[101] The President shall establish an interagency Development Loan Committee, consisting of such officers from such agencies of the United States Government as he may determine, which shall, under the direction of the President, establish standards and criteria for lending operations under this chapter in accordance with the foreign and financial policies of the United States. Except in the case of officers serving in positions to which they were appointed by the President by and with the advice and consent of the

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mines that the foreign government will maintain a system of accounts with respect to those funds which will provide adequate identification of and control over the receipt and expenditure of those funds.

"(e) Grants shall be made under this section to Sahel Development Program host governments in order to help them enhance their administrative capabilities to meet the administrative requirements resulting from donor country projects and activities.".

[99] 22 U.S.C. 2151t. Sec. 102(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 940) added subsec. (a). Sec. 102(b) of that same Act substantially amended subsecs. (b), (c), and (d) of sec. 201, consolidating them into one subsec. (b), and then moving it to become subsec. (b) of sec. 122.

[100] Sec. 102(c)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941) added subsecs. (c) and (d).

[101] Subsec. (e) formerly appeared in this Act as sec. 204. Such sec. 204 was redesignated as subsec. (e) of this section by sec. 102(d) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941).

Senate, officers assigned to the Committee shall be so assigned by the President by and with the advice and consent of the Senate.

Sec. 123.[102] **Private and Voluntary Organizations and Cooperatives in Overseas Development.**—(a) The Congress finds that the participation of rural and urban poor people in their countries' development can be assisted and accelerated in an effective manner through an increase in activities planned and carried out by private and voluntary organizations and cooperatives. Such organizations and cooperatives, embodying the American spirit of self-help and assistance to others to improve their lives and incomes, constitute an important means of mobilizing private American financial and human resources to benefit poor people in developing countries. The Congress declares that it is in the interest of the United States that such organizations and cooperatives expand their overseas development efforts without compromising their private and independent nature. The Congress further declares that the financial resources of such organizations and cooperatives should be supplemented by the contribution of public funds for the purpose of undertaking development activities in accordance with the principles set forth in section 102 and, if necessary and determined on a case-by-case basis, for the purpose of sharing the cost of developing programs related to such activities.[103] The Congress urges the Administrator of the agency primarily responsible for administering this part, in implementing programs authorized under this part, to draw on the resources of private and voluntary organizations and cooperatives to plan and carry out development activities and to establish simplified procedures for the development and approval of programs to be carried out by such private and voluntary organizations and cooperatives as have demonstrated a capacity to undertake effective development activities.[104]

(b)[105] In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation of friendly peoples, the President is authorized to use funds made available for the purposes of this chapter and chapter 10 of this part[106] to pay transportation charges on shipments by the Amer-

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[102] 22 U.S.C. 2151u. Added by sec. 102(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941).

In the Foreign Operations, Export Financing, and Related Programs appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), see sec. 522, relating to child survival and health activities, and sec. 586, relating to admission of refugees.

[103] Sec. 307(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3147) added the words to this point beginning with "and, if necessary * * *".

[104] Sec. 307(2) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3147) added the words to this point beginning with "and to establish * * *".

[105] Sec. 534(f) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 118 Stat. 182), provided the following:

"(f) SHIPMENT OF HUMANITARIAN ASSISTANCE.—During fiscal year 2004 and each fiscal year thereafter, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made available to nongovernmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.".

[106] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this Act, providing for long-term development in sub-Saharan Africa, and made a conforming amendment by inserting "and chapter 10 of this part" here.

ican National Red Cross and by United States voluntary agencies registered with the Agency for International Development.[107]

(c) Reimbursement under this section may be provided for transportation charges on shipments from United States ports, or in the case of excess or surplus property supplied by the United States from foreign ports, to ports of entry abroad or to points of entry abroad in cases (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specified country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

(d) Where practicable, the President shall make arrangements with the receiving country for free entry of such shipments and for the making available by the country of local currencies for the purpose of defraying the transportation costs of such shipments from the port or point of entry of the receiving country to the designated shipping point of the consignee.

(e)[108] Prohibitions on assistance to countries contained in this or any other Act shall not be construed to prohibit assistance by the agency primarily responsible for administering this part in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date such prohibition becomes applicable. The President shall take into consideration, in any case in which statutory prohibitions on assistance would be applicable but for this subsection, whether continuation of support for such programs is in the national interest of the United States. If the President continues such support after such date, he shall prepare and transmit, not later than one year[109] after such date, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth the reasons for such continuation.

(f)[110] For each of the fiscal years 1986 through 1989[111] funds in an amount not less than thirteen and one-half[111] percent of the ag-

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[107] Sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366) struck out "Advisory Committee on Voluntary Foreign Aid" and inserted in lieu thereof "Agency for International Development".

[108] Sec. 307(3) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3147) added subsec. (e).

See a similar authority in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), in section 536.

[109] Sec. 309(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190), struck out "thirty days" and inserted in lieu thereof "one year".

[110] Sec. 309 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535) added subsecs. (f) and (g). Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), repealed subsec. (g), which had read as follows:

"(g) After December 31, 1984, funds made available to carry out section 103(a), 104(b), 104(c), 105, 106, 491, or 496 of this Act may not be made available for programs of any United States private and voluntary organization which does not obtain at least 20 percent of its total annual financial support for its international activities from sources other than the United States Government, except that this restriction does not apply with respect to programs which, as of that date, are receiving financial support from the agency primarily responsible for administering this part. The Administrator of the agency primarily responsible for administering this part may, on a case-by-case basis, waive the restriction established by this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency primarily responsible for administering this part.".

[111] Sec. 309(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190), amended sec. 123(f) by striking out "1982, 1983 and 1984" and insert-

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gregate amount appropriated for that fiscal year to carry out sections 103(a), 104(b), 104(c), 105, 106, 121, and 491 of this Act shall be made available for the activities of private and voluntary organizations, and the President shall seek to channel funds in an amount not less than sixteen percent of such aggregate amount for the activities of private and voluntary organizations. Funds made available under chapter 4 of part II of this Act for the activities of private and voluntary organizations may be considered in determining compliance with the requirements of this subsection.[111]

(g)[110] * * * [Repealed—1998]

(h)[112] The Congress recognizes that, in addition to their role in social and economic development, cooperatives provide an opportunity for people to participate directly in democratic decisionmaking. Therefore, assistance under this chapter shall be provided to rural and urban cooperatives which offer large numbers of low- and middle-income people in developing countries an opportunity to participate directly in democratic decisionmaking. Such assistance shall be designed to encourage the adoption of self-help, private sector cooperative techniques and practices which have been successful in the United States.

Sec. 124.[113] **Relatively Least Developed Countries.**—(a) Relatively least developed countries (as determined on the basis of criteria comparable to those used for the United Nations General Assembly list of "least developed countries") are characterized by extreme poverty, very limited infrastructure, and limited administrative capacity to implement basic human needs growth strategies. In such countries special measures may be necessary to insure the full effectiveness of assistance furnished under this part.

(b) For the purpose of promoting economic growth in these countries, the President is authorized and encouraged to make assistance under this chapter available on a grant basis to the maximum extent that is consistent with the attainment of United States development objectives.

(c)[114] (1) The Congress recognizes that the relatively least developed countries have virtually no access to private international capital markets. Insofar as possible, prior assistance terms should be consistent with present grant assistance terms for relatively least developed countries. Therefore, notwithstanding section 620(r) of this Act and section 321 of the International Development and Food Assistance Act of 1975 but subject to paragraph (2) of this subsection, the President on a case-by-case basis, taking into account the needs of the country for financial resources and the commitment of the country to the development objectives set forth in sections 101 and 102—

(A) may permit a relatively least developed country to place amounts, which would otherwise be paid to the United States as payments on principal or interest on liability incurred by

ing in lieu thereof "1986 through 1989"; by striking out "twelve" and by inserting in lieu thereof "thirteen and one half", and by adding the current last sentence.

[112] Sec. 310 of Public Law 99–83 (99 Stat. 190) added subsec. (h).

[113] 22 U.S.C. 2151v. Sec. 112(a)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 948) added sec. 124.

[114] Sec. 112(a)(2) of the International Development and Food Assistance Act of 1978 (92 Stat. 949) stated that the authority granted by subsec. (c) shall not become effective until October 1, 1979.

that country under this part (or any predecessor legislation) into local currency accounts (in equivalent amounts of local currencies as determined by the official exchange rate for United States dollars) for use by the relatively least developed country, with the concurrence of the Administrator of the agency primarily responsible for administering this part, for activities which are consistent with section 102; and

(B) may waive interest payments on liability incurred by a relatively least developed country under this part (or any predecessor legislation) if the President determines that that country would be unable to use for development purposes the equivalent amounts of local currencies which could be made available under subparagraph (A).

(2) The aggregate amount of interest waived and interest and principal paid into local currency accounts under this subsection in any fiscal year may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this chapter for that fiscal year, which amount may not exceed the amount authorized to be so approved by the annual authorizing legislation for development assistance programs. Amounts due and payable during fiscal year 1981 to the United States from relatively least developed countries on loans made under this part (or any predecessor legislation) are authorized to be approved for use, in accordance with the provisions of paragraph (1) of this subsection, in an amount not to exceed $10,845,000.[115]

(3) In exercising the authority granted by this subsection, the President should act in concert with other creditor countries.

(d) The President may on a case-by-case basis waive the requirement of section 110(a) for financial or "in kind" contributions in the case of programs, projects, or activities in relatively least developed countries.

(e) Section 110(b) shall not apply with respect to grants to relatively least developed countries.

Sec. 125.[116] **Project and Program Evaluation.**—(a) The Administrator of the agency primarily responsible for administering this part is directed to improve the assessment and evaluation of the programs and projects carried out by that agency under this chapter. The Administrator shall consult with the appropriate committees of the Congress in establishing standards for such evaluations.

(b)[117] * * * [Repealed—1981]

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[115] This sentence was added by sec. 109 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 363). The authorization figure for fiscal year 1981 was inserted in lieu of the fiscal year 1980 authorization ($18,800,000) by sec. 308 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3147).

[116] 22 U.S.C. 2151w. Sec. 113 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950) added sec. 125. The responsibility of the Administrator mentioned in this section was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[117] Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed subsec. (b), which required the President to report to Congress on improvements to the evaluation of projects and programs conducted by the international financial institutions and the United Nations Development Program. Such report was submitted on March 26, 1979.

Sec. 126.[118] **Development and Illicit Narcotics Production.**—(a) The Congress recognizes that illicit narcotics cultivation is related to overall development problems and that the vast majority of all individuals employed in the cultivation of illicit narcotics reside in the developing countries and are among the poorest of the poor in those countries and that therefore the ultimate success of any effort to eliminate illicit narcotics production depends upon the availability of alternative economic opportunities for those individuals, upon other factors which assistance under this chapter could address, as well as upon direct narcotics control efforts.

(b)(1)[119] In planning programs of assistance under this chapter, and chapter 10 of this part,[119] and under chapter 4 of part II[119] for countries in which there is illicit narcotics cultivation, the agency primarily responsible for administering this part should give priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities.

(2)[119] The agency primarily responsible for administering this part may utilize resources for activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

(c) In furtherance of the purposes of this section, the agency primarily responsible for administering this part shall cooperate fully with, and share its expertise in development matters with, other agencies of the United States Government involved in narcotics control activities abroad.

Sec. 127.[120] **Accelerated Loan Repayments.**—The Administrator of the agency primarily responsible for administering this part shall conduct an annual review of bilateral concessional loan balances and shall determine and identify those countries whose financial resources make possible accelerated loan repayments. In particular, European countries that were recipients of concessional loans by predecessor agencies to the agency primarily responsible for administering this part shall be contacted to negotiate accelerated repayments. The criteria used by the Administrator in making these determinations shall be established in conjunction with the Committee on Foreign Affairs[121] of the House of Representatives and the Committee on Foreign Relations of the Senate.

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[118] 22 U.S.C. 2151x. Sec. 110 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 363) added sec. 126.

[119] Sec. 603 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190), inserted "and under chapter 4 of Part II"; inserted the paragraph designation "(1)", and added a new para. (2).

Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this Act, providing for long-term development in sub-Saharan Africa, and made a conforming amendment by inserting ", and chapter 10 of this part,".

[120] 22 U.S.C. 2151y. Sec. 508(a) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 379) added sec. 127. Sec. 508(b) called on the administration to describe the efforts made to negotiate accelerated loan repayments in accordance with sec. 127 within the annual reports on foreign assistance submitted to Congress in 1980 and 1981 pursuant to sec. 634 of this Act.

[121] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

Sec. 128.[122] **Targeted Assistance.**—(a) The President shall use poverty measurement standards, such as those developed by the International Bank for Reconstruction and Development, and other appropriate measurements in determining target populations for United States development assistance, and shall strengthen United States efforts to assure that a substantial percentage of development assistance under this chapter directly improves the lives of the poor majority, with special emphasis on those individuals living in absolute poverty.

(b) To the maximum extent possible, activities under this chapter that attempt to increase the institutional capabilities of private organizations or governments, or that attempt to stimulate scientific and technological research, shall be designed and monitored to ensure that the ultimate beneficiaries of these activities are the poor majority.

SEC. 129.[123] **PROGRAM TO PROVIDE TECHNICAL ASSISTANCE TO FOREIGN GOVERNMENTS AND FOREIGN CENTRAL BANKS OF DEVELOPING OR TRANSITIONAL COUNTRIES.**

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than 150 days after the date of the enactment of this section, the Secretary of the Treasury, after consultation with the Secretary of State and the Administrator of the United States Agency for International Development, is authorized to establish a program to provide technical assistance to foreign governments and foreign central banks of developing or transitional countries.

(2) ROLE OF SECRETARY OF STATE.—The Secretary of State shall provide foreign policy guidance to the Secretary to ensure

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[122] 22 U.S.C. 2151z. Sec. 101(b)(2) of Public Law 97–377 (96 Stat. 1832) added sec. 128. Sec. 121(b)(2) of such Act also required a report to Congress within six months from the Administrator of AID on the implementation of this provision, the types of projects determined to meet these requirements, and the effect on the overall U.S. foreign assistance program.

Sec. 312(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) amended sec. 128 by replacing its previous text into new subsecs. (a) and (b). Previously sec. 128 read as follows:

"**Sec. 128. Targeting Assistance for Those Living in Absolute Poverty.**—In carrying out this chapter, the President in fiscal year 1983, shall attempt to use not less than 40 per centum of the funds made available to carry out this chapter to finance productive facilities, goods, and services which will expeditiously and directly benefit those living in absolute poverty (as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association). Such facilities, goods, and services may include, for example, irrigation facilities, extension services, credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, goods, and services may not include studies, reports, technical advice, consulting services, or any other items unless (A) they are used primarily by those living in absolute poverty themselves, or (B) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty. Research shall not constitute the major part of such facilities, goods, and services.".

Sec. 312(b) of Public Law 99–83 (99 Stat. 190), amended sec. 634(a)(1) of this Act, requiring annual reports to Congress to include an evaluation of the extent to which programs under chapter 1 part I directly benefit the poor majority.

[123] 22 U.S.C. 2151aa. Added by sec. 589(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681).

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"DEPARTMENT OF THE TREASURY

"INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

"For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, $19,000,000, to remain available until September 30, 2007, which shall be available notwithstanding any other provision of law.".

that the program established under this subsection is effectively integrated into the foreign policy of the United States.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In carrying out the program established under subsection (a), the Secretary shall provide economic and financial technical assistance to foreign governments and foreign central banks of developing and transitional countries by providing advisers with appropriate expertise to advance the enactment of laws and establishment of administrative procedures and institutions in such countries to promote macroeconomic and fiscal stability, efficient resource allocation, transparent and market-oriented processes and sustainable private sector growth.

(2) ADDITIONAL REQUIREMENTS.—To the extent practicable, such technical assistance shall be designed to establish—

(A) tax systems that are fair, objective, and efficiently gather sufficient revenues for governmental operations;

(B) debt issuance and management programs that rely on market forces;

(C) budget planning and implementation that permits responsible fiscal policy management;

(D) commercial banking sector development that efficiently intermediates between savers and investors; and

(E) financial law enforcement to protect the integrity of financial systems, financial institutions, and government programs.

(3)[124] EMPHASIS ON ANTI-CORRUPTION.—Such technical assistance shall include elements designed to combat anti-competitive, unethical, and corrupt activities, including protection against actions that may distort or inhibit transparency in market mechanisms and, to the extent applicable, privatization procedures.

(c) ADMINISTRATIVE REQUIREMENTS.—In carrying out the program established under subsection (a), the Secretary—

(1) shall establish a methodology for identifying and selecting foreign governments and foreign central banks to receive assistance under the program;

(2) prior to selecting a foreign government or foreign central bank to receive assistance under the program, shall receive the concurrence of the Secretary of State with respect to the selection of such government or central bank and with respect to the cost of the assistance to such government or central bank;

(3) shall consult with the heads of appropriate Executive agencies of the United States, including the Secretary of State and the Administrator of the United States Agency for International Development, and appropriate international financial institutions to avoid duplicative efforts with respect to those foreign countries for which such agencies or organizations provide similar assistance;

(4) shall ensure that the program is consistent with the International Affairs Strategic Plan and Mission Performance

[124] Sec. 204 of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1092) added para. (3).

Plan of the United States Agency for International Development;

(5) shall establish and carry out a plan to evaluate the program.

(d) ADMINISTRATIVE AUTHORITIES.—In carrying out the program established under subsection (a), the Secretary shall have the following administrative authorities:

(1) The Secretary may provide allowances and benefits under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) to any officer or employee of any agency of the United States Government performing functions under this section outside the United States.

(2)(A) The Secretary may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out this section, including any advance to the United States Government by any country or international organization for the procurement of commodities, supplies, or services.

(B) Such funds shall be available for obligation and expenditure for the purposes for which such funds were authorized, in accordance with authority granted in this section or under authority governing the activities of the agency of the United States Government to which such funds are allocated or transferred.

(3) Appropriations for the purposes of or pursuant to this section, and allocations to any agency of the United States Government from other appropriations for functions directly related to the purposes of this section, shall be available for—

(A) contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(B) the purchase and hire of passenger motor vehicles, except that passenger motor vehicles may be purchased only—

(i) for use in foreign countries; and

(ii) if the Secretary or the Secretary's designee has determined that the vehicle is necessary to accomplish the mission;

(C) the purchase of insurance for official motor vehicles acquired for use in foreign countries;

(D)(i) the rent or lease outside the United States, not to exceed 5 years, of offices, buildings, grounds, and quarters, including living quarters to house personnel, consistent with the relevant interagency housing board policy, and payments therefor in advance;

(ii) maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States; and

(iii) costs of insurance, fuel, water, and utilities for such properties;

(E) expenses of preparing and transporting to their former homes or places of burial the remains of foreign participants or members of the family of foreign participants, who may die while such participants are away from their homes participating in activities carried out with funds covered by this section;

(F) notwithstanding any other provision of law, transportation and payment of per diem in lieu of subsistence to foreign participants engaged in activities of the program under this section while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations;

(G) expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stop-overs while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage; and

(H) grants to, and cooperative agreements and contracts with, any individual, corporation, or other body of persons, nonprofit organization, friendly government or government agency, whether within or without the United States, and international organizations, as the Secretary determines is appropriate to carry out the purposes of this section.

(4) Whenever the Secretary determines it to be consistent with the purposes of this section, the Secretary is authorized to furnish services and commodities on an advance-of-funds basis to any friendly country or international organization that is not otherwise prohibited from receiving assistance under this Act. Such advances may be credited to the currently applicable appropriation, account, or fund of the Department of the Treasury and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

(e) ISSUANCE OF REGULATIONS.—The Secretary is authorized to issue such regulations with respect to personal service contractors as the Secretary deems necessary to carry out this section.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State (including the powers or functions described in section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802)) or of any chief of mission (including the powers or functions described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)).

(g) TERMINATION OF ASSISTANCE.—The Secretary shall conclude assistance activities for a recipient foreign government or foreign central bank under the program established under subsection (a) if

the Secretary, after consultation with the appropriate officers of the United States, determines that such assistance has resulted in the enactment of laws or the establishment of institutions in that country that promote fiscal stability and administrative procedures, efficient resource allocation, transparent and market-oriented processes and private sector growth in a sustainable manner.

(h) REPORT.—

(1) IN GENERAL.—Not later than 3 months after the date of the enactment of this section, and every 6 months thereafter, the Secretary shall prepare and submit to the appropriate congressional committees a report on the conduct of the program established under this section during the preceding 6-month period.

(2) DEFINITION.—In this subsection, the term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(i) DEFINITIONS.—In this section:

(1) DEVELOPING OR TRANSITIONAL COUNTRY.—The term "developing or transitional country" means a country eligible to receive development assistance under this chapter.

(2) INTERNATIONAL FINANCIAL INSTITUTION.—The term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Asian Development Bank, the African Development Bank, the African Development Fund, the Inter-American Development Bank, the Inter-American Investment Corporation, the European Bank for Reconstruction and Development, and the Bank for Economic Cooperation and Development in the Middle East and North Africa.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) TECHNICAL ASSISTANCE.—The term "technical assistance" includes—

(A) the use of short-term and long-term expert advisers to assist foreign governments and foreign central banks for the purposes described in subsection (b)(1);

(B) training in the recipient country, the United States, or elsewhere for the purposes described in subsection (b)(1);

(C) grants of goods, services, or funds to foreign governments and foreign central banks;

(D) grants to United States nonprofit organizations to provide services or products which contribute to the provision of advice to foreign governments and foreign central banks; and

(E) study tours for foreign officials in the United States or elsewhere for the purpose of providing technical information to such officials.

(5) FOREIGN PARTICIPANT.—The term "foreign participant" means the national of a developing or transitional country that is receiving assistance under the program established under subsection (a) who has been designated to participate in activities under such program.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1999.

(2) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under paragraph (1) are authorized to remain available until expended.

SEC. 130.[125] ASSISTANCE FOR VICTIMS OF TORTURE.

(a) IN GENERAL.—The President is authorized to provide assistance for the rehabilitation of victims of torture.

(b) ELIGIBILITY FOR GRANTS.—Such assistance shall be provided in the form of grants to treatment centers and programs in foreign countries that are carrying out projects or activities specifically designed to treat victims of torture for the physical and psychological effects of the torture.

(c) USE OF FUNDS.—Such assistance shall be available—

(1) for direct services to victims of torture; and

(2) to provide research and training to health care providers outside of treatment centers or programs described in subsection (b), for the purpose of enabling such providers to provide the services described in paragraph (1).

SEC. 131.[126] MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE. * * * [Repealed—2004]

SEC. 132.[127] UNITED STATES MICROFINANCE LOAN FACILITY. * * * [Transferred and redesignated as sec. 257—2004]

SEC. 133.[128] PROGRAMS TO ENCOURAGE GOOD GOVERNANCE.

(a) ESTABLISHMENT OF PROGRAMS.—

(1) IN GENERAL.—The President is authorized to establish programs that combat corruption, improve transparency and

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[125] 22 U.S.C. 2152. Added by sec. 4(a) of the Torture Victims Relief Act of 1998 (Public Law 105–320; 112 Stat. 3016), as sec. 129, effective October 1, 1998. See also sec. 4(b) of that Act, which authorized $5,000,000 for fiscal year 1999 and $7,500,000 for fiscal year 2000 to carry out this section. Sec. 6(a) of Public Law 106–87 (113 Stat. 1302) redesignated as sec. 130.

Sec. 2 of the Torture Victims Relief Reauthorization Act of 1999 (Public Law 106–87; 113 Stat. 1301) provided the following:

"SEC. 2. FOREIGN TREATMENT CENTERS FOR VICTIMS OF TORTURE.

"(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 2001, 2002, and 2003 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President $10,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $10,000,000 for fiscal year 2003 to carry out section 130 of the Foreign Assistance Act of 1961.

"(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.".

See also legislation relating to torture victims relief in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[126] Formerly at 22 U.S.C. 2152a. Repealed by sec. 8(a) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922). Originally added by sec. 105 of the Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1082).

[127] Formerly at 22 U.S.C. 2152b; redesignated as 22 U.S.C. 2213. Transferred to title VI of chapter 2 of part I of this Act as sec. 257 by sec. 5 of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922). Originally added by sec. 107(a) of the Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1086).

[128] 22 U.S.C. 2152c. Added by sec. 205(a) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1092).

accountability, and promote other forms of good governance in countries described in paragraph (2).

(2) COUNTRIES DESCRIBED.—A country described in this paragraph is a country that is eligible to receive assistance under this part (including chapter 4 of part II of this Act) or the Support for East European Democracy (SEED) Act of 1989.

(3) PRIORITY.—In carrying out paragraph (1), the President shall give priority to establishing programs in countries that received a significant amount of United States foreign assistance for the prior fiscal year, or in which the United States has a significant economic interest, and that continue to have the most persistent problems with public and private corruption. In determining which countries have the most persistent problems with public and private corruption under the preceding sentence, the President shall take into account criteria such as the Transparency International Annual Corruption Perceptions Index, standards and codes set forth by the International Bank for Reconstruction and Development and the International Monetary Fund, and other relevant criteria.

(4) RELATION TO OTHER LAWS.—

(A) IN GENERAL.—Assistance provided for countries under programs established pursuant to paragraph (1) may be made available notwithstanding any other provision of law that restricts assistance to foreign countries. Assistance provided under a program established pursuant to paragraph (1) for a country that would otherwise be restricted from receiving such assistance but for the preceding sentence may not be provided directly to the government of the country.

(B) EXCEPTION.—Subparagraph (A) does not apply with respect to—

(i) section 620A of this Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(ii) section 907 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.

(b) SPECIFIC PROJECTS AND ACTIVITIES.—The programs established pursuant to subsection (a) shall include, to the extent appropriate, projects and activities that—

(1) support responsible independent media to promote oversight of public and private institutions;

(2) implement financial disclosure among public officials, political parties, and candidates for public office, open budgeting processes, and transparent financial management systems;

(3) support the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

(4) promote responsive, transparent, and accountable legislatures and local governments that ensure legislative and local oversight and whistle-blower protection;

(5) promote legal and judicial reforms that criminalize corruption and law enforcement reforms and development that encourage prosecutions of criminal corruption;

(6) assist in the development of a legal framework for commercial transactions that fosters business practices that promote transparent, ethical, and competitive behavior in the economic sector, such as commercial codes that incorporate international standards and protection of intellectual property rights;

(7) promote free and fair national, state, and local elections;

(8) foster public participation in the legislative process and public access to government information; and

(9) engage civil society in the fight against corruption.

(c) CONDUCT OF PROJECTS AND ACTIVITIES.—Projects and activities under the programs established pursuant to subsection (a) may include, among other things, training and technical assistance (including drafting of anti-corruption, privatization, and competitive statutory and administrative codes), drafting of anti-corruption, privatization, and competitive statutory and administrative codes, support for independent media and publications, financing of the program and operating costs of nongovernmental organizations that carry out such projects or activities, and assistance for travel of individuals to the United States and other countries for such projects and activities.

(d)[129] BIENNIAL REPORTS.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Commerce and the Administrator of the United States Agency for International Development, shall prepare and transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a biennial report[130] on—

(A) projects and activities carried out under programs established under subsection (a) for the preceding two-year period[131] in priority countries identified pursuant to subsection (a)(3); and

(B) projects and activities carried out under programs to combat corruption, improve transparency and accountability, and promote other forms of good governance estab-

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[129] Sec. 672(a)(1) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1408) struck out "ANNUAL REPORT" and inserted in lieu thereof "BIENNIAL REPORTS.". Subsec. (b) of that section further provided the following:

"(b) TRANSITION.—The first biennial report under section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)), as amended by subsection (a), is required to be submitted not later than two years after the date of submission of the last annual report required under such section 133 (as in effect before the date of enactment of this Act).".

Previously, sec. 205(b) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1092) required the following:

"(b) DEADLINE FOR INITIAL REPORT.—The initial annual report required by section 133(d)(1) of the Foreign Assistance Act of 1961, as added by subsection (a), shall be transmitted not later than 180 days after the date of the enactment of this Act.".

[130] Sec. 672(a)(2)(A) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1408) struck out "an annual report" and inserted in lieu thereof "a biennial report".

[131] Sec. 672(a)(2)(B) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1408) struck out "prior year" and inserted in lieu thereof "preceding two-year period".

lished under other provisions of law for the preceding two-year period[132] in such countries.

(2) REQUIRED CONTENTS.—The report required by paragraph (1) shall contain the following information with respect to each country described in paragraph (1):

(A) A description of all United States Government-funded programs and initiatives to combat corruption and improve transparency and accountability in the country.

(B) A description of United States diplomatic efforts to combat corruption and improve transparency and accountability in the country.

(C) An analysis of major actions taken by the government of the country to combat corruption and improve transparency and accountability in the country.

(e) FUNDING.—Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section.

SEC. 134.[133] ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) AUTHORIZATION.—The President is authorized to provide assistance to foreign countries directly, or through nongovernmental and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking (as defined in section 103 of the Trafficking Victims Protection Act of 2000), including—

(1) the drafting of laws to prohibit and punish acts of trafficking;

(2) the investigation and prosecution of traffickers;

(3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and

(4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

(b) FUNDING.—Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section. Assistance may

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[132] Sec. 672(a)(2)(C) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1408) struck out "prior year" and inserted in lieu thereof "preceding two-year period".

[133] 22 U.S.C. 2152d. Added by sec. 109 of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1481). Sec. 107(a) of that Act (22 U.S.C. 7105(a)) provided the following:

"SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

"(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—

"(1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

"(2) ADDITIONAL REQUIREMENT.—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.".

be provided under this section notwithstanding section 660 of this Act.[134]

Chapter 2—Other Programs[135]

Sec. 201.[136] **General Authority.** * * * [Repealed—1978]

Sec. 202.[136] **Authorization.** * * * [Repealed—1978]

Sec. 203.[136] **Fiscal Provisions.** * * * [Repealed—1978]

Sec. 204.[136] **Development Loan Committee.** * * * [Repealed—1978]

Sec. 205.[137] **Relating to Transfers to International Financial Institutions.** * * * [Repealed—1972]

Title I—Multilateral and Regional Development Programs[138]

Sec. 206.[139] **Regional Development in Africa.**—The President is requested to seek and to take appropriate action, in cooperation and consultation with African and other interested nations and with international development organizations, to further and assist in the advancement of African regional development institutions, including the African Development Bank, with the view toward promoting African economic development.

Sec. 207.[136] **Purposes of Development Assistance.** * * * [Repealed—1978]

Sec. 208.[136] **Self-Help Criteria.** * * * [Repealed—1978]

Sec. 209.[140] **Multilateral and Regional Programs.**—(a) The Congress recognizes that the planning and administration of development assistance by, or under the sponsorship of the United Nations, multilateral lending institutions, and other multilateral organizations may contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance.

(b)[141] It is further the sense of the Congress (1) that where problems or opportunities are common to two or more countries in a region, in such fields as agriculture, education, transportation, communications, power, watershed development, disease control, and

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[134] Sec. 6(f) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2883) added this sentence.

[135] Sec. 102(g)(1)(B) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) inserted the chapter heading "Other Programs" in lieu of "Development Assistance".

[136] Sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) repealed secs. 201, 202, 203, 204, 207, and 208. The text of sec. 204 was subsequently reinserted as subsec. (e) of sec. 122 of this Act.

[137] Sec. 101(d) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21) repealed sec. 205.

[138] Sec. 102(g)(1)(C) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) added this new title heading.

[139] 22 U.S.C. 2166. Sec. 102(b) of the FA Act of 1965 (Public Law 89–171) added sec. 206.

[140] 22 U.S.C. 2169. Sec. 102(e) of the FA Act of 1967 (Public Law 90–137) added sec. 209. Sec. 101(c)(1) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21) amended subsection (a), which formerly read as follows:

"(a) Multilateral Programs.—The Congress recognizes that planning and administration of development assistance by, or under the sponsorship of, multilateral lending institutions and other international organizations may, in some instances, contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance.".

[141] Sec. 101(c)(3) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21) struck out "Regional Programs.—".

establishment of development banks, these countries often can more effectively resolve such problems and exploit such opportunities by joining together in regional organizations or working together on regional programs, (2) that assistance often can be utilized more efficiently in regional programs than in separate country programs, and (3) that to the maximum extent practicable consistent with the purposes of this Act assistance under this Act should be furnished so as to encourage less developed countries to cooperate with each other in regional development programs.

(c)[142] It is the sense of the Congress that the President should increase, to the extent practicable, the funds provided by the United States to multilateral lending institutions and multilateral organizations in which the United States participates for use by such institutions and organizations in making loans to foreign countries.

(d)[143] * * * [Repealed—2000]

Sec. 211.[144] **General Authority.** * * * [Repealed—1978]

Sec. 212.[144] **Authorization.** * * * [Repealed—1978]

Sec. 213.[145] **Atoms for Peace.** * * * [Repealed—1962]

Title II—American Schools and Hospitals Abroad; Prototype Desalting Plant[146]

Sec. 214.[147] **American Schools and Hospitals Abroad.**—(a) The President is authorized to furnish[148] assistance, on such terms and conditions as he may specify, to schools and libraries outside the United States founded or sponsored by United States citizens and serving as study and demonstration centers for ideas and practices of the United States.

(b) The President is authorized,[149] notwithstanding the provisions of the Mutual Defense Assistance Control Act of 1951 (22

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[142] Subsec. (c), which was added by sec. 101(c)(2) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21), was amended by sec. 311 of Public Law 94–161 (89 Stat. 849). It formerly read as follows: "Notwithstanding any other provision of law, the President should reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of reducing the total amount of bilateral loans made under this Act so that, by not later than June 30, 1975, such total amount shall not exceed $100,000,000.".

[143] Subsec. (d), added by sec. 101(c)(2) of the FA Act of 1971, was struck out by sec. 804 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–67). It had read as follows:

"(d) In furtherance of the provisions of subsection (a) of this section, any funds appropriated under this part I may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries.".

[144] Sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) repealed secs. 211, 212, 215, 216, 217, 218, 220, and 220A.

[145] Sec. 103(c) of the FA Act of 1962 (76 Stat. 256) repealed sec. 213.

[146] Sec. 102(g)(1)(D) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) added this new title heading.

[147] 22 U.S.C. 2174.

[148] Sec. 103(b)(1) of the FA Act of 1963 (Public Law 88–205) struck out "use, in addition to other funds available for such purposes, funds made available for the purposes of sec. 211 for" and inserted in lieu thereof "furnish".

[149] Sec. 103(b)(2) of the FA Act of 1963 (Public Law 88–205) struck out "to use" after "authorized".

U.S.C. 1611 et seq.)[150] to furnish[151] assistance, on such terms and conditions as he may specify, to institutions referred to in subsection (a) of this section, and to hospital centers for medical education and research outside the United States, founded or sponsored by United States citizens.[152]

(c)[153] (1) To carry out the purposes of this section, there are authorized to be appropriated to the President $35,000,000 for fiscal year 1986 and $35,000,000 for fiscal year 1987.

(2) Amounts appropriated under paragraph (1) are authorized to remain available until expended.[154]

(d)[155] Notwithstanding the provisions of subsection (b), funds appropriated under this section may be used for assistance to centers for pediatric plastic and reconstructive surgery established by Children's Medical Relief International, except that assistance may not be furnished for the domestic operations of any such center located in the United States, its territories or possessions.

Sec. 215.[156] **Loans to Small Farmers.** * * * [Repealed—1978]

Sec. 216.[156] **Voluntary Agencies.** * * * [Repealed—1978]

Sec. 217.[156] **Used Equipment.** * * * [Repealed—1978]

Sec. 218.[156] **Fish and Other Protein Concentrates.** * * * [Repealed—1978]

Sec. 219.[157] **Prototype Desalting Plant.**—(a) In furtherance of purposes of this part and for the purpose of improving existing, and developing and advancing new technology and experience in the design, construction, and operation of large-scale desalting plants of advanced concepts which will contribute materially to low-cost desalination in all countries, including the United States, the President, if he determines it to be feasible, is authorized to participate in the development of a large-scale water treatment and desalting prototype plant and necessary appurtenances to be constructed in Israel as an integral part of a dual-purpose power generating and desalting project. Such participation shall include financial, technical, and such other assistance as the President deems appropriate to provide for the study, design, construction, and, for a limited demonstration period of not to exceed five years, operation and

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[150] Superseded by the Export Administration Act of 1979.

[151] Sec. 103(b)(2) of the FA Act of 1963 (Public Law 88–205) struck out "foreign currencies accruing to the United States Government under any Act, for purposes of subsection (2) of this section, and for" and inserted in lieu thereof "to furnish".

[152] Sec. 103(c)(1) of the FA Act of 1966 (Public Law 89–583) substituted the words to this point, beginning with "to institutions referred to" in lieu of "to hospitals outside the United States founded or sponsored by United States citizens and serving as centers for medical education and research".

[153] Sec. 4(2) of the FA Act of 1973 (Public Law 93–189) amended and restated subsec. (c).

[154] The authorization figures for fiscal years 1986 and 1987 were added by sec. 401 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Authorizations under sec. 214 for recent years included the following: fiscal year 1975—$19,000,000; fiscal year 1976—$25,000,000; fiscal year 1977—$25,000,000; fiscal year 1978—$25,000,000; fiscal year 1979—$25,000,000; fiscal year 1980—$25,000,000; fiscal year 1981—$30,000,000; fiscal year 1982—$20,000,000; fiscal year 1983—$20,000,000; fiscal year 1984—$30,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

[155] Sec. 114(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950) repealed subsecs. (d) and (e) (which had been added by the FA Act of 1973), and redesignated subsec. (f) (which had been added by Public Law 95–88; 91 Stat. 539) as subsec. (d).

[156] Sec. 102(g)(1)(A) of Public Law 95–424 (92 Stat. 942) repealed secs. 215, 216, 217, 218, 220, and 220A.

[157] 22 U.S.C. 2179. Sec. 104 of the FA Act of 1969 (Public Law 91–175; 83 Stat. 806) added sec. 219.

maintenance of the water treatment and desalting facilities of the dual-purpose project.

(b) Any agreement entered into under subsection (a) of this section shall include such terms and conditions as the President deems appropriate to insure, among other things, that all information, products, uses, processes, patents, and other developments obtained or utilized in the development of this prototype plant will be available without further cost to the United States for the use and benefit of the United States throughout the world, and to insure that the United States, its officers and employees have a permanent right to review data and have access to such plant for the purpose of observing its operations and improving science and technology in the field of desalination.

(c) In carrying out the provisions of this section, the President may enter into contracts with public or private agencies and with any person without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529 and 41 U.S.C. 5).

(d) Nothing in this section shall be construed as intending to deprive the owner of any background patent or any right which such owner may have under that patent.

(e) In carrying out the provisions of this section, the President may utilize the personnel, services, and facilities of any Federal agency.

(f) The United States costs, other than its administrative costs, for the study, design, construction, and operation of a prototype plant under this section shall not exceed either 50 per centum of the total capital costs of the facilities associated with the production of water, and 50 per centum of the operation and maintenance costs for the demonstration period, or $20,000,000, whichever is less. There are authorized to be appropriated, subject to the limitations of this subsection, such sums as may be necessary to carry out the provisions of this section, including administrative costs thereof. Such sums are authorized to remain available until expended.

(g) No funds appropriated for the Office of Saline Water pursuant to the appropriation authorized by the Act of July 11, 1969 (83 Stat. 45, Public Law 91–43), or prior authorization Acts, shall be used to carry out the purposes of this section.

Sec. 220.[156] **Programs for Peaceful Communication.** * * * [Repealed—1978]

Sec. 220A.[156] **Suez Canal.** * * * [Repealed—1978]

Title III—Housing and Other Credit Guaranty Programs[158]

Sec. 221.[159] **Housing Guaranties.**—The Congress recognizes that shelter, including essential urban development services, is[160]

[158] Sec. 105 of the FA Act of 1969 (Public Law 91–175) added title III. Sec. 8(a)(1) of the FA Act of 1974 (Public Law 93–559) struck out "Housing Guaranties" and inserted in lieu thereof "Housing and Other Credit Guaranty Programs".

[159] 22 U.S.C. 2181. Sec. 221, which was added by the FA Act of 1969, was amended and restated by sec. 115(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950).

[160] Sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903) struck out "requirements are" and inserted in lieu thereof "including essential urban development services, is". This amendment had been included as sec. 311(a)(1) of H.R. 5119, the International Security and De-

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among the most fundamental of human needs. Shelter for most people in the developing countries consists largely of domestic materials assembled by local labor. While recognizing that most financing for such shelter[161] must come from domestic resources, the Congress finds that carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved shelter[161] and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing low-cost shelter[161] can be financially viable. The Congress reaffirms, therefore, that the United States should continue to assist developing countries in marshalling resources for low-cost shelter.[161] Particular attention should be given to programs which will support pilot projects for low-cost shelter or which will have a maximum demonstration impact on local institutions and national policy. The Congress declares that the long run goal of all such programs should be to develop domestic construction capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective low-cost shelter programs and policies.

Sec. 222.[162] **Authorization.**—(a) To carry out the policy of section 221, the President is authorized to issue guaranties to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for projects meeting the criteria set forth in section 221. The total principal amount of guaranties issued under this title or heretofore issued under prior housing guaranty authorities, which are outstanding at any one time, shall not exceed $2,558,000,000.[163] The authority of this section shall

velopment Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[161] Sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903) struck out "housing" and inserted in lieu thereof "shelter". This amendment had been included as sec. 311(a)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[162] 22 U.S.C. 2182. Sec. 222, which was added by the FA Act of 1969 and had concerned housing projects in Latin American countries, was amended and restated by sec. 115(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950).

[163] This figure was increased from $2,158,000,000 by title II, chapter III, of the Dire Emergency Supplemental Appropriations for 1990 (Public Law 101–302; 104 Stat. 224). This figure was previously increased from $1,958,000,000 by sec. 313(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190); and from $1,718,000,000 by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 311(b)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119. Previously, the amount was raised from $1,555,000,000 to $1,718,000,000 by sec. 310(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535) and from $1,180,000,000 to $1,155,000,000 by sec. 112(a)(1) of Public Law 96–53 (93 Stat. 363).

Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization and title II of that Act (118 Stat. 2809) provided the following:

"DEVELOPMENT CREDIT PROGRAM ACCOUNT

"(INCLUDING TRANSFER OF FUNDS)

"For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided*, That such funds shall not exceed $21,000,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the

continue through September 30, 1992.[164] The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

(b) Activities carried out under this section shall emphasize—

(1) projects which provide improved home sites to poor families on which to build shelter, and related services;

(2) projects comprised of expandable core shelter units on serviced sites;

(3) slum upgrading projects designed to conserve and improve existing shelter;

(4) shelter projects for low income people designed for demonstration or institution building purposes; and

(5) community facilities and services in support of projects authorized under this section to improve the shelter occupied by the poor.

(c) In issuing guaranties under this section with respect to projects in a country which require the use or conservation of energy, the President shall give consideration to the use of solar energy technologies, where such technologies are economically and technically feasible. Technologies which may be used include solar hot water systems, solar heating and cooling, passive solar heating, biomass conversion, photovoltaic and wind applications, and community-scale solar thermal applications.

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purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading.".

Sec. 306 of H.R. 1486, as reported by the Committee on International Relations, May 9, 1997 (H.Rept. 105–94), sought to amend the Foreign Assistance Act of 1961 by adding a new sec. 107A to establish the President's authority to use development credit authority where recipients would otherwise not have access to such credit and that credit would be in keeping with U.S. development purposes. For text, see note at sec. 108 of this Act.

See also in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), sec. 565, relating to special debt relief for the poorest.

[164] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, as introduced on November 17, 1999, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), under the heading "Urban and Environmental Credit Program Account", waived the second and third sentences of this subsec. for fiscal year 2000, which in effect lifted the ceiling on the outstanding principal amount of guaranties, and continued the authority contained in the section.

Previously, the authority of this section was extended to September 30, 1992, from Sept. 30, 1991, by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1989). Previously the authority was extended from Sept. 30, 1990, by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1205); from Sept. 30, 1989, by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329); from Sept. 30, 1986, by sec. 313(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190); and from Sept. 30, 1984, by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 311(b)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119. This authority had been extended previously from Sept. 30, 1982, by sec. 310(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535); and from Sept. 30, 1980, by sec. 112(a)(2) of Public Law 96–53 (93 Stat. 364).

(k)[165] The total principal amount of guaranties issued under this section for each of the fiscal years 1986 and 1987 shall be comparable to the total principal amount of such guaranties issued for fiscal year 1984, subject to the dollar limitations on the issuance of guaranties under this section which are contained in subsection (a) and in appropriation Acts.

Sec. 222A.[166] **Agricultural and Productive Credit and Self-Help Community Development Programs.**—(a) It is the sense of the Congress that in order to stimulate the participation of the private sector in the economic development of less-developed countries,[167] the authority conferred by this section should be used to establish pilot programs[168] to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development, nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.

(b) To carry out the purposes of subsection (a), the agency primarily responsible for administering part I is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations[169] assuring against loss of not to exceed 50 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.

(c) The total face amount of guaranties issued under this section outstanding at any one time shall not exceed $20,000,000.[170] Not

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[165] Sec. 313(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat 190) added subsec. (k). This subsection should probably be designated "(d)".

[166] 22 U.S.C. 2182a. sec. 8(a)(2) of the FA Act of 1974 (Public Law 93–559) added sec. 222A.

[167] Sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903), struck out "in not more than six Latin American countries" and "in Latin America". This amendment had been included as sec. 312(a)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119.

[168] Previously such programs were limited to not more than six Latin American countries (Public Law 99–53; 99 Stat. 364).

[169] Sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903), struck out "in not more than five Latin American countries" at this point. This amendment had been included as sec. 312(a)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119.

[170] Sec. 112(b)(2) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364) struck out "$15,000,000" and inserted in lieu thereof "$20,000,000".

more than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d)[171] The Inter-American Foundation shall be consulted in developing criteria for making loans eligible for guaranty coverage in Latin America under this section.

(e) Not to exceed $3,000,000 of the guaranty reserve established under section 223(b) shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section or any guaranties previously issued under section 240 of this Act.

(f) Funds held by the Overseas Private Investment Corporation pursuant to section 236 may be available for meeting necessary administrative and operating expenses for carrying out the provisions of this section through June 30, 1976.

(g) The Overseas Private Investment Corporation shall, upon enactment of this subsection, transfer to the agency primarily responsible for administering part I all obligations, assets, and related rights and responsibilities arising out of, or related to the predecessor program provided for in section 240 of this Act.

(h) The authority of this section shall continue through September 30, 1988.[172]

(i) Notwithstanding the limitations in subsection (c) of this section, foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States may be utilized to carry out the purposes of this section, including the discharge of liabilities under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.[173]

Sec. 223.[174] **General Provisions.**—(a) A fee shall be charged for each guaranty issued under section 222 or 222A[175] in an amount to be determined by the President. In the event the fee to

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[171] Sec. 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(h)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike subsec. (d).

[172] This authority was extended from Sept. 30, 1986, to Sept. 30, 1988, by sec. 313 (d) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). This authority was previously extended from Sept. 30, 1983 to Sept. 30, 1986, by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 (Public Law 98–473). This amendment had been included as sec. 312(b) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119. Such authority had previously been extended from Dec. 31, 1977 to Sept. 30, 1978, by Public Law 95–88 (91 Stat. 540), from Sept. 30, 1978 to Sept. 30, 1979, by Public Law 95–424 (92 Stat. 951), from Sept. 30, 1979 to Sept. 30, 1982, by Public Law 96–53 (93 Stat. 364), and from Sept. 30, 1982 to Sept. 30, 1983, by Public Law 97–438 (96 Stat. 2286).

[173] Sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959) repealed subsec. (j), which concerned a one-time reporting requirement.

[174] 22 U.S.C. 2183. Sec. 105 of the FA Act of 1969 (Public Law 91–175) added sec. 223.

[175] Sec. 8(a)(3) of the FA Act of 1974 inserted "section 221, 222, or 222A" in lieu of "section 221 or section 222". Subsequently, sec. 115 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951) struck out the reference to sec. 221.

be charged for such type guaranty is reduced, fees to be paid under existing contracts for the same type of guaranty may be similarly reduced.

(b) The amount of $50,000,000 of fees accumulated under prior investment guaranty provisions repealed by the Foreign Assistance Act of 1969, together with all fees collected in connection with guaranties issued under section 222[176] or under prior housing guaranty authorities,[177] shall be available for meeting necessary administrative and operating expenses of carrying out the provisions of section 222 and administering housing guaranties heretofore authorized under this title and under[178] prior housing guaranty provisions repealed by the Foreign Assistance Act of 1969 (including, but not limited to expenses pertaining to personnel, supplies, and printing), subject to such limitations as may be imposed in annual appropriation Acts; for meeting management and custodial costs incurred with respect to currencies or other assets acquired under guaranties made pursuant to section 222[176] or heretofore pursuant to this title or[179] prior Latin American and other housing guaranty authorities repealed by the Foreign Assistance Act of 1969; and to pay the cost of investigating and adjusting (including cost of arbitration) claims under such guaranties; and shall be available for expenditure in discharge of liabilities under such guaranties until such time as all such property has been disposed of and all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with the provisions of this subsection. Fees collected in connection with guaranties issued under section 222A shall likewise be available to meet similar expenses, costs, or liabilities incurred in connection with the programs authorized by that section.[180] All of the foregoing fees referred to in this section together with earnings thereon and other income arising from guaranty operations under this title shall be held in a revolving fund account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes cited in this section.[181]

(c) Any payments made to discharge liabilities under guaranties issued under this title or[182] section 222 or heretofore under prior Latin American or other housing guaranty authorities repealed by

[176] Sec. 8(a)(3) of the Foreign Assistance Act of 1974 (Public Law 93–559) struck out "this title" and inserted in lieu thereof "section 221 or section 222". Sec. 115(d) of International Development and Food Assistance Act (Public Law 95–424; 92 Stat. 945) struck out reference to section 221.

[177] Sec. 117(b)(2)(A) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 540) struck out "hereunder" and inserted in lieu thereof "under section 221 or 222 or under prior housing guaranty authorities".

[178] Sec. 115(d)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951) struck out "221 and section 222 of" and inserted in lieu thereof "222 and administering housing guaranties heretofore authorized under this title and under".

[179] Sec. 115(d)(4) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951) inserted "this title or".

[180] Sec. 117(b)(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 540) added this sentence.

[181] Sec. 310(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535) added the final three sentences of subsec. (b).

[182] Sec. 115(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951) struck out "section 221 or" and inserted in lieu thereof "under this title or".

the Foreign Assistance Act of 1969, shall be paid first out of fees referred to in subsection (b) (excluding amounts required for purposes other than the discharge of liabilities under guaranties) as long as such fees are available, and thereafter shall be paid out of funds, if any, realized from the sale of currencies or other assets acquired in connection with any payment made to discharge liabilities under such guaranties as long as funds are available, and finally out of funds hereafter made available pursuant to subsection (e).

(d) All guaranties issued under section 222 or 222A or previously under section 240 of this Act[183] or heretofore under this title or[184] under prior Latin American or other housing guaranty authority repealed by the Foreign Assistance Act of 1969 shall constitute obligations, in accordance with the terms of such guaranties of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(e)(1)[185] There is hereby authorized to be appropriated to the President such amounts, to remain available until expended, as may be necessary from time to time to carry out the purposes of this title.

(2)[185] (A) In order to meet obligations incurred for the payment of claims pursuant to loan guaranties described in subsection (d), the Administrator of the agency primarily responsible for administering part I may, to the extent that reserves are not sufficient, borrow from time to time from the Treasury except that—

(i) the Administrator may exercise the authority to borrow under this paragraph only to such extent or in such amounts as are provided in advance in appropriation Acts; and

(ii) the amount borrowed under this paragraph which is outstanding at any one time may not exceed $100,000,000.[186]

(B) Any such borrowing shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury shall make loans under this paragraph and for such purpose may borrow on the credit of the United States in accordance with subchapter I of chapter 31 of title 31 of the United States Code.

(f) In the case of any loan investment guaranteed under section[187] 222, the agency primarily responsible for administering part I shall prescribe the maximum rate of interest allowable to the

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[183] Sec. 8(a)(5) of the FA Act of 1974 (Public Law 93–559) struck out "section 221 or section 222" and inserted in lieu thereof "section 221, 222, 222A, or previously under section 240 of this Act". Subsequently, sec. 115(f) of Public Law 95–424 struck out the reference to sec. 221.

[184] Sec. 115(f)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951) inserted "under this title or".

[185] Sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903), added para. designation "(1)" and new para. (2). This amendment had been included as sec. 311(c) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[186] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329), struck out "$40,000,000" and inserted in lieu thereof "$100,000,000".

[187] Sec. 115(g) of the International Development and Food Assistance Act of 1978 (Public Law 95–424) struck out "221 or".

eligible investor, which maximum rate shall not exceed by more than 1 per centum the then current rate of interest applicable to housing mortgages insured by the Department of Housing and Urban Development.[188] The maximum allowable rate of interest under this subsection shall be prescribed by the agency as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the agency may amend such rate at its discretion, consistent with the provisions of subsection (f).

(g) Housing guaranties committed, authorized, or outstanding heretofore under this title or[189] under prior housing guaranty authorities repealed by the Foreign Assistance Act of 1969 shall continue subject to provisions of law originally applicable thereto and fees collected hereafter with respect to such guaranties shall be available for the purposes specified in subsection (b).

(h) No payment may be made under any guaranty issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(i)[190] * * * [Repealed—1978]

(j)[191] Guaranties shall be issued under section 222[176] only for housing projects which are coordinated with and complementary to any development assistance being furnished under chapter 1 of this part and which[192] are specifically designed to demonstrate the feasibility and suitability of particular kinds of housing or of financial or other institutional arrangements. Of the aggregate face value of housing guaranties hereafter issued under this title, not less than 90 per centum shall be issued for housing suitable for families with income below the median income (below the median urban income for housing in urban areas) in the country in which the housing is located.[193]

Sec. 224.[194] **Trade Credit Insurance Program for Central America.**—(a) In order to enable the Export-Import Bank of the

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[188] Sec. 112(c) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364) struck out language that specified that the maximum rate of interest should not be less than one-half of 1 per centum above the then current rate of interest applicable to housing mortgages insured by HUD.

[189] Sec. 115(h) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951) added "heretofore under this title or".

[190] Sec. 115(i) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 952) repealed subsec. (i), which had authorized sections 221 and 222 to continue in force until Sept. 30, 1979.

[191] Sec. 311(5)(B) of Public Law 94–161 (89 Stat. 849) added subsection (j).

[192] Sec. 112(d)(1) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364) struck out "(1) except for regional projects are in countries which are receiving, or which in the previous two fiscal years have received, development assistance under chapter 1 of part I of this Act, (2) are coordinated with and complementary to such assistance, and (3)" and inserted in lieu thereof "are coordinated with and complementary to any development assistance being furnished under chapter 1 of this part and which"

[193] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681) struck out the third and fourth sentences of subsec. (j). The fourth sentence had previously been amended and restated by sec. 112(d)(2) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364). The two stricken sentences, as amended, had read as follows:

"The face value of guaranties issued with respect to housing in any country shall not exceed $25,000,000 in any fiscal year, and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000. Of the total amount of housing guaranties authorized to be issued under section 222 through September 30, 1982, not less than a face amount of $25,000,000 shall be issued for projects in Israel and not less than a face amount of $25,000,000 shall be issued for projects in Egypt.".

[194] 22 U.S.C. 2184. Sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903), added sec. 224. This amendment had been included as sec. 1011 of H.R. 5119, the International Secu-

United States (hereafter in this section referred to as the "Bank") to determine that there exists reasonable assurance of repayment as required under section 2(b)(1)(B) of the Export-Import Bank Act of 1945,[195] the agency primarily responsible for administering part I of this Act (hereafter in this section referred to as the "Agency") is authorized to provide guarantees to the Bank for liabilities to be incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Central American countries.

(b)(1) Guarantees provided by the Agency pursuant to the authority of subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance. Guarantees or insurance extended by the Bank and guaranteed by the Agency pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Agency and the Bank. Such agreement shall also provide for the establishment of a reserve fund by the Agency, with such funds made available to the reserve as the Agency deems necessary to discharge liabilities under guarantees provided by the Agency pursuant to subsection (a).

(2) The administrator of such agency shall transmit a copy of such agreement to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(c) The Agency shall not enter into any commitments to guarantee under subsection (a) after September 30, 1991.[196]

(d) Of the funds authorized to be appropriated for chapter 4 of part II of this Act, there are authorized to be made available such sums as may be deemed necessary by the Agency to discharge liabilities under guarantees entered into under subsection (a).

(e) Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in appropriations Acts, except that the aggregate amount of outstanding commitments under subsection (a) may not exceed $300,000,000 of contingent liability for loan principal during fiscal year 1986 and may not exceed $400,000,000 of contingent liability for loan principal during fiscal year 1987.[197]

(f) To the extent that any of the funds made available pursuant to subsection (d) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund referred to in subsection (b), shall be merged with

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rity and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 1011 of H.R. 5119. Reference in the section title to Central America was added by the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 103 Stat. 1313).

[195] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[196] Title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2001), struck out "September 30, 1990" and inserted in lieu thereof "September 30, 1991".

[197] Sec. 314 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83) struck out "not to exceed $300,000,000 in the fiscal year 1985." and inserted in lieu thereof the text to this point beginning with the word "Acts,".

the funds in such reserve, and shall be available for the purpose of payments by the Agency to the Bank for guarantees under subsection (a).

(g) Beginning on a date six months after the date of enactment of this section, and at intervals of six months thereafter, the administrator of the agency primarily responsible for administering part I of this Act and the President of the Export-Import Bank of the United States shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of credits during the preceding six-month period.

(h) The Export-Import Bank shall provide without reimbursement such administrative and technical assistance to the Agency as the Bank and the Agency deem appropriate to assist the Agency in carrying out this section.

Sec. 225.[198] **Trade Credit Insurance Program for Poland.**

(a) GENERAL AUTHORITY.—

(1) ASSURANCE TO EXPORT-IMPORT BANK OF REPAYMENT.—The President is authorized to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) that the Bank have reasonable assurance of repayment.

(2) LIABILITIES WHICH MAY BE GUARANTEED.—The liabilities that may be guaranteed under paragraph (1) are liabilities incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Poland.

(b) GUARANTEES AVAILABLE ONLY FOR SHORT-TERM GUARANTEES AND INSURANCE.—Guarantees provided under subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance.

(c) AGREEMENT ON CRITERIA AND PROCEDURES.—Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

(d) RESERVE FUND.—The agreement referred to in subsection (c) shall also provide for the establishment of a reserve fund by the administering agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided under subsection (a).

(e) DISCHARGE OF LIABILITIES.—

(1) FUNDS WHICH MAY BE USED.—Such amounts of the funds made available to carry out chapter 4 of part II of this Act (relating to the economic support fund) as the President determines are necessary may be made available to discharge liabilities under guarantees entered into under subsection (a).

[198] 22 U.S.C. 2185. Sec. 304 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 103 Stat. 1312) added sec. 225.

(2) CREDITING OF SUBSEQUENT PAYMENTS.—To the extent that any of the funds made available pursuant to paragraph (1) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to subsection (d), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Administrator to the Bank for guarantees under subsection (a).

(f) APPROPRIATIONS ACTION REQUIRED.—Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in advance in appropriations Acts.

(g) LIMITATION ON OUTSTANDING COMMITMENTS.—The aggregate amount of outstanding commitments under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal during any fiscal year.

(h) BIANNUAL REPORTS TO CONGRESS.—Every 6 months, the Administrator and the President of the Bank shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of guarantees and insurance provided by the Bank and guaranteed under this section during the preceding 6-month period.

(i) ADMINISTRATIVE AND TECHNICAL ASSISTANCE.—The Bank shall provide, without reimbursement, such administrative and technical assistance to the administering agency as the Bank and the Administrator determine appropriate to assist the administering agency in carrying out this section.

(j) FEES AND PREMIUMS.—The Bank is authorized to charge fees and premiums, in connection with guarantees or insurance guaranteed by the administering agency under subsection (a), that are commensurate (in the judgment of the Bank) with the Bank's administrative costs and the risks covered by the agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance—

(1) shall be credited to the reserve fund established pursuant to subsection (d),

(2) shall be merged with the funds in such reserve, and

(3) shall be available for the purpose of payments by the administering agency to the Bank for guarantees under subsection (a).

(k) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland shall not apply with respect to the funds made available to carry out this section.

(l) EXPIRATION OF AUTHORITY.—The President may not enter into any commitments to guarantee under subsection (a) after September 30, 1992.

(m) DEFINITIONS.—For purposes of this section—

(1) the term "administering agency" means the Agency for International Development;

(2) the term "Administrator" means the Administrator of the Agency for International Development; and

(3) the term "Bank" means the Export-Import Bank of the United States.

SEC. 226.[199] **LOAN GUARANTEES TO ISRAEL PROGRAM.**

(a) IN GENERAL.—Subject to the terms and conditions of this section, during the period beginning October 1, 1992, and ending September 30, 1997, the President is authorized to issue guarantees against losses incurred in connection with loans to Israel made as a result of Israel's extraordinary humanitarian effort to resettle and absorb immigrants into Israel from the republics of the former Soviet Union, Ethiopia and other countries. In the event that less than the full amount authorized to be issued under subsection (b) of this section is issued in such period, the authority to issue the balance of such guarantees shall be available in the fiscal year ending on September 30, 1998.

(b)[200] FISCAL YEAR LEVELS.—The President is authorized to issue guarantees in furtherance of the purposes of this section. Subject to subsection (d), the total principal amount of guarantees which may be issued by the President under this section shall be up to $10,000,000,000 which may be issued as follows:

(1) in fiscal year 1993, up to $2,000,000,000 may be issued on October 1, 1992 or thereafter;

(2) subject to subsection (d), in fiscal years 1994 through 1997, up to $2,000,000,000 in each fiscal year may be issued on October 1 or thereafter.

(3) If less than the full amount of guarantees authorized to be made available in a fiscal year pursuant to paragraphs (1) and (2) of this subsection is issued to Israel during that fiscal year, the authority to issue the balance of such guarantees shall extend to any subsequent fiscal year ending on or before September 30, 1998.

(4)(A) Not later than September 1 of each year during the period in which the President is authorized to issue loan guarantees under subsection (a), beginning in fiscal year 1993, the President shall notify the appropriate congressional committees in writing of his intentions regarding the exercise of that authority for the fiscal year beginning on October 1 of that year, including a statement of the total principal amount of guarantees, if any, that the President proposes to issue for that fiscal year.

(B) For purposes of this paragraph, the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[201] of the House of Representatives.

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[199] 22 U.S.C. 2186. Sec. 601 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1699), added sec. 226.

[200] In past years, the President has determined, pursuant to sec. 226(d), that amounts authorized under this section for loan guarantees be reduced. See Presidential Determination No. 93–44 of September 30, 1993 (58 F.R. 52209); Presidential Determination No. 94–57 of September 30, 1994 (59 F.R. 52057); Presidential Determination No. 95–46 of September 29, 1995 (60 F.R. 53087).

[201] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(c) USE OF GUARANTEES.—Guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967.

(d)[200] LIMITATION ON GUARANTEE AMOUNT.—The amount of authorized but unissued guarantees that the President is authorized to issue as specified in subsection (b) shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the previous year for activities which the President determines are inconsistent with the objectives of this section or understandings reached between the United States Government and the Government of Israel regarding the implementation of the loan program. The President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under this subsection and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year.

(e) FEES.—

(1) Fees charged for the loan guarantee program under this section each year shall be an aggregate annual origination fee equal to the estimated subsidy cost of the guarantees issued under this section for that year, calculated by the Office of Management and Budget for the Federal Credit Reform Act of 1990. This shall also include an amount for the administrative expenses of the Agency for International Development in administering the program under this section. All such fees shall be paid by the Government of Israel to the Government of the United States. Funds made available for Israel under chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government. No further appropriations of subsidy cost are needed for the loan guarantee authorized hereunder for fiscal year 1993 and the four succeeding fiscal years.

(2) The origination fee shall be payable to the United States Government on a pro rata basis as each guarantee for each loan or increment is issued.

(f) AUTHORITY TO SUSPEND.—Except as provided in subsections (l) and (m) of this section, the President shall determine the terms and conditions for issuing guarantees. If the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the additional loan guarantees not yet issued under this section. Upon making such a determination to suspend or terminate the provision of loan guarantees, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

(g) PROCEDURES FOR SUSPENSION OR TERMINATION.—Any suspension or termination pursuant to subsection (f) shall be in accordance with the following procedures:

(1) Upon making a determination to suspend or terminate the provision of loan guarantees, the President shall submit to

the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

(2) Such a suspension or termination shall cease to be effective if Congress enacts, within 30 days of submission, a joint resolution authorizing the assistance notwithstanding the suspension.

(3) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(4) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(5) In the event that the President suspends the provision of additional loan guarantees under subsection (f) and Congress does not enact a joint resolution pursuant to this subsection, the provision of additional loan guarantees under the program established by this section may be resumed only if the President determines and so reports to Congress that the reasons for the suspension have been resolved or that the resumption is otherwise in the national interest.

(h) ECONOMIC CONTEXT.—The effective absorption of immigrants into Israel from the republics of the former Soviet Union and Ethiopia within the private sector requires large investment and economic restructuring to promote market efficiency and thereby contribute to productive employment and sustainable growth. Congress recognizes that the Government of Israel is developing an economic strategy designed to achieve these goals, and that the Government of Israel intends to adopt a comprehensive, multi-year economic strategy based on prudent macroeconomic policies and structural reforms. Congress also recognizes that these policies are being designed to reduce direct involvement of the government in the economic system and to promote private enterprise, important prerequisites for economic stability and sustainable growth.

(i) CONSULTATIONS.—It is the sense of the Congress that, as agreed between the two Governments and in order to further the policies specified in subsection (h), Israel and the United States should continue to engage in consultations concerning economic and financial measures, including structural and other reforms, that Israel should undertake during the pendency of this program to enable its economy to absorb and resettle immigrants and to accommodate the increased debt burden that will result from loans guaranteed pursuant to this section. It is the sense of the Congress that these consultations on economic measures should address progress and plans in the areas of budget policies, privatization, trade liberalization, financial and capital markets, labor markets, competition policy, and deregulation.

(j) GOODS AND SERVICES.—During the pendency of the loan program authorized under this section, it is anticipated that, in the context of the economic reforms undertaken pursuant to subsections (h) and (i) of this section, Israel's increased population due

to its absorption of immigrants, and the liberalization by the Government of Israel of its trade policy with the United States, the amount of United States investment goods and services purchased for use in or with respect to the country of Israel will substantially increase.

(k) REPORTS.—The President shall report to Congress by December 31 of each fiscal year until December 31, 1999, regarding the implementation of this section.

(l) APPLICABILITY OF FOREIGN ASSISTANCE ACT AUTHORITIES.—Section 223 of the Foreign Assistance Act shall apply to guarantees issued under subsection (a) in the same manner as such section applies to guarantees issued under section 222, except that subsections (a), (e)(1), (g), and (j) of section 223 shall not apply to such guarantees and except that, to the extent section 223 is inconsistent with the Federal Credit Reform Act of 1990, that Act shall apply. Loans shall be guaranteed under this section without regard to sections 221, 222, and 238(c). Notwithstanding section 223(f), the interest rate for loans guaranteed under this section may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this section in the event the borrower elects not to finance such costs or fees out of loan principal. Guarantees once issued hereunder shall be unconditional and fully and freely transferable.

(m) TERMS AND CONDITIONS.—

(1) Each loan guarantee issued under this section shall guarantee 100 percent of the principal and interest payable on such loans.

(2) The standard terms of any loan or increment guaranteed under this section shall be 30 years with semiannual payments of interest only over the first 10 years, and with semiannual payments of principal and interest on a level payment basis, over the last 20 years thereof, except that the guaranteed loan or any increments issued in a single transaction may include obligations having different maturities, interest rates, and payment terms if the aggregate scheduled debt service for all obligations issued in a single transaction equals the debt service for a single loan or increment of like amount having the standard terms described in this sentence. The guarantor shall not have the right to accelerate any guaranteed loan or increment or to pay any amounts in respect of the guarantees issued other than in accordance with the original payment terms of the loan. For purposes of determining the maximum principal amount of any loan or increment to be guaranteed under this section, the principal amount of each such loan or increment shall be—

(A) in the case of any loan issued on a discount basis, the original issue price (excluding any transaction costs) thereof; or

(B) in the case of any loan issue on an interest-bearing basis, the stated principal amount thereof.

Title IV—Overseas Private Investment Corporation[202]

Sec. 231.[203] **Creation, Purpose and Policy.**—To mobilize and facilitate the participation of United States private capital and skills in the economic and social development[204] of less developed countries and areas, and countries in transition from nonmarket to market economies,[205] thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

The[206] Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors;

(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $984 or less in 1986 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702), Ireland, and Northern Ireland); and[207]

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[202] Sec. 105 of the FA Act of 1969 (Public Law 91–175) added a new title IV. Prior to this, title IV had been titled "Surveys of Investment Opportunities." For Executive Order concerning OPIC, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

Title IV was amended extensively by title I of S. 2757 and title I of H.R. 5263, both enacted by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268):

"SEC. 555. * * * *Provided further,* That title I of H.R. 5263 as passed by the House of Representatives on September 20, 1988, is hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That notwithstanding any other provision of this Act, titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: * * *.".

Except in two instances, title I, S. 2757 and title I, H.R. 5263 are identical. Sec. 106 in each title amended sec. 235(a)(2) of the FA Act of 1961. Sec. 235(a)(2) was previously amended by Public Law 100–418, sec. 2203(b)(1)(A); H.R. 5263 took this into account. Public Law 100–418, sec. 2203(b)(1)(B) redesignated sec. 235(a)(5) of the FA Act of 1961 as sec. 235(a)(6). Sec. 107 in S. 2757 and H.R. 5263 amended this section, but H.R. 5263 took into account the redesignation by Public Law 100–418. Title III of S. 2757, which addresses the implementation of certain USIA Exchange Visitor Programs, is in *Legislation on Foreign Relations Through 2004*, vol. II, sec. E.

[203] 22 U.S.C. 2191. Sec. 105 of the FA Act of 1969 (Public Law 91–175) added sec. 231.

[204] Sec. 2(1)(A) of the OPIC Amendments Act of 1974 (Public Law 93–390; 83 Stat. 809) struck out "progress" and inserted in lieu thereof "development".

[205] Sec. 101 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) struck out "friendly countries and areas," and inserted in lieu thereof "countries and areas, and countries in transition from nonmarket to market economies,".

[206] Sec. 2(1) of Public Law 95–268 (92 Stat. 213) added this paragraph.

[207] The per capita income levels were increased from $896 and $3,887 in 1983 U.S. dollars by sec. 102 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268). Sec. 102 also added "(other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702))". Previously the per capita income levels were increased from $680 and $2,950 in 1979 U.S. dollars to $896 and $3,887 in 1983 U.S. dollars by sec. 3 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1669), and from $520 and $1,000 in 1975 U.S. dollars

(3)[208] ensures that the project is consistent with the provisions of section 117[208] (as so redesignated by the Special Foreign Assistance Act of 1986), section 118, and section 119 of this Act relating to the environment and natural resources of, and tropical forests and endangered species[208] in, developing countries, and consistent with the intent of regulations issued pursuant to sections 118 and 119 of this Act.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a)[209] to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;

(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(d) to conduct its insurance operations with due regard to principles of risk management including[210] efforts to share its insurance risks and reinsurance[211] risks;

(e)[212] to the maximum degree possible consistent with its purposes—

(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;

(f)[213] to consider in the conduct of its operations the extent to which less developed country governments are receptive to

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to $680 and $2,950 in 1979 U.S. dollars, respectively, by sec. 2(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021).

Sec. 105 of the Jobs Through Trade Expansion Act of 1994 (Public Law 103–392; 108 Stat. 4099) inserted ", Ireland, and Northern Ireland" in the parentheses.

[208] Sec. 4(a)(1)(C) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1669) added para. (3). The OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), made a correction to include section 117. S. 2757 also struck out "biological diversity" and inserted in lieu thereof "tropical forests and endangered species".

[209] Sec. 2(1)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390; 83 Stat. 809) amended and restated subsec. (a). It formerly read as follows: "(a) to conduct financial soundness of projects and the availability of financing from other sources on appropriate terms;".

[210] Sec. 2(1)(C) of the OPIC Amendments Act of 1974 (Public Law 93–390) struck out "when appropriate," after "including".

[211] Sec. 2(1)(C) of the OPIC Amendments Act of 1974 (Public Law 93–390) inserted "and reinsurance".

[212] Subsec. (e), as amended by Public Law 93–390, was amended and restated by sec. 2(2) of Public Law 95–268 (92 Stat. 213). It formerly read as follows:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than $2,500,000 net worth or with not more than $7,500,000 in total assets;".

[213] Sec. 2(5) of Public Law 95–268 (92 Stat. 214) struck subsecs. (f) and (l) and redesignated subsecs. (g) through (n) as (f) through (l), respectively. Subsecs. (f) and (l) formerly read as follows:

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private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(g)[213] to foster private initiative and competition and discourage monopolistic practices;

(h)[213] to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment[214] objectives of the United States;

(i)[213] to conduct its activities in consonance with the activities of the agency primarily responsible for administering part I and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States;[215]

(j)[213] to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas;

(k)[216] (1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1);

(l)[217] to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States;

"(f) to encourage and support only those private investments in less developed friendly countries and areas which are sensitive and responsive to the special needs and requirements of their economies, and which contribute to the social and economic development of their people;"

"(l) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of $450 or less in 1973 United States dollars; and".

[214] Sec. 2(1)(E) of the OPIC Amendments Act of 1974 (Public Law 93–390) inserted "and employment".

[215] Sec. 2(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021) inserted ", and to seek to support those developmental projects having positive trade benefits for the United States".

[216] This subsection was originally added as subsec. (m) by sec. 2(1)(H) of the OPIC Amendments Act of 1974 (Public Law 93–390). It was redesignated as subsec. (k) by sec. 2(5) of Public Law 95–268; 92 Stat. 214.

[217] This subsection was added as subsec. (n) by sec. 2(4) of Public Law 95–268 (92 Stat. 213), and redesignated as subsec. (l) by sec. 2(5) of the same Act.

(m)[218] to refuse to insure, reinsure, or finance any investment subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment; and

(n)[219] to refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

Sec. 231A.[220] **Additional Requirements.**—(a) WORKER RIGHTS.—

(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 507(4) of the Trade Act of 1974,[221] to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:[222]

"The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government."

(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 504 of the Trade Act of 1974.[223] The restriction set forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guaranty, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such deter-

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[218] Sec. 2(3)(C) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021) added subsec. (m).

[219] Sec. 4(a)(4) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1669) added subsec. (n).

[220] 22 U.S.C. 2191a. Sec. 5(a) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1670) added sec. 231A. Sec. 5(b) of the Act provides that sec. 231A(a) "shall not apply to projects insured, reinsured, guaranteed, or financed before the date of the enactment of this Act.".

[221] Sec. 1954(b)(3)(A) of Public Law 104–188 (110 Stat. 1928) struck out "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserted in lieu thereof "507(4) of the Trade Act of 1974".

[222] Sec. 102(a) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) added the last sentence, including the quoted language required in contracts.

[223] Sec. 1954(b)(3)(B) of Public Law 104–188 (110 Stat. 1928) struck out "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserted in lieu thereof "504 of the Trade Act of 1974".

mination shall be reported in writing to the Congress, together with the reasons for the determination.[224]

(4)[225] In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 507(4)[226] of the Trade Act of 1974.

(b)[227] ENVIRONMENTAL IMPACT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

(1) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

(2) such assessment or audit has been made available tot he public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

(c)[227] PUBLIC HEARINGS.—(1)[228] The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this title.

(2)[228] In conjunction with each meeting of its Board of Directors, the Corporation shall hold a public hearing in order to afford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.

Sec. 232.[229] **Capital of the Corporation.**—The President is authorized to pay in as capital of the Corporation, out of dollar receipts made available through the appropriation process from loans made pursuant to this part and from loans made under the Mutual Security Act of 1954, as amended, for the fiscal year 1970 not to exceed $20,000,000 and for the fiscal year 1971 not to exceed $20,000,000. Upon the payment of such capital by the President, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

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[224] The President determined "that the waiver of section 231A(a)(1) with respect to Nicaragua, permitting the Overseas Private Investment Corporation to insure, reinsure, guaranty, and finance projects in Nicaragua, is in the national economic interests of the United States." (Presidential Determination 90–24 of June 21, 1990; 55 F.R. 27631).

[225] Sec. 2203(c) of Public Law 100–418 (102 Stat. 1328) para. (4).

Sec. 902(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 83) continued a suspension of OPIC's issuing new insurance, reinsurance, guarantees, financing, or other financial support to the People's Republic of China until the President reported to the Congress under subsec. (b) of that sec. that China had made certain political reforms, or that such assistance was in the national interest of the United States. For text of sec. 902, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. D.

[226] Sec. 1954(b)(3)(C) of Public Law 104–188 (110 Stat. 1928) struck out "502(a)(4)" and inserted in lieu thereof "507(4)".

[227] Sec. 3(a) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1745) redesignated subsec. (b) as subsec. (c), and added a new subsec. (b).

[228] Sec. 3(a)(3) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1745) inserted "(1)" before "The Board" and added a new para. (2).

[229] 22 U.S.C. 2192. Sec. 105 of the FA Act of 1969 (Public Law 91–175) added sec. 232.

Sec. 233.[230] **Organization and Management.**—(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

(b) BOARD OF DIRECTORS.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors ("the Board") which shall consist of fifteen Directors,[231] including the Chairman, with eight Directors[232] constituting a quorum for the transaction of business.[233] Eight Directors[232, 234] shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least two of the eight Directors[235] appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than three such Directors[236] shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.

The other Directors shall be principal officers[237] of the Government of the United States whose duties relate to the programs of the Corporation,[238] including the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and[239] one such officer[240] of the Department of Labor,[241] designated by and serving at the pleasure of the President of the United States. The United States Trade Representative may designate a Deputy United States Trade

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[230] 22 U.S.C. 2193. Sec. 105 of the FA Act of 1969 (Public Law 91–175) added sec. 233.

[231] Sec. 3(a)(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021) increased the number of Directors 11 to 15, effective Oct. 1, 1981.

[232] Sec. 3(a) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021) increased the number of Directors from six to eight, effective Oct. 1, 1981.

[233] Sec. 4(1) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out two sentences at this point that designated the Administrator of AID as Chairman of the Board, ex officio, and the U.S. Trade Representative or Deputy U.S. Trade Representative as Vice Chairman of the Board, ex officio. The second sentence, establishing the USTR role, had been added by sec. 3(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021), effective Oct. 1, 1981.

[234] Sec. 4(2) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out "(other than the President of the Corporation, appointed pursuant to subsection (c) who shall serve as a Director ex officio)" at this point.

[235] Sec. 3(a) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) increased the number of Directors from one of the six to two of the eight, effective Oct. 1, 1981.

[236] Sec. 3(a)(3) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) increased the number of Directors from two to three, effective Oct. 1, 1981.

[237] Sec. 3(e)(1) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) struck out "officials" and inserted in lieu thereof "principal officers".

[238] Sec. 3(e)(2) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) inserted "whose duties relate to the programs of the Corporation".

[239] Sec. 4(3)(A) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) inserted "the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and" after "including".

[240] Sec. 3(e)(3) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) struck out "an official" and inserted in lieu thereof "one such officer".

[241] Sec. 3(b) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) added the reference to an official of the Department of Labor, effective October 1, 1981.

Representative to serve on the Board in place of the United States Trade Representative.[242]

There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection.[243]

All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315)[244] when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended, from time to time, while away from their homes or usual places of business.

(c) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

(d) OFFICERS AND STAFF.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided,* That under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5 of the United States Code.

(e)[245] INVESTMENT ADVISORY COUNCIL.—The Board shall take prompt measures to increase the loan, guarantee, and insurance

[242] Sec. 4(3)(B) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) inserted "The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative.".

[243] Sec. 4(4) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) added this para.

[244] The current rate of compensation at level IV of the Executive Schedule is $140,300 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

[245] Sec. 123(c)(1) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 269) added subsec. (e). Sec. 123 of that Act, furthermore, provided the following:

"SEC. 123. OVERSEAS PRIVATE INVESTMENT CORPORATION INITIATIVES.

"(a) INITIATION OF FUNDS.—It is the sense of the Congress that the Overseas Private Investment Corporation should exercise the authorities it has to initiate an equity fund or equity

programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an investment advisory council to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the investment advisory council shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The investment advisory council shall terminate 4 years after the date of the enactment of this subsection.

Sec. 234.[246] **Investment Insurance and Other Programs.**[247]—The Corporation is hereby authorized to do the following:

(a)[248] INVESTMENT INSURANCE.—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government or any political subdivision thereof;[249]

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funds in support of projects in the countries in sub-Saharan Africa, in addition to the existing equity fund for sub-Saharan Africa created by the Corporation.

"(b) STRUCTURE AND TYPES OF FUNDS.—

"(1) STRUCTURE.—Each fund initiated under subsection (a) should be structured as a partnership managed by professional private sector fund managers and monitored on a continuing basis by the Corporation.

"(2) CAPITALIZATION.—Each fund should be capitalized with a combination of private equity capital, which is not guaranteed by the Corporation, and debt for which the Corporation provides guaranties.

"(3) INFRASTRUCTURE FUND.—One or more of the funds, with combined assets of up to $500,000,000, should be used in support of infrastructure projects in countries of sub-Saharan Africa.

"(4) EMPHASIS.—The Corporation shall ensure that the funds are used to provide support in particular to women entrepreneurs and to innovative investments that expand opportunities for women and maximize employment opportunities for poor individuals.

"(c) OVERSEAS PRIVATE INVESTMENT CORPORATION.—

"(1) INVESTMENT ADVISORY COUNCIL.—Section 233 of the Foreign Assistance Act of 1961 is amended * * *

"(2) REPORTS TO CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Overseas Private Investment Corporation shall submit to Congress a report on the steps that the Board has taken to implement section 233(e) of the Foreign Assistance Act of 1961 (as added by paragraph (1)) and any recommendations of the investment advisory council established pursuant to such section.".

[246] 22 U.S.C. 2194. Sec. 105 of the FA Act of 1969 (Public Law 91–175) added sec. 234.

[247] Sec. 2(2)(A) of the OPIC Amendments Act of 1974 (Public Law 93–390) struck out "**Investment Incentive Programs**" and inserted in lieu thereof "**Investment Insurance and Other Programs**".

[248] Sec. 5(b)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023) provided:

"(2) The authority of the Overseas Private Investment Corporation to enter into contracts under section 234(a) of the Foreign Assistance Act of 1961 shall be effective for any fiscal year beginning after September 30, 1981, only to such extent or in such amounts as are provided in appropriation Acts.".

[249] Sec. 4(a) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) inserted "or any political subdivision thereof".

(C) loss due to war, revolution, insurrection or civil strife; and[250]

(D)[251] loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

(2)[252] Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.[253]

(3) Not more than 10 per centum of the maximum contingent liability[254] of investment insurance which the Corporation is permitted to have outstanding under section 235(a)(1)[255] shall be issued to a single investor.

(4)[256] Before issuing insurance for the first time for loss due to business interruption, and in each subsequent instance in which a significant expansion is proposed in the type of risk to be insured under the definition of "civil strife" or "business interruption",[257] the Corporation shall, at least sixty days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate

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[250] Sec. 4(a)(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) added the reference to civil strife.

[251] Sec. 6(a)(1)(D) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1671) added subpara. (D).

[252] Sec. 2(2)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390) amended and restated subsec. (a)(2). It formerly read as follows: "(2) Recognizing that major private investments in less developed friendly countries in areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder: *Provided, however,* That liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing.".

[253] Sec. 4(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) struck out "total" and "financing", before and after "project".

Sec. 3(1) of Public Law 95–268 (92 Stat. 214) struck out: "and that the maximum share of liabilities so assumed under paragraph (1) (A) and (B) of paragraph (1)(C) shall not exceed the Corporation's proportional share of such liabilities as specified in paragraph (4) or (5) of this subsection.".

[254] Sec. 3(2) of Public Law 95–268 (92 Stat. 214) struck out "total face amount" and inserted in lieu thereof "maximum contingent liability".

[255] Sec. 4(a)(3) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) struck out "authorized to issue under this subsection" and inserted in lieu thereof "permitted to have outstanding under sec. 235(a)(1)".

[256] Paras. (4) through (7), which had been added by the OPIC Amendments Act of 1974 (Public Law 93–390) and had appeared at this point, were struck by sec. 3(3) of Public Law 95–268 (92 Stat. 214). This new para. (4) was added by sec. 4(a)(4) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022)

[257] Sec. 6(a)(2)(A) and (B) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1671) struck out "civil strife insurance for the first time" and inserted in lieu thereof "insurance for the first time loss due to business interruption", and struck out "definition of civil strife" and inserted in lieu thereof "definition of 'civil strife' or 'business interruption'".

and the Committee on Foreign Affairs[258] of the House of Representatives a report with respect to such insurance, including a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered. Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.[259]

(b) INVESTMENT GUARANTIES.—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further,* That not more than 15[260] per centum of the maximum contingent liability of investment guaranties which the Corporation is permitted to have outstanding under section 235(a)(2)[261] shall be issued to a single investor.

(c) DIRECT INVESTMENT.—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine.[262] Loans may be made under this subsection only for

[258] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[259] Sec. 6(a)(2) (C) and (D) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1671) added the text from the word "reserves" to the end of para. (4).

[260] Sec. 7 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1672) changed the per centum from 10 to 15.

[261] Sec. 4(b) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) struck out "authorized to issue under this subsection" and inserted in lieu thereof "permitted to have outstanding under section 235(a)(2)".

[262] Sec. 104 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), struck out the following which previously appeared at this point: "The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining.".

projects that are sponsored by or significantly involve United States small business or cooperatives.[263]

The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.[264]

No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.[265]

(d) INVESTMENT ENCOURAGEMENT.—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private investors, except that—

(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed $200,000.[266]

(e) SPECIAL ACTIVITIES.—To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives and including the initiation of incentives, grants, and studies for renewable energy and other small business activities.[267] The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private. Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.[268]

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[263] Sec. 3(4) of Public Law 95–268 (92 Stat. 214) added this sentence.

[264] Sec. 103 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) added this para.

[265] Sec. 3(5) of Public Law 95–268 (92 Stat. 214) inserted this paragraph in lieu of the following:

"No loans shall be made under this section to finance operations for mining or other extraction of any deposit of ore, oil, gas, or other mineral.".

[266] Sec. 3(6) of Public Law 95–268 (92 Stat. 214) struck out a proviso clause in subsec. (d) and added the words to this point beginning with ", except that—".

[267] Section 8(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218; 103 Stat. 1868) added text to the end of the sentence from "and including".

[268] Section 8(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218; 103 Stat. 1868) added the last sentence.

(f)[269] OTHER INSURANCE FUNCTIONS.—(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business; except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 of this Act and shall be on equitable terms.[270]

(2) To enter into pooling or other risk-sharing agreements with[271] multinational insurance or financing agencies or groups of such agencies.

(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The amount of reinsurance of liabilities under this title which the Corporation may issue shall not[272] in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise.[273, 274]

(g)[275] PILOT EQUITY FINANCE PROGRAM.—

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[269] Sec. 2(2)(D) of the OPIC Amendments Act of 1974 (Public Law 93–390) added subsec. (f).

[270] Sec. 3(6) of Public Law 95–268 (92 Stat. 214) added "; except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 of this Act and shall be on equitable terms". Subsequently, sec. 4(b)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) struck out the following text, as added by sec. 3(6) of Public Law 95–268: "and (B) the Corporation shall not make or carry out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than on an individual basis where such direct underwriting facilitates the purposes of the Corporation as set forth in section 231 of this Act.".

[271] Sec. 8 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1672) struck out "other national or" after "agreements with".

[272] Sec. 4(b)(3)(A) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) struck out "exceed $600,000,000 in any one year, and the amount of such reinsurance shall not" at this point.

[273] Sec. 4(b)(3)(B) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) struck out "and the Corporation shall endeavor to increase such specified portions to the maximum extent possible" at this point.

[274] Sec. 104 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), struck out the first sentence of this paragraph. It formerly read: "The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) against the Corporation purchasing or investing in any stock in any other corporation.".

[275] Sec. 104(3) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) added subsec. (g).

Sec. 6001(1) of Public Law 106–31 (113 Stat. 113) struck out para. (C) within subsec. (g), which had provided as follows:

"(C) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of $10,000,000 (less amounts transferred to the fund before the date of the enactment of the Jobs Through Exports Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts re-

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(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in paragraphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title except that—

(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

(2)[276] EQUITY AUTHORITY LIMITED TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN AND MARINE TRANSPORTATION PROJECTS GLOBALLY.—Equity investments may be made under this subsection only in projects in countries eligible for financing under this title that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 212 of the Caribbean Basin Economy Recovery Act[277] and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise.[278]

(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential

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ceived by the Corporation during the preceding fiscal year as income on securities acquired under this subsection, and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(a) of this Act.".

Previously the paragraph was amended and restated by sec. 103 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651).

[276] Sec. 6001(2) of Public Law 106–31 (113 Stat. 113) struck out "LIMITATION TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN" and inserted in lieu thereof "EQUITY AUTHORITY LIMITED TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN AND MARINE TRANSPORTATION PROJECTS GLOBALLY".

[277] Should read "Caribbean Basin Economic Recovery Act"; see *Legislation on Foreign Relations Through 2004*, vol. III, sec. J.

[278] Sec. 6001(2) of Public Law 106–31 (113 Stat. 113) inserted "and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise" at the end of the sentence.

consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

(4) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporations' financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

(5)[279] IMPLEMENTATION.—To the extent provided in advance in appropriations Acts, the Corporation is authorized to create such legal vehicles as may be necessary for implementation of its authorities, which legal vehicles may be deemed non-Federal borrowers for purposes of the Federal Credit Reform Act of 1990. Income and proceeds of investments made pursuant to this section 234(g) may be used to purchase equity or quasi-equity securities in accordance with the provisions of this section: *Provided, however,* That such purchases shall not be limited to the 4-year period of the pilot program: *Provided further,* That the limitations contained in section 234(g)(2) shall not apply to such purchases.

(6) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs[280] of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.

(h)[281] LOCAL CURRENCY GUARANTIES FOR ELIGIBLE INVESTORS.—To issue to—

(1) eligible investors, or

(2) local financial institutions, guaranties,

denominated in currencies other than United States dollars, of loans and other investments made to projects sponsored by or significantly involving eligible investors, assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, for projects that the Corporation determines to have significant developmental effects or as the Corporation determines to be necessary or appropriate to carry out the purposes of this title.

Sec. 234A.[282] Enhancing Private Political Risk Insurance Industry.

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[279] Sec. 6001(3) of Public Law 106–31 (113 Stat. 113) added para. (5).

[280] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[281] Sec. 5(a) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) added subsec. (h).

[282] 22 U.S.C. 2194b. Sec. 105 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) amended and restated sec. 234A. First added by sec. 9 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 672), it formerly read as follows:

"In order to encourage greater availability of political risk insurance for eligible investors, the Corporation shall establish, not later than one year after the date of the enactment of the Over-

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(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall under take programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

(3) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

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seas Private Investment Corporation Amendments Act of 1985, a pilot program of facultative reinsurance. The program shall provide reinsurance to insurance companies, financial institutions, other persons, or groups thereof, with respect to insurance issued by such companies, institutions, persons, or groups for new investments, and expansions of existing investments, by eligible investors, in excess of limits which the Corporation would otherwise normally apply for its exposure to such investments. Contracts of reinsurance issued under the program shall be on equitable terms. The program, and any project covered by reinsurance under the program, shall be consistent with the provisions of this title.

"(b) PERSONS ELIGIBLE FOR THE PROGRAM.—An insurance company, financial institution, or other person shall be eligible to participate in the facultative reinsurance program established under subsection (a) if that company, institution, or other person is an eligible investor under this title. The Corporation shall take steps to encourage equitable participation in the program by all eligible persons.

"(c) MAXIMUM EXPOSURE.—The exposure of the Corporation under the facultative reinsurance program at any one time may not exceed $150,000,000 or, with respect to one country, $50,000,000.

"(d) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the program of facultative reinsurance under this section. The group shall be composed of nine members as follows:

"(A) Three officers or employees of the Corporation designated by the Board.

"(B) Four persons appointed by the Board, of whom at least one shall represent an insurance company, one a reinsurance brokerage firm, and one an underwriter, a financial institution, or other person or entity eligible for the facultative reinsurance program under this section. In selecting such persons, the Board shall consider their previous active involvement in the field of political risk insurance or reinsurance and shall consult with any major organizations representing insurance, reinsurance, and brokerage institutions as to the suitability of the respective candidates to represent their industry.

"(C) Two persons appointed by the Board from among persons who are eligible investors, other than persons described in subparagraph (B).

"(2) FUNCTIONS.—The advisory group shall advise the Corporation on the development and implementation of the facultative reinsurance program under this section, including ways to ensure equitable participation in the program by all eligible persons.

"(3) MEETINGS.—The advisory group shall meet not later than one hundred and eighty days after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, and not less than once in every one hundred and eighty-day period thereafter.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(e) REPORT TO THE CONGRESS.—The Corporation shall, not later than eighteen months after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the implementation of the facultative reinsurance program established under subsection (a).".

(b) ADVISORY GROUP.—

(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

(A) Up to seven persons from the private political risk insurance industry, of whom no fewer than two shall represent private political risk insurers, one shall represent private political risk reinsurers, and one shall represent insurance or reinsurance brokerage firms.

(B) Up to four persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

(3) MEETINGS.—The advisory group shall meet not later than September 30, 1989, and at least annually thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Sec. 235.[283] **Issuing Authority, Direct Investment Authority and Reserves.**—

(a)[284] ISSUING AUTHORITY.—

(1) INSURANCE AND FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a), and the amount of financing issued under sections 234(b) and (c), shall not exceed in the aggregate $29,000,000,000.

(B) Subject to spending authority provided in appropriations Acts pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized to transfer such sums as are necessary from its noncredit activities to pay for

[283] 22 U.S.C. 2195. Sec. 235 was added by sec. 105 of the FA Act of 1969, originally as "**Issuing Authority, Direct Investment Fund and Reserves**". Sec. 104(a)(1) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) struck out "**Fund**" in section caption, and inserted in lieu thereof "**Authority**".

[284] Sec. 104(a)(2) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) amended and restated subsec. (a), and para. (3) of that subsec. repealed subsec. (b), which formerly established the Direct Investment Fund.

Sec. 581(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435), amended and restated para. (1) of subsec. (a), struck out para. (2)(A), and redesignated para. (3) as para. (2). Paras. (1) and (2), as amended, formerly read as follows:

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed in the aggregate $13,500,000,000.

"(2) FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to financing issued under subsections (b) and (c) of section 234 shall not exceed in the aggregate $9,500,000,000.".

the subsidy and administrative costs[285] of the investment guaranties and direct loan programs under subsections (b) and (c) of section 234.

(2) TERMINATION OF AUTHORITY.—The authority of subsections (a), (b), and (c)[286] of section 234 shall continue until 2007.[287]

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[285] Sec. 3(a) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "subsidy cost" and inserted in lieu thereof "subsidy and administrative costs".

[286] Sec. 581(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435), struck out "(a) and (b)" and inserted in lieu thereof "(a), (b), and (c)".

[287] Sec. 4(2) of Public Law 95–268 (92 Stat. 214) extended the authority from Dec. 31, 1977, to Sept. 30, 1981. This date was further extended to Sept. 30, 1985, by sec. 5(b)(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023). Sec. 10 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1673), further extended the date from Sept. 30, 1985 to Sept. 30, 1988. Sec. 107 of the OPIC Amendments Act of 1988, H.R. 5263, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) extended the date from Sept. 30, 1988 to Sept. 30, 1992. Sec. 104(a)(2) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) amended and restated subsec. (a), extending the issuing authority from September 30, 1992 to September 30, 1994. The authority was extended again from Sept, 30, 1994 to Sept. 30, 1996 by sec. 103 of the Jobs Through Trade Expansion Act of 1994 (Public Law 103–392; 108 Stat. 4098). Title I of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (enacted as sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) extended the date from September 30, 1996, to September 30, 1997. Sec. 581(a)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435) extended the date from September 30, 1997, to September 30, 1999. Sec. 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "1999" and inserted in lieu thereof "November 1, 2000". Sec. 2 of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1745) would have struck out "1999" and inserted in lieu there "2003"; the amendment, however, was not executed as "1999" no longer appeared in the text. Sec. 2 of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "November 1, 2000" and inserted in lieu thereof "2007".

Title I of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"OVERSEAS PRIVATE INVESTMENT CORPORATION

"NONCREDIT ACCOUNT

"The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $42,885,000: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

"PROGRAM ACCOUNT

"For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2005 and 2006: *Provided further,* That such sums shall remain available through fiscal year 2013 for the disbursement of direct and guaranteed loans obligated in fiscal year 2005, and through fiscal year 2014 for the disbursement of direct and guaranteed loans obligated in fiscal year 2006: *Provided further,* That notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: *Provided further,* That funds made available pursuant to the authority of the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations.

"In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.".

See also paragraph in title II of that Act, relating to assistance for the independent states of the former Soviet Union; sec. 513, relating to commerce and trade; sec. 553, relating to au-

(b)[284] * * * [Repealed—1992]

(c) There shall be established in the Treasury of the United States a noncredit account revolving fund, which[288] shall be available for discharge of liabilities, as provided in subsection (d) of this section[289] until such time as all such liabilities have been discharged or have expired or until all of the fund has[290] been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to subsection (e) of this section[289] and (2) such sums as shall be appropriated pursuant to subsection (f) of this section for such purpose.[291] Additional amounts may thereafter be transferred to such fund[292] pursuant to section 236.

(d) Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 234[293] under similar predecessor guaranty authority or under section 234A,[293] shall be paid first out of the noncredit account revolving fund, as long as such fund[294] remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guaranties issued under section 234(b) or 234(c) shall be paid in accordance with the Federal Credit Reform Act of 1990.[295]

(e) There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 236, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

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thorization requirements; and sec. 589, relating to restricting OPIC and Export-Import Bank activities in countries that fail to meet requirements established to control trade in conflict diamonds.

[288] Sec. 3(b)(1)(A) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves" and inserted in lieu thereof "a noncredit account revolving fund, which".

[289] Sec. 17(b) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1676) struck out references to "section 234(e)" and "section 235(f)" and inserted in lieu thereof references to "subsection (e)", or "subsection (j)", "of this section", and references to "section 235(d)" with "subsection (d) of this section".

[290] Sec. 3(b)(1)(B) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "such reserves have" and inserted in lieu thereof "of the fund has".

[291] Sec. 3(b)(2) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury.".

[292] Sec. 3(b)(3) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "reserves" and inserted in lieu thereof "fund".

[293] Sec. 2(3)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390) struck out "insurance issued under section 234(a)" and inserted in lieu thereof "insurance or reinsurance issued under section 234".

Sec. 9(b) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1672) added the reference to sec. 234A.

[294] Sec. 3(c)(1) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "Insurance Reserve, as long as such reserve" and inserted in lieu thereof "noncredit account revolving fund, as long as such fund".

[295] Sec. 3(c)(2) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1949) struck out "or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section" and inserted in lieu thereof "or 234(c) shall be paid in accordance with the Federal Credit Reform Act of 1990".

(f)[296] There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the noncredit account revolving fund,[297] to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the noncredit account revolving fund[298] until the amount of funds in the noncredit account revolving fund[298] is less than $25,000,000. Any appropriations to augment the noncredit account revolving fund[298] shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purpose for which securities may be issued under such Bond Act shall include any such purchase.

Sec. 236.[299] **Income and Revenues.**—In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

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[296] Sec. 2(3)(C) of the OPIC Amendments Act of 1974 (Public Law 93–390) amended and restated subsec. (f). It formerly read as follows:

"(f) There is hereby authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund or to discharge the liabilities under insurance and guaranties issued by the Corporation or issued under predecessor guaranty authority.".

Sec. 104(b) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3652) had added subsec. (g), which authorized the Corporation to draw form its noncredit account revolving fund $8,128,000 for fiscal year 1993 and $11,000,000 for fiscal year 1994 for administrative expenses. Subsec. (g) was struck out by sec. 104 of Public Law 103–392 (108 Stat. 4098).

[297] Sec. 3(d)(1) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) struck out "insurance and guaranty fund" and inserted in lieu thereof "noncredit account revolving fund".

[298] Sec. 3(d)(2) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) struck out "Insurance Reserve" and inserted in lieu thereof "noncredit account revolving fund".

[299] 22 U.S.C. 2196. Added by sec. 105 of the FA Act of 1969 (Public Law 91–175).

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 235, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

Sec. 237.[300] **General Provisions Relating to Insurance Guaranty, and Financing Program.**—(a) Insurance guaranties, and reinsurance[301] issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government to which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.[301]

(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance[301] issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty, or reinsurance[301] is to be made, and right, title, claim, or cause of action existing in connection therewith.

(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance,[301] and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance,[301] or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(d)[302] FEES.—

(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of

[300] 22 U.S.C. 2197. Added by Sec. 105 of the FA Act of 1969 (Public Law 91–175).

Sec. 110(c) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) struck "and Guaranty" and inserted "Guaranty, and Financing".

[301] Sec. 2(4) of the OPIC Amendments Act of 1974 (Public Law 93–390) added the reference to reinsurance.

[302] Sec. 105(a) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3652) amended and restated subsec. (d). Previously it had been amended and restated by sec. 2(4)(D) of the OPIC Amendments Act of 1974 (Public Law 93–390).

the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

(e) No insurance, guaranty, or reinsurance[301] of any equity investment shall extend beyond twenty years from the date of issuance.

(f) Compensation for insurance, reinsurance, or guaranties issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, and (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss.[303] Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 or 234A so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties and[304] (3)[305] compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

(g) No payment may be made under any guaranty, insurance or reinsurance[301] issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

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[303] Sec. 6(a) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023) amended and restated the first sentence of subsec. (f). Previous amendments to this sentence in subsec. (f) retained in the new text include the following: The word "reinsurance" was added by sec. 2(4)(F) of Public Law 93–390; the basic language of clause (1) was added by sec. 5 of Public Law 95–268 (92 Stat. 215).

[304] Sec. 2(4)(G) of the OPIC Amendments Act of 1974 (Public Law 93–390) added this sentence. Sec. 5 of Public Law 95–268 (92 Stat. 215) added "except that limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties".

A sentence, as added by sec. 2(4)(G) of Public Law 93–390 and which previously appeared at this point, was struck out by sec. 6(b) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023). It formerly read as follows: "The preceding sentence shall not apply to the extent not permitted by State law.".

[305] Sec. 6(b) of the OPIC Amendments Act of 1985 (Public Law 99–204) added clause (3).

(h) Insurance, guaranties, or reinsurance[306] of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

(i) Claims arising as a result of insurance, reinsurance[307] or guaranty operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

(k)[308] In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.

(l)[309] (1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the date of enactment of this subsection for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

(2) Not later than 120 days after the date of enactment of this subsection, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this title.

(m)[310] (1) Before finally providing insurance, reinsurance, guarantees, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Cor-

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[306] Sec. 2(4)(I) of the OPIC Amendments Act of 1974 (Public Law 93–390) struck out "or guaranties" and inserted in lieu thereof ", guaranties, or reinsurance".

[307] Sec. 2(4)(J) of the OPIC Amendments Act of 1974 (Public Law 93–390) inserted ", reinsurance".

[308] Sec. 2(4)(K) of the OPIC Amendments Act of 1974 (Public Law 93–390) amended and restated subsec. (k). It formerly read as follows:

"(k) In making a determination to issue insurance or a guaranty under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance or guaranty upon the balance of payments of the United States".

[309] Sec. 6 of Public Law 95–268 (92 Stat. 215) added subsec. (l), effective April 24, 1978.

[310] Sec. 4(b) of the OPIC Amendments Act of 1985 (Public Law 99–204) added subsec. (m).

poration shall notify appropriate government officials of that country of—

(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to section 239(g).

(2) Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (1), the Corporation shall take into account any comments it receives on the project involved.

(3) On or before September 30, 1986, the Corporation shall notify appropriate government officials of a country of the guidelines, standards, and legal restrictions described in paragraph (1) that apply to any project in that country—

(A) which the Corporation identifies as potentially posing major hazards to public health and safety or the environment; and

(B) for which the Corporation provided insurance, reinsurance, guarantees, or financing under this title before the date of enactment of this subsection and which is in the Corporation's portfolio on that date.

(n)[311] PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 234 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(o)[312] USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of

[311] Sec. 105(b) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3653) added subsec. (n).

[312] Sec. 105(c) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3653) added subsec. (o).

1990 shall not apply to direct loan obligations made with funds described in this subsection.

Sec. 238.[313] **Definitions.**—As used in this title—

(a) the term "investment" includes any contribution or commitment[314] of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term "expropriation" includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government, a political subdivision of a foreign government, or a corporation owned or controlled by a foreign government,[315] of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term "eligible investor" means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States any State or territory thereof, or the District of Columbia,[316] and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided however,* That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total issued and subscribed share capital,[317] held by other than the United States owners: *Provided further,* That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as the time the insurance or guaranty is issued;[318]

(d)[318] the term "noncredit account revolving fund" means the account in which funds under section 236 and all funds from noncredit activities are held;[319]

(e)[318] the term "noncredit activities" means all activities of the Corporation other than its loan guarantee program under section 234(b) and its direct loan program under section 234(c);[319]

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[313] 22 U.S.C. 2198. Added by sec. 105 of the FA Act of 1969 (Public Law 91–175).

[314] Sec. 7 of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024) inserted "or commitment".

[315] Sec. 4(b) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) inserted ", a political subdivision of a foreign government, or a corporation owned or controlled by a foreign government,".

[316] Sec. 17(a) of the OPIC Amendments Act of 1985 (Public Law 99–204) added reference to the District of Columbia.

[317] Sec. 104(a) of the FA Act of 1971 (Public Law 91–672) struck out "required by Law to be".

[318] Sec. 106 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3653): (1) struck out "and" at the end of subsec. (c); (2) redesignated subsec. (d) as subsec. (f); and (3) added new subsecs. (d) and (e).

[319] Sec. 5(b)(1) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) struck out "and" at this point.

(f)[318] the term "predecessor guaranty authority" means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b)(3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties); and[320]

(g)[320] the term "local financial institution"—

(1) means any bank or financial institution that is organized under the laws of any country or area in which the Corporation operates; but

(2) does not include a branch, however organized, of a bank or other financial institution that is organized under the laws of a country in which the Corporation does not operate.

Sec. 239.[321] **General Provisions and Powers.**—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

(b) The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b), and (d). Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this title as may be determined by the President.[322]

(c)[323] (1) The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

(2) An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every three years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of

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[320] Sec. 5(b)(2) and (3) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1950) struck out "." and inserted in lieu thereof "; and", and added subsec. (g).

[321] 22 U.S.C. 2199. Added by sec. 105 of the FA Act of 1969 (Public Law 91–175).

[322] Sec. 7(1) of Public Law 95–268 (92 Stat. 215) struck out a paragraph previously appearing in subsec. (b) which had directed OPIC to cease operating the programs authorized by sec. 234(b) through (e) and sec. 240 on Dec. 31, 1979.

A Presidential Determination of Dec. 30, 1969 (35 F.R. 43; January 3, 1970), provided for AID administration until transfer to the Overseas Private Investment Corporation.

[323] Sec. 11 of the OPIC Amendments Act of 1985 (Public Law 99–204), amended and restated subsec. (c). It previously read as follows:

"(c) The Corporation shall be subject to the applicable provisions of the Government Corporation Control Act, except as otherwise provided in this title.".

Sec. 209(e)(16) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), stated that sec. 3003(a)(1) of Public Law 104–66 (109 Stat. 734) is not applicable to this subsection. Sec. 3003(a)(1) of that Act, as amended, provided that "* * * each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list * * * [prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress] shall cease to be effective, with respect to that requirement, May 15, 2000.".

the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than six and one-half months after the end of the last fiscal year covered by the audit. The General Accounting Office[324] may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the General Accounting Office[324] considers necessary.

(3) In lieu of the financial and compliance audit required by paragraph (2), the Government Accountability Office[324] shall, if the Office considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the Government Accountability Office[324] for the full cost of any audit conducted under this paragraph.

(4) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the Government Accountability Office.[324]

(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234;[325] to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c) or participation certificates as evidence of indebt-

[324] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[325] Sec. 107 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3654) inserted "to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234;" after "legal and arbitral proceedings;".

edness held by the Corporation in connection with settlement of claims under section 237(i));[326] to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;[327] and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) The Inspector General[328] of the Agency for International Development (1) may conduct[329] reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Inspector General[328] shall report to the Board. The agency primarily responsible for administering part I shall be reimbursed by the Corporation for all expenses incurred by the Inspector General[328] in connection with his responsibilities under this subsection.

(f)[330, 331] Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia, Poland, Hungary,[332] or any other East European country,[333] or the People's Republic of China, or Pakistan[334] of the

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[326] Sec. 7(2) of Public Law 95–268 (92 Stat. 215) inserted "or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(i))".

[327] Sec. 8(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024) inserted "to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;".

[328] Sec. 8(2)(A) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024) struck out "Auditor-General" and inserted in lieu thereof "Inspector General".

[329] Sec. 8(2)(B) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024) struck out "shall have the responsibility for planning and directing the execution of audits," and inserted in lieu thereof "may conduct".

[330] Sec. 8(3) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024) struck out subsecs. (f), (j), and (k) (subsecs. (j) and (k) added by sec. 7(3) of Public Law 95–268), and redesignated existing subsecs. (g), (h), (i), and (l) as subsecs. (f), (g), (h), and (i), respectively.

Old subsec. (f) authorized the establishment of an Advisory Board in order to further the purposes of OPIC; old subsec. (j) blocked OPIC support for copper exploration or mining projects begun after Jan. 1, 1981, and projects for the production of copper beginning after this date if the project would cause injury to the primary U.S. copper industry; and old subsec. (k) blocked OPIC support for any project to establish or expand production of processing of palm oil, sugar, or citrus crops for export.

[331] Sec. 104(b) of the FA Act of 1971 (Public Law 92–226) added subsec. (f), originally added as subsec. (g). Public Law 96–327 (94 Stat. 1026) inserted "the People's Republic of China". Sec. 108 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) struck out "Romania".

[332] Sec. 302(a) of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 103 Stat. 1311) inserted reference to Hungary and Poland.

[333] Sec. 576(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2044), inserted "or any other East European country".

[334] Sec. 579(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435), inserted ", or Pakistan" after "China". Sec. 579(b) of that Act, furthermore, provided the following:

"(b) TRADE AND DEVELOPMENT.—It is the sense of Congress that the Director of the Trade and Development Agency should use funds made available to carry out the provisions of section 661

programs authorized by this title, if the President determines that the operation of such program in such country is important to the national interest.

(g)[330, 335] The requirements of section 117(c) of this Act relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this title in connection with a project in a country.

(h)[330, 336] In order to carry out the policy set forth in paragraph (1) of the second undesignated paragraph of section 231 of this Act, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development.[337]

(i)[330, 338] The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

(j)[339] The Corporation, including its franchise, capital, reserves, surplus, advances, intangible property, and income, shall be exempt from all taxation at any time imposed by the United States, by any territory, dependency, or possession of the United States, or by any State, the District of Columbia, or any county, municipality, or local taxing authority.

(k)[339] The Corporation shall publish, and make available to applicants for insurance, reinsurance, guarantees, financing, or other assistance made available by the Corporation under this title, the policy guidelines of the Corporation relating to its programs.

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of the Foreign Assistance Act of 1961 (22 U.S.C. 2421) to promote United States exports to Pakistan.".

[335] Sec. 2(5)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390)added subsec. (g), originally as subsec. (h). Sec. 4(c) of the OPIC Amendments Act of 1985 (Public Law 99–204), restated and amended subsec. (g) in its current form. It previously read as follows:

"Within six months after the date of enactment of this subsection, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.".

The OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) replaced "118(c)" with "117(c)".

[336] Sec. 7(3) of Public Law 95–268 (92 Stat. 215) added subsec. (h), originally as subsec. (i).

[337] This consultative function was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[338] Sec. 8 of Public Law 95–268 (92 Stat. 216) added subsec. (i), originally as subsec. *(l)*.

[339] Secs. 12 and 13 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1674) added subsecs. (j) and (k), respectively.

Sec. 240.[340] **Small Business Development.**—(a)[341] IN GENERAL.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 percent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 231(a), on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 234 and section 234A.

(b)[342] OUTREACH TO MINORITY-OWNED AND WOMEN-OWNED BUSINESSES.—The Corporation shall collect data on the involvement of minority- and women-owned businesses in projects supported by the Corporation, including—

(1) the amount of insurance and financing provided by the Corporation to such businesses in connection with projects supported by the Corporation; and

(2) to the extent such information is available, the involvement of such businesses in procurement activities conducted or supported by the Corporation.

The Corporation shall include, in its annual report submitted to the Congress under section 240A, the aggregate data collected under this paragraph, in such form as to quantify the effectiveness of the Corporation's outreach activities to minority- and women-owned businesses.

Sec. 240A.[343] **Reports to the Congress.**—(a)[344] After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

(1) an assessment, based upon the development impact profiles required by section 239(h), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

(2) a description of any project for which the Corporation—

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[340] 22 U.S.C. 2200. Sec. 9 of Public Law 95–268 (92 Stat. 216) added this new sec. 240. Previously, sec. 240 had concerned agricultural credit and self-help community development projects but had been repealed by the FA Act of 1974.

[341] Sec. 6(a)(1) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1951) struck out "The Corporation" and inserted in lieu thereof "(a) IN GENERAL.—The Corporation".

[342] Sec. 6(a)(2) of the Overseas Private Investment Corporation Amendments Act of 2003 (Public Law 108–158; 117 Stat. 1951) added subsec. (b).

[343] 22 U.S.C. 2200a. Sec. 240A, as added by sec. 105 of the FA Act of 1969 and amended by sec. 2(7) of Public Law 93–390, was amended and restated by sec. 10 of Public Law 95–268 (92 Stat. 216).

[344] Sec. 14(a)(1) of the OPIC Amendments Act (Public Law 99–204; 99 Stat. 1674) inserted "(a)" before "After".

(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 239(i); or

(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

(b)[345] (1) Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the preceding fiscal year, the Corporation initially issued any insurance, reinsurance, or guaranty or made any direct loan. Each such report shall include projections of—

(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

(B) the final destination of the products to be produced as a result of those projects; and

(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

(2)[346] The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

(3)[346] In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

(B) any jobs created by the project; and

(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.

(c)[347] * * * [Repealed—1988]

(d) The Corporation shall maintain as part of its records—

(1) all information collected in preparing the report required by subsection (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of

[345] Sec. 14(a)(2) of the OPIC Amendments Act (Public Law 99–204; 99 Stat. 1674) added subsecs. (b) through (e).

Previously, sec. 9(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024) struck out an earlier subsec. (b), which required a one-time report to Congress on the development of private and multilateral programs for investment insurance and any reinsurance arrangements OPIC had made with private insurance companies, multilateral organizations and institutions, or other entities.

[346] Sec. 108 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3654) struck out the former para. (2), and inserted new paras. (2) and (3).

[347] Sec. 110(b)(1) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), struck out subsec. (c). Originally added by sec. 14(a)(2) of the OPIC Amendments Act (Public Law 99–204; 99 Stat. 1674), it had required that OPIC submit to Congress not later than December 31, 1987, a report analyzing the actual effects, as of September 30, 1986, on employment in the United States of all projects with respect to which any insurance, reinsurance, or guaranty issued by the Corporation was in effect on September 30, 1986, or with respect to which repayments on direct loans by the Corporation were being made as of that date.

1988),[348] whether the information was collected by the Corporation itself or by a contractor; and

(2) a copy of the analysis of each project analyzed in preparing the reports required by either subsection (b) or (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).[348]

(e)[349] Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 234A(a), including the following information, to the extent such information is available to the Corporation:

(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

(f)[349] Subsections (b) and (e) do not require the inclusion in any report submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

SEC. 240B.[350] PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON OPIC SUPPORTED EXPORTS.

(a) REQUIREMENT FOR CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance, guaranties, or other financing is provided under this title with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

(2) WHEN CERTIFICATION MUST BE MADE.—The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

(3) EXCEPTION.—Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the invest-

[348] Sec. 110(b)(2) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), added the parenthetical text following "(c)".

[349] Sec. 105(b) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), amended Sec. 240A by redesignating subsec. (e) as (f) and inserting a new subsec. (e).

[350] 22 U.S.C. 2200b. Sec. 109 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3654) added sec. 240B. An earlier sec. 240B, struck out by sec. 15 of Public Law 99–204 (99 Stat. 1676), addressed the return of appropriated funds by the Corporation to the general fund of the Treasury.

ment, have a controlling interest in fact in the project in question.

(b) REPORTS BY THE UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "United States insurance company" includes—

(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

(2) United States insurance companies shall be considered to have had a "fair and open competitive opportunity to provide insurance" if they—

(A) have received notice of the opportunity to provide insurance; and

(B) have been evaluated on a nondiscriminatory basis; and

(3) the term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

Title V—Disadvantaged Children in Asia [351]

Sec. 241.[352] **Assistance to Certain Disadvantaged Children in Asia.**—(a) The Congress recognizes the humanitarian needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Moreover, the Congress finds that inadequate provision has been made for the care and welfare of such disadvantaged children, particularly those fathered by the United States citizens.

(b) Accordingly, the President is authorized to expend up to $3,000,000 [353] of funds made available under chapter 1 of this part, in addition to funds otherwise available for such purposes, to help meet the needs of these disadvantaged children in Asia by assisting in the expansion and improvement of orphanages, hostels, day care centers, school feeding programs, and health, education, and welfare programs. Assistance provided under this section shall be fur-

[351] Sec. 116 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 952) struck out the title heading "**Development Research**" and added this new heading for title V.

[352] 22 U.S.C. 2201. This new sec. 241 was added by sec. 116 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 952). Previously, sec. 241 had contained the general authority under title V but had been repealed by Public Law 94–161 (89 Stat. 849).

[353] Sec. 903(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) struck out "$2,000,000" and inserted in lieu thereof "$3,000,000".

nished under the auspices of and by international organizations or private voluntary agencies operating within, and in cooperation with, the countries of Asia where these disadvantaged children reside.

TITLE VI—MICROENTERPRISE DEVELOPMENT ASSISTANCE [354]

SUBTITLE A—GRANT ASSISTANCE [355]

SEC. 251.[356] FINDINGS AND POLICY.

Congress finds and declares the following:

(1) Access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems.

(2) It is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries.

(3) Access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial services.

(4) Given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.

(5) Microenterprise programs have been successful and should continue to empower vulnerable women in the developing world. The Agency should work to ensure that recipients of microenterprise and microfinance development assistance under this title communicate and work with nongovernmental organizations and government organizations to identify and assist victims of trafficking as provided for in section 106(a)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(a)(1); Public Law 106–386) and women who are victims of or susceptible to other forms of exploitation and violence.

(6) Given that microenterprise programs have been successful in empowering disenfranchised groups such as women, microenterprise programs should also target populations disenfranchised due to race or ethnicity in countries where a strong relationship between poverty and race or ethnicity has been demonstrated, such as countries in Latin America.

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[354] Sec. 3 of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) added title VI, secs. 251 through 255. A previous title VI, relating to the Alliance for Progress, was added by the Foreign Assistance Act of 1962 (Public Law 87–565), and repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[355] Sec. 4(c)(1) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) inserted subtitle heading.

[356] 22 U.S.C. 2211.

SEC. 252.[357] **AUTHORIZATION; IMPLEMENTATION; TARGETED ASSISTANCE.**

(a) AUTHORIZATION.—The President is authorized to provide assistance on a non-reimbursable basis for programs in developing countries to increase the availability of credit, savings, and other services to microfinance and microenterprise clients lacking full access to capital, training, technical assistance, and business development services, through—

(1) assistance for the purpose of expanding the availability of credit, savings, and other financial and non-financial services to microfinance and microenterprise clients;

(2) assistance for the purpose of training, technical assistance, and business development services for microenterprises to enable them to make better use of credit, to better manage their enterprises, to conduct market analysis and product development for expanding domestic and international sales, particularly to United States markets, and to increase their income and build their assets;

(3) capacity-building for microfinance and microenterprise institutions in order to enable them to better meet the credit, savings, and training needs of microfinance and microenterprise clients; and

(4) policy, regulatory programs, and research at the country level that improve the environment for microfinance and microenterprise clients and institutions that serve the poor and very poor.

(b) IMPLEMENTATION.—

(1) OFFICE OF MICROENTERPRISE DEVELOPMENT.—There is established within the Agency an office of microenterprise development, which shall be headed by a Director who shall be appointed by the Administrator and who should possess technical expertise and ability to offer leadership in the field of microenterprise development.

(2) ADDITIONAL PROVISIONS.—

(A) USE OF IMPLEMENTING PARTNER ORGANIZATIONS.—Assistance under this section shall emphasize the use of implementing partner organizations that best meet the requirements of subparagraph (C).

(B) USE OF CENTRAL FUNDING MECHANISMS.—

(i) PROGRAM.—In order to ensure that assistance under this title is distributed effectively and efficiently, the office shall also seek to implement a program of central funding under which assistance is administered directly by the office, including through targeted core support for microfinance and microenterprise networks and other practitioners.

(ii) FUNDING.—Of the amount made available to carry out this subtitle for a fiscal year, not less than $25,000,000 should be made available to carry out clause (i).

(C) EFFICIENCY AND COST-EFFECTIVENESS.—Assistance under this section shall meet high standards of efficiency,

[357] 22 U.S.C. 2211a.

cost-effectiveness, and sustainability and shall especially provide the greatest possible resources to the poor and very poor. When administering assistance under this section, the Administrator shall—

(i) take into consideration the percentage of funds a provider of assistance intends to expend on administrative costs;

(ii) take all appropriate steps to ensure that the provider of assistance keeps administrative costs as low as practicable to ensure the maximum amount of funds are used for directly assisting microfinance and microenterprise clients, for establishing sustainable microfinance and microenterprise institutions, or for advancing the microenterprise development field; and

(iii) give preference to proposals from providers of assistance that are the most technically competitive and have a reasonable allocation to overhead and administrative costs.

(3) APPROVAL OF STRATEGIC PLANS.—With respect to assistance provided under this section, the office shall be responsible for concurring in the microenterprise development components of strategic plans of missions, bureaus, and other offices of the Agency and providing technical support to field missions to help the missions prepare such components.

(c) TARGETED ASSISTANCE.—In carrying out sustainable poverty-focused programs under subsection (a), 50 percent of all microenterprise resources shall be targeted to clients who are very poor. Specifically, until September 30, 2006, such resources shall be used for—

(1) support of programs under this section through practitioner institutions that—

(A) provide credit and other financial services to clients who are very poor, with loans in 1995 United States dollars of—

(i) $1,000 or less in the Europe and Eurasia region;

(ii) $400 or less in the Latin America region; and

(iii) $300 or less in the rest of the world; and

(B) can cover their costs in a reasonable time period; or

(2) demand-driven business development programs that achieve reasonable cost recovery that are provided to clients holding poverty loans (as defined by the regional poverty loan limitations in paragraph (1)(A)), whether they are provided by microfinance institutions or by specialized business development services providers.

SEC. 253.[358] **MONITORING SYSTEM.**

(a) IN GENERAL.—In order to maximize the sustainable development impact of assistance authorized under section 252(a), the Administrator of the Agency, acting through the Director of the office, shall strengthen its monitoring system to meet the requirements of subsection (b).

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

[358] 22 U.S.C. 2211b.

(1) The monitoring system shall include performance goals for the assistance and expresses such goals in an objective and quantifiable form, to the extent feasible.

(2) The monitoring system shall include performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (1) and the objectives of the assistance authorized under section 252.

(3) The monitoring system provides a basis for recommendations for adjustments to the assistance to enhance the sustainability and the impact of the assistance, particularly the impact of such assistance on the very poor, particularly poor women.

(4) The monitoring system adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive adequate access to microenterprise loans, savings, and assistance.

SEC. 254.[359] DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.

(a) DEVELOPMENT AND CERTIFICATION.—

(1) IN GENERAL.—The Administrator of the Agency, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for implementing partner organizations to use to assess the poverty levels of their current incoming or prospective clients. The Administrator shall develop poverty indicators that correlate with the circumstances of the very poor.

(2) FIELD TESTING.—The Administrator shall field-test the methods developed under paragraph (1). As part of the testing, institutions and programs may use the methods on a voluntary basis to demonstrate their ability to reach the very poor.

(3) CERTIFICATION.—Not later than April 1, 2005, the Administrator shall, from among the low-cost poverty measurement methods developed under paragraph (1), certify no fewer than two such methods as approved methods for measuring the poverty levels of current, incoming, or prospective clients of microenterprise institutions for purposes of assistance under section 252.

(b) APPLICATION.—The Administrator shall require that, with reasonable exceptions, all implementing partner organizations applying for microenterprise assistance under this title use one of the certified methods, beginning not later than October 1, 2006, to determine and report the poverty levels of current, incoming, or prospective clients.

SEC. 255.[360] ADDITIONAL AUTHORITIES.

Notwithstanding any other provision of law, amounts made available for assistance for microenterprise development assistance under any provision of law other than this title may be provided to further the purposes of this title. To the extent assistance described in the preceding sentence is provided in accordance with such sentence, the Administrator of the Agency shall include, as part of the report required under section 258, a detailed description

[359] 22 U.S.C. 2211c.
[360] 22 U.S.C. 2211d.

of such assistance and, to the extent applicable, the information required by paragraphs (1) through (11) of subsection (b) of such section with respect to such assistance.

SUBTITLE B—CREDIT ASSISTANCE [361]

SEC. 256.[362] MICROENTERPRISE DEVELOPMENT CREDITS.

(a) FINDINGS AND POLICY.—Congress finds and declares that—

(1) the development of micro- and small enterprises is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system; and

(2) it is, therefore, in the best interests of the United States to assist the access to financial services and the development of microenterprises [363] in developing countries and to engage the United States private sector in that process.

(b) [364] PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

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[361] Sec. 4(c)(2) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) inserted subtitle heading.

[362] 22 U.S.C. 2212. Formerly at sec. 108 (22 U.S.C. 2151f), transferred and redesignated as sec. 256 by sec. 4(a) and (b) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922). Other legislative references in this note, enacted prior to transfer and redesignation, refer to sec. 108.

Formerly titled "**Private Sector Revolving Fund**"; amended and restated by sec. 106 of the Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1085) to read "**MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS**". Subsequently amended by sec. 2(f) of Public Law 108–31 (117 Stat. 775) to read "**MICROENTERPRISE DEVELOPMENT CREDITS**". Earlier versions of the section were added by the International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972), and by sec. 2211 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 102 Stat. 1335). Previously, the section authorized up to $18,000,000 in each of fiscal year 1986 and fiscal year 1987 to be deposited in the Private Sector Revolving Fund.

Sec. 4 of Public Law 108–31 (117 Stat. 775; 22 U.S.C. 2151f note), as amended, provided the following:

"SEC. 4. REPORT TO CONGRESS.

"Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.".

[363] Sec. 2(a) of Public Law 108–31 (117 Stat. 775) struck out "the development of the enterprises of the poor" and inserted in lieu thereof "the access to financial services and the development of microenterprises".

[364] Sec. 2(b) of Public Law 108–31 (117 Stat. 775) amended and restated subsec. (b). It formerly read as follows:

"(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of credit to micro- and small enterprises lacking full access to credit, including through—

"(1) loans and guarantees to credit institutions for the purpose of expanding the availability of credit to micro- and small enterprises;

"(2) training programs for lenders in order to enable them to better meet the credit needs of microentrepreneurs; and

"(3) training programs for microentrepreneurs in order to enable them to make better use of credit and to better manage their enterprises.".

(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises to improve their quality of life.

(c) ELIGIBILITY CRITERIA.—The Administrator of the Agency[365] shall establish criteria for determining which microfinance institutions[366] described in subsection (b)(1) are eligible to carry out activities, with respect to microenterprise households,[367] assisted under this section. Such criteria may include the following:

(1) The extent to which the recipients of financial services[368] from the entity do not have access to the local formal financial sector.

(2) The extent to which the recipients of financial services[368] from the entity are among the poorest people in the country.

(3) The extent to which the entity is oriented toward working directly with poor women.

(4) The extent to which the entity recovers its cost of lending.

(5) The extent to which the entity implements a plan to become financially sustainable.

(d) ADDITIONAL REQUIREMENT.—Assistance provided under this section may only be used to support programs for microenterprise households[369] and may not be used to support programs not directly related to the purposes described in subsection (b).

(e) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a).

(f) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Of the amounts authorized to be available to carry out this part,[370] there are authorized to be available such sums as may be necessary for each of the fiscal years 2005 through 2009[371] to carry out this section.[372]

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[365] Sec. 4(c)(3)(A) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) struck out "Administrator of the agency primarily responsible for administering this part" and inserted in lieu thereof "Administrator of the Agency".

[366] Sec. 2(c)(1)(A) of Public Law 108–31 (117 Stat. 775) struck out "credit institutions" and inserted in lieu thereof "microfinance institutions".

[367] Sec. 2(c)(1)(B) of Public Law 108–31 (117 Stat. 775) struck out "micro- and small enterprises" and inserted in lieu thereof "microenterprise households".

[368] Sec. 2(c)(2) of Public Law 108–31 (117 Stat. 775) struck out "credit" and inserted in lieu thereof "financial services".

[369] Sec. 2(d) of Public Law 108–31 (117 Stat. 775) struck out "micro- and small enterprise programs" and inserted in lieu thereof "programs for microenterprise households".

[370] Sec. 4(c)(3)(B)(i) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) struck out "section 131" and inserted in lieu thereof "this part".

[371] Sec. 4(c)(3)(B)(ii) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) struck out "$1,500,000 for each of fiscal years 2001 through 2004" and inserted in lieu thereof "such sums as may be necessary for each of the fiscal years 2005 through 2009".

Previously, sec. 2(e) of Public Law 108–31 (117 Stat. 775) struck out "for each of fiscal years 2001 and 2002" and inserted in lieu thereof "for each of fiscal years 2001 through 2004".

[372] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"DEVELOPMENT CREDIT AUTHORITY

"(INCLUDING TRANSFER OF FUNDS)

"For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided*, That such funds shall not exceed $21,000,000, which shall be made available only for

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micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading.

"In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided*, That funds made available under this heading shall remain available until September 30, 2007.".

Sec. 306 of H.R. 1486, as reported by the Committee on International Relations, May 9, 1997 (H.Rept. 105–94), sought to amend the Foreign Assistance Act of 1961 by adding a new sec. 107A to establish the President's authority to use development credit authority where recipients would otherwise not have access to such credit and that credit would be in keeping with U.S. development purposes. Sec. 107A(d), as referred to in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005, would have provided the following, if enacted:

"(d) GENERAL PROVISIONS APPLICABLE TO DEVELOPMENT CREDIT AUTHORITY.—

"(1) POLICY PROVISIONS.—In providing the credit assistance authorized by this section, the President should apply, as appropriate, the policy provisions in this part applicable to development assistance activities.

"(2) DEFAULT AND PROCUREMENT PROVISIONS.—

"(A) DEFAULT PROVISION.—The provisions of section 620(q) of this Act, or any comparable provisions of law, shall not be construed to prohibit assistance to a country in the event that a private sector recipient of assistance furnished under this section is in default in its payment to the United States for the period specified in such section.

"(B) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a) of this Act.

"(3) Terms and conditions of credit assistance.—(A) Assistance provided under this section shall be offered on such terms and conditions, including fees charged, as the President may determine.

"(B) The principal amount of loans made or guaranteed under this section in any fiscal year, with respect to any single country or borrower, may not exceed $100,000,000.

"(C) No payment may be made under any guarantee issued under this section for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(4) FULL FAITH AND CREDIT.—All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations to the extent of the guarantee.

"(5) CO-FINANCING AND RISK SHARING.—

"(A) IN GENERAL.—(i) Assistance provided under this section shall be in the form of co-financing or risk sharing.

"(ii) Credit assistance may not be provided to a borrower under this section unless the Administrator of the United States Agency for International Development determines that there are reasonable prospects of repayment by such borrower.

"(B) ADDITIONAL REQUIREMENT.—The investment or risk of the United States in any one development activity may not exceed 80 percent of the total outstanding investment or risk.

"(6) ELIGIBLE BORROWERS.—

"(A) IN GENERAL.—In order to be eligible to receive credit assistance under this section, a borrower shall be sufficiently credit worthy so that the estimated costs (as defined in section 502 of the Federal Credit Reform Act of 1990) of the proposed credit assistance for the borrower does not exceed 30 percent of the principal amount of credit assistance to be received.

"(B) ADDITIONAL REQUIREMENT.—(i) In addition, with respect to the eligibility of foreign governments as an eligible borrowers under this section, the Administrator of the United States Agency for International Development shall make a determination that the additional debt of the government will not exceed the debt repayment capacity of the government.

"(ii) In making the determination under clause (i), the Administrator shall consult, as appropriate, with international financial institutions and other institutions or agencies that assess debt service capacity.

"(7) ASSESSMENT OF CREDIT RISK.—(A) The Administrator of the United States Agency for International Development shall use the Interagency Country Risk Assessment System (ICRAS) and the methodology approved by the Office of Management and Budget to assess the cost of risk credit assistance provided under this section to foreign governments.

"(B) With respect to the provision of credit to nongovernmental organizations, the Administrator—

"(i) shall consult with appropriate private sector institutions, including the two largest United States private sector debt rating agencies, prior to establishing the risk assessment standards and methodologies to be used; and

(2) COVERAGE OF SUBSIDY COSTS.—Amounts authorized to be available under paragraph (1) shall be made available to cover the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, for activities under this section.

SUBTITLE C—UNITED STATES MICROFINANCE LOAN FACILITY[373]

SEC. 257.[374] UNITED STATES MICROFINANCE LOAN FACILITY.

(a) ESTABLISHMENT.—The Administrator is authorized to establish a United States Microfinance Loan Facility (in this section referred to as the "Facility") to pool and manage the risk from natural disasters, war or civil conflict, national financial crisis, or short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

(b) DISBURSEMENTS.—

(1) IN GENERAL.—The Administrator shall make disbursements from the Facility to United States-supported microfinance institutions to prevent the bankruptcy of such institutions caused by—

(A) natural disasters;

(B) national wars or civil conflict; or

(C) national financial crisis or other short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

(2) FORM OF ASSISTANCE.—Assistance under this section shall be in the form of loans or loan guarantees for microfinance institutions that demonstrate the capacity to resume self-sustained operations within a reasonable time period.

(3) CONGRESSIONAL NOTIFICATION PROCEDURES.—During each of the fiscal years 2005 through 2009,[375] funds may not be made available from the Facility until 15 days after notification of the proposed availability of the funds has been provided to the congressional committees specified in section 634A in ac-

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"(ii) shall periodically consult with such institutions in reviewing the performance of such standards and methodologies.

"(C) In addition, if the anticipated share of financing attributable to public sector owned or controlled entities, including the United States Agency for International Development, exceeds 49 percent, the Administrator shall determine the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of such assistance by using the cost and risk assessment determinations of the private sector co-financing entities.

"(8) USE OF UNITED STATES TECHNOLOGY, FIRMS, AND EQUIPMENT.—Activities financed under this section shall, to the maximum extent practicable, use or employ United States technology, firms, and equipment.".

[373] Sec. 5(c)(1) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) added subtitle designation.

[374] 22 U.S.C. 2213. Added by sec. 107(a) of the Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1086) as sec. 132 (22 U.S.C. 2152b). Transferred and redesignated as sec. 257 by sec. 5(a) and (b) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922).

Sec. 107(b) of Public Law 106–309 provided the following:

"(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the United States Agency for International Development shall submit to the Committee on Foreign Relations of the Senate and the committee on International Relations of the House of Representatives a report on the policies, rules, and regulations of the United States Microfinance Loan Facility, established under section 132 of the Foreign Assistance Act of 1961, as added by subsection (a).".

[375] Sec. 5(c)(2)(A) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) struck out "2001 and 2002" and inserted in lieu thereof "2005 through 2009".

cordance with the procedures applicable to reprogramming notifications under that section.

(c) GENERAL PROVISIONS.—

(1) POLICY PROVISIONS.—In providing the credit assistance authorized by this section, the Administrator should apply, as appropriate, the policy provisions in this part that are applicable to development assistance activities.

(2) DEFAULT AND PROCUREMENT PROVISIONS.—

(A) DEFAULT PROVISION.—The provisions of section 620(q), or any comparable provision of law, shall not be construed to prohibit assistance to a country in the event that a private sector recipient of assistance furnished under this section is in default in its payment to the United States for the period specified in such section.

(B) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a).

(3) TERMS AND CONDITIONS OF CREDIT ASSISTANCE.—

(A) IN GENERAL.—Credit assistance provided under this section shall be offered on such terms and conditions, including fees charged, as the Administrator may determine.

(B) LIMITATION ON PRINCIPAL AMOUNT OF FINANCING.—The principal amount of loans made or guaranteed under this section in any fiscal year, with respect to any single event, may not exceed $30,000,000.

(C) EXCEPTION.—No payment may be made under any guarantee issued under this section for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(4) FULL FAITH AND CREDIT.—All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations to the extent of the guarantee.

(d)[376] FUNDING.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available to carry out this part for each of the fiscal years 2005 through 2009, such sums as may be necessary[377] may be made available for—

(A) the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, to carry out this section; and

(B) the administrative costs to carry out this section.

(2) RELATION TO OTHER FUNDING.—Amounts made available under paragraph (1) are in addition to amounts available under any other provision of law to carry out this section.

[376] Sec. 5(c)(2)(C) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) struck out subsec. (e), which had provided definitions applicable to the section.

[377] Sec. 5(c)(2)(B) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) struck out "this part for the fiscal year 2001, up to $5,000,000" and inserted in lieu thereof "this part for each of the fiscal years 2005 through 2009, such sums as may be necessary".

SUBTITLE D—MISCELLANEOUS PROVISIONS[378]

SEC. 258.[379] REPORT.

(a) IN GENERAL.—Not later than June 30, 2006, and each June 30 thereafter, the Administrator of the Agency, acting through the Director of the office, shall submit to the appropriate congressional committees a report that contains a detailed description of the implementation of this title for the previous fiscal year.

(b) CONTENTS.—The report shall contain the following:

(1) The number of grants, cooperative agreements, contracts, contributions, or other form of assistance provided under section 252, with a listing of—

(A) the amount of each grant, cooperative agreement, contract, contribution, or other form of assistance;

(B) the name of each recipient and each developing country with respect to which projects or activities under the grant, cooperative agreement, contract, contribution, or other form of assistance were carried out; and

(C) a listing of the number of countries receiving assistance authorized by section 252.

(2) The results of the monitoring system required under section 253.

(3) The process of developing and applying poverty assessment procedures required under section 254.

(4) The percentage of assistance furnished under section 252 that was allocated to the very poor based on the data collected using the certified methods required by section 254.

(5) The estimated number of the very poor reached with assistance provided under section 252.

(6) The amount of assistance provided under section 252 through central mechanisms.

(7) The name of each country that receives assistance under section 256 and the amount of such assistance.

(8) Information on the efforts of the Agency to ensure that recipients of United States microenterprise and microfinance development assistance work closely with nongovernmental organizations and foreign governments to identify and assist victims or potential victims of severe forms of trafficking in persons and women who are victims of or susceptible to other forms of exploitation and violence.

(9) Any additional information relating to the provision of assistance authorized by this title, including the use of the poverty measurement tools required by section 254, or additional information on assistance provided by the United States to support microenterprise development under this title or any other provision of law.

(10) An estimate of the percentage of beneficiaries of assistance under this title in countries where a strong relationship between poverty and race or ethnicity has been demonstrated.

(11) The level of funding provided through contracts, the level of funding provided through grants, contracts, and cooper-

[378] Sec. 6 of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) added subtitle D, secs. 258 and 259.

[379] 22 U.S.C. 2214.

ative agreements that is estimated to be subgranted or subcontracted, as the case may be, to direct service providers, and an analysis of the comparative cost-effectiveness and sustainability of projects carried out under these mechanisms.

(c) AVAILABILITY TO PUBLIC.—The report required by this section shall be made available to the public on the Internet website of the Agency.

SEC. 259.[380] **DEFINITIONS.**

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency.

(2) AGENCY.—The term "Agency" means the United States Agency for International Development.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(4) BUSINESS DEVELOPMENT SERVICES.—The term "business development services" means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other related services.

(5) DIRECTOR.—The term "Director" means the Director of the office.

(6) IMPLEMENTING PARTNER ORGANIZATION.—The term "implementing partner organization" means an entity eligible to receive assistance under this title which is—

(A) a United States or an indigenous private voluntary organization;

(B) a United States or an indigenous credit union;

(C) a United States or an indigenous cooperative organization;

(D) an indigenous governmental or nongovernmental organization;

(E) a microenterprise institution;

(F) a microfinance institution; or

(G) a practitioner institution.

(7) MICROENTERPRISE INSTITUTION.—The term "microenterprise institution" means a not-for-profit entity that provides services, including microfinance, training, or business development services, for microenterprise clients in foreign countries.

(8) MICROFINANCE INSTITUTION.—The term "microfinance institution" means a not-for-profit entity or a regulated financial intermediary that directly provides, or works to expand, the availability of credit, savings, and other financial services to microfinance and microenterprise clients in foreign countries.

(9) MICROFINANCE NETWORK.—The term "microfinance network" means an affiliated group of practitioner institutions that provides services to its members, including financing, technical assistance, and accreditation, for the purpose of promoting the financial sustainability and societal impact of microenterprise assistance.

[380] 22 U.S.C. 2214a.

(10) OFFICE.—The term "office" means the office of microenterprise development established under section 252(b)(1).

(11) PRACTITIONER INSTITUTION.—The term "practitioner institution" means a not-for-profit entity or a regulated financial intermediary, including a microfinance network, that provides services, including microfinance, training, or business development services, for microfinance and microenterprise clients, or provides assistance to microenterprise institutions in foreign countries.

(12) PRIVATE VOLUNTARY ORGANIZATION.—The term "private voluntary organization" means a not-for-profit entity that—

(A) engages in and supports activities of an economic or social development or humanitarian nature for citizens in foreign countries; and

(B) is incorporated as such under the laws of the United States, including any of its states, territories or the District of Columbia, or of a foreign country.

(13) UNITED STATES-SUPPORTED MICROFINANCE INSTITUTION.—The term "United States-supported microfinance institution" means a financial intermediary that has received funds made available under this part for fiscal year 1980 or any subsequent fiscal year.

(14) VERY POOR.—The term "very poor" means those individuals—

(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

(B) living on less than the equivalent of $1 per day (as calculated using the purchasing power parity (PPP) exchange rate method).

Title VII—Evaluation of Programs[381] * * * [Repealed—1978]

Title VIII—Southeast Asia Multilateral and Regional Programs[382] * * * [Repealed—1978]

Title IX—Utilization of Democratic Institutions in Development[383]

Sec. 281.[384] **Utilization of Democratic Institutions in Development.**—(a)[385] In carrying out programs authorized in this chapter and chapter 1,[386] emphasis shall be placed on assuring maximum participation in the task of economic development on the part of the people of the developing countries, through the encouragement of democratic private and local governmental institutions.

(b)[385] In order to carry out the purposes of this title, programs under this chapter and chapter 1[386] shall—

[381] Title VII, as added by the FA Act of 1963 (Public Law 88–205), was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[382] Title VIII, as added by the FA Act of 1966 (Public Law 89–583), was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (92 Stat. 942).

[383] Sec. 106 of the FA Act of 1966 (Public Law 89–583) added title IX.

[384] 22 U.S.C. 2218. Sec. 106 of the FA Act of 1966 (Public Law 89–583) added sec. 281.

[385] Sec. 108 of the FA Act of 1967 (Public Law 90–137) inserted subsec. designation "(a)" and added subsecs. (b), (c) and (d).

[386] Sec. 102(g)(2)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) inserted "and chapter 1".

(1) recognize the differing needs, desires, and capacities of the people of the respective developing countries and areas;

(2) use the intellectual resources of such countries and areas in conjunction with assistance provided under this Act so as to encourage the development of indigenous institutions that meet their particular requirements for sustained economic and social progress; and

(3) support civic education and training in skills required for effective participation in governmental and political processes essential to self-government.

(c)[385] In the allocation of funds for research under this chapter and chapter 1,[386] emphasis shall be given to research designed to examine the political, social, and related obstacles to development in countries receiving assistance under part I of this Act. In particular, emphasis should be given to research designed to increase understanding of the ways in which development assistance can support democratic, social and political trends in recipient countries.[387]

(d)[385] Emphasis shall also be given to the evaluation of relevant past and current programs under part I of this Act and to applying this experience so as to strengthen their effectiveness in implementing the objectives of this title.

(e)[388] In order to carry out the purposes of this title, the agency primarily responsible for administering part I of this Act, shall develop systematic programs of inservice training to familiarize its personnel with the objectives of this title and to increase their knowledge of the political and social aspects of development. In addition to other funds available for such purposes, not to exceed 1 per centum of the funds authorized to be appropriated for grant assistance under this chapter and chapter 1[386] may be used for carrying out the objectives of this subsection.

Title X—Programs Relating to Population Growth[389] * * * [Repealed—1978]

Title XI—Food Production Targets and Reports[390] * * * [Repealed—1978]

Title XII—Famine Prevention and Freedom From Hunger[391]

Sec. 296.[391] **General Provisions.**—(a)[392] The Congress declares that, in order to achieve the mutual goals among nations of ensuring food security, human health, agricultural growth, trade expansion, and the wise and sustainable use of natural resources,

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[387] Sec. 106(a) of the FA Act of 1968 (Public Law 90–554) added the last sentence.

[388] Sec. 106(b) of the FA Act of 1968 (Public Law 90–554) added subsec. (e).

[389] Title X, as added by the FA Act of 1967, was repealed by sec. 104(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 947).

[390] Title XI, as added by the FA Act of 1967, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[391] 22 U.S.C. 2220a. Sec. 312 of Public Law 94–161 (89 Stat. 849) added title XII and new sec. 296.

[392] Sec. 2(a)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) amended and restated the first sentence of subsec. (a). The sentence formerly read as follows:

"The Congress declares that, in order to prevent famine and establish freedom from hunger, the United States should strengthen the capacities of the United States land-grant and other eligible universities in program-related agricultural institutional development and research, consistent with sections 103 and 103A, should improve their participation in the United States Government's international efforts to apply more effective agricultural sciences to the goal of increasing world food production, and in general should provide increased and longer term support to the application of science to solving food and nutrition problems of the developing countries.".

the United States should mobilize the capacities of the United States land-grant universities, other eligible universities, and public and private partners of universities in the United States and other countries, consistent with sections 103 and 103A of this Act, for: (1) global research on problems affecting food, agriculture, forestry, and fisheries; (2) improved human capacity and institutional resource development for the global application of agricultural and related environmental sciences; (3) agricultural development and trade research and extension services in the United States and other countries to support the entry of rural industries into world markets; and (4) providing for the application of agricultural sciences to solving food, health, nutrition, rural income, and environmental problems, especially such problems in low-income, food deficit countries.

The Congress so declares because it finds—

(A)[393] that the establishment, endowment, and continuing support of land-grant universities in the United States by Federal, State, and county governments has led to agricultural progress with and through the private sector in this country and to understanding processes of economic development;[394]

(B)[395] that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with international agencies, educational and research institutions in other countries, the private sector, and nongovernmental organizations worldwide, in expanding global agricultural production, processing, business and trade, to the benefit of aid recipient countries and of the United States;

(C)[396] that, in a world of growing populations with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger and ensure human health and child survival, but to build the basis for economic growth

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[393] Sec. 2(a)(2)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) redesignated paras. (1) through (7) as subparas. (A) through (G), respectively. Sec. 2(a)(2)(E) of that Act struck out newly redesignated subparas. (E) and (G), which had read as follows:

"(E) that research, teaching, and extension activities, and appropriate institutional development therefor are prime factors in increasing agricultural production abroad (as well as in the United States) and in improving food distribution, storage, and marketing;

* * * * * * *

"(G) that universities need a dependable source of Federal funding, as well as other financing, in order to expand, or in some cases to continue, their efforts to assist in increasing agricultural production in developing countries.".

[394] Sec. 2(a)(2)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) struck out "in this country" and inserted in lieu thereof "with and through the private sector in this country and to understanding processes of economic development".

[395] Sec. 2(a)(2)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) amended and restated subpara. (B). It formerly read as follows:

"(B) that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with foreign agricultural institutions in expanding indigenous food production for both domestic and international markets;".

[396] Sec. 2(a)(2)(D) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) amended and restated subpara. (C). It formerly read as follows:

"(C) that, in a world of growing population with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger but to build the economic base for growth, and moreover, that the greatest potential for increasing world food supplies is in the developing countries where the gap between food need and food supply is the greatest and current yields are lowest;".

and trade, and the social security in which democracy and a market economy can thrive, and moreover, that the greatest potential for increasing world food supplies and incomes to purchase food is in the developing countries where the gap between food need and food supply is the greatest and current incomes are lowest;

(D)[393] that increasing and making more secure the supply of food is of greatest benefit to the poorest majority in the developing world;

(E)[397] that, with expanding global markets and increasing imports into many countries, including the United States, food safety and quality, as well as secure supply, have emerged as mutual concerns of all countries;

(F)[397] that research, teaching, and extension activities, and appropriate institutional and policy development therefore are prime factors in improving agricultural production, food distribution, processing, storage, and marketing abroad (as well as in the United States);

(G)[398] moreover, that agricultural research abroad has in the past and will continue in the future to provide benefits for agriculture and the broader economy of the United States and that increasing the availability of food of higher nutritional quality is of benefit to all;[399]

(H)[400] that there is a need to responsibly manage the world's agricultural and natural resources for sustained productivity, health and resilience to climate variability; and

(I)[400] that universities and public and private partners of universities need a dependable source of funding in order to increase the impact of their own investments and those of their State governments and constituencies, in order to continue and expand their efforts to advance agricultural development in cooperating countries, to translate development into economic growth and trade for the United States and cooperating countries, and to prepare future teachers, researchers, extension specialists, entrepreneurs, managers, and decisionmakers for the world economy.

(b)[401] Accordingly, the Congress declares that, in order to prevent famine and establish freedom from hunger, the following com-

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[397] Sec. 2(a)(2)(H) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) added subparas. (E) and (F).

[398] Sec. 2(a)(2)(F) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) struck out "and" at the end of this subpara.; subpara. (G) of that sec. redesignated this subpara. as subpara. (G).

[399] Sec. 2(a)(2)(I) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) struck out "in the United States" and inserted in lieu thereof "and the broader economy of the United States".

[400] Sec. 2(a)(2)(J) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) added subparas. (H) and (I).

[401] Sec. 2(b) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) amended and restated subsec. (b). It formerly read as follows:

"(b) Accordingly, the Congress declares that, in order to prevent famine and establish freedom from hunger, various components must be brought together in order to increase world food production, including—

"(1) strengthening the capabilities of universities to assist in increasing agricultural production in developing countries;

"(2) institution-building programs for development of national and regional agricultural research and extension capacities in developing countries which need assistance;

"(3) international agricultural research centers;

ponents must be brought together in a coordinated program to increase world food and fiber production, agricultural trade, and responsible management of natural resources, including—

(1) continued efforts by the international agricultural research centers and other international research entities to provide a global network, including United States universities, for international scientific collaboration on crops, livestock, forests, fisheries, farming resources, and food systems of worldwide importance;

(2) contract research and the implementation of collaborative research support programs and other research collaboration led by United States universities, and involving research systems in other countries focused on crops, livestock, forests, fisheries, farming resources, and food systems, with benefits to the United States and partner countries;

(3) broadly disseminating the benefits of global agricultural research and development including increased benefits for United States agriculturally related industries through establishment of development and trade information and service centers, for rural as well as urban communities, through extension, cooperatively with, and supportive of, existing public and private trade and development related organizations;

(4) facilitation of participation by universities and public and private partners of universities in programs of multilateral banks and agencies which receive United States funds;

(5) expanding learning opportunities about global agriculture for students, teachers, community leaders, entrepreneurs, and the general public through international internships and exchanges, graduate assistantships, faculty positions, and other means of education and extension through long-term recurring Federal funds matched by State funds; and

(6) competitive grants through universities to United States agriculturalists and public and private partners of universities from other countries for research, institution and policy development, extension, training, and other programs for global agricultural development, trade, and responsible management of natural resources.

(c) The United States should—

(1) effectively involve the United States land-grant and other eligible universities more extensively in each of the program components described in paragraphs (1) through (6) of subsection (b);[402]

(2) provide mechanisms for the universities and public and private partners of universities[403] to participate and advise in the planning, development, implementation, and administration of each component;[403]

"(4) contract research; and

"(5) research program grants.".

[402] Sec. 2(c)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) struck out "each component" and inserted in lieu thereof "each of the program components described in paragraphs (1) through (6) of subsection (b)".

[403] Sec. 2(c)(2)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) inserted "and public and private partners of universities" after "for the universities". Sec. 2(c)(2)(B) of that Act struck out "and" at the end of para. (2).

(3) assist such universities and public and private partners of universities[404] in cooperative joint efforts with—

(A) agricultural institutions in developing nations;[405]

(B) regional and international agricultural research centers;[406]

(C)[407] multilateral banks and agencies receiving United States funds;

(D)[407] development agencies of other countries; and

(E)[407] United States Government foreign assistance and economic cooperation programs;

(4)[408] generally engage the United States university community more extensively in the agricultural research, trade, and development initiatives undertaken outside the United States, with the objectives of strengthening its capacity to carry out research, teaching, and extension activities for solving problems in food production, processing, marketing, and consumption in agriculturally developing nations, and for transforming progress in global agricultural research and development into economic growth, trade, and trade benefits for aid recipient countries and United States communities and industries, and for the wise use of natural resources; and

(5)[408] ensure that all federally funded support to universities and public and private partners of universities relating to the goals of this title is periodically reviewed for its performance.

(d) As used in this title, the term "universities" means those colleges or universities in each State, territory, or possession of the United States, or the District of Columbia, now receiving, or which may hereafter receive, benefits under the Act of July 2, 1862 (known as the First Morrill Act), or the Act of August 30, 1890 (known as the Second Morrill Act), which are commonly known as "land-grant" universities; institutions now designated or which may hereafter be designated as sea-grant colleges under the Act of October 15, 1966 (known as the National Sea Grant College and Program Act), which are commonly known as sea-grant colleges; Native American land-grant colleges as authorized under the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note);[409] and other United States colleges and universities which—

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[404] Sec. 2(c)(3)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) inserted "and public and private partners of universities" after "such universities".

[405] Sec. 2(c)(3)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) struck out ", and" and inserted in lieu thereof a semicolon.

[406] Sec. 2(c)(3)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) replaced a comma with a semicolon. Sec. 2(c)(3)(D) of that Act struck out a phrase following subpara. (B), which had read as follows:

"directed to strengthening their joint and respective capabilities and to engage them more effectively in research, teaching, and extension activities for solving problems in food production, distribution, storage, marketing, and consumption in agriculturally underdeveloped nations.".

[407] Sec. 2(c)(2)(E) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) added subparas. (C), (D), and (E).

[408] Sec. 2(c)(4) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) added paras. (4) and (5).

[409] Sec. 2(d)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) inserted "Native American land-grant colleges as authorized under the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note);" after "sea-grant colleges;".

(1) have demonstrable capacity in teaching, research, and extension (including outreach)[410] activities in the agricultural sciences; and

(2) can contribute effectively to the attainment of the objective of this title.

(e) As used in this title, the term "Administrator" means the Administrator of the United States[411] Agency for International Development.[412]

(f)[413] As used in this title, the term "public and private partners of universities" includes entities that have cooperative or contractual agreements with universities, which may include formal or informal associations of universities, other education institutions, United States Government and State agencies, private voluntary organizations, nongovernmental organizations, firms operated for profit, nonprofit organizations, multinational banks, and, as designated by the Administrator, any organization, institution, or agency incorporated in other countries.

(g)[414] As used in this title, the term "agriculture" includes the science and practice of activity related to food, feed, and fiber production, processing, marketing, distribution, utilization, and trade, and also includes family and consumer sciences, nutrition, food science and engineering, agricultural economics and other social sciences, forestry, wildlife, fisheries, aquaculture, floraculture, veterinary medicine, and other environmental and natural resources sciences.

(h)[415] As used in this title, the term "agriculturists" includes farmers, herders, and livestock producers, individuals who fish and others employed in cultivating and harvesting food resources from salt and fresh waters, individuals who cultivate trees and shrubs and harvest nontimber forest products, as well as the processors, managers, teachers, extension specialists, researchers, policymakers, and others who are engaged in the food, feed, and fiber system and its relationships to natural resources.

Sec. 297.[416] **General Authority.**—(a) To carry out the purposes of this title, the President is authorized to provide assistance on such terms and conditions as he shall determine—

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[410] Sec. 2(d)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) struck out "extension" and inserted in lieu thereof "extension (through outreach)".

[411] Sec. 2(e) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) inserted "United States" before "Agency".

[412] Sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA), transferred all responsibilities and functions vested in this subsection from the Administrator to the Director of IDCA. The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[413] Added by sec. 2(f) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430).

Former subsecs. (f) and (g), which defined the terms "agriculture" and "farmers," were repealed in 1978 by sec. 103(c) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 945). Similar definitions for these terms can now be found in sec. 644 (o) and (p) of this Act.

[414] Added by sec. 2(g) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430).

[415] Sec. 2(h) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) added subsec. (h).

[416] 22 U.S.C. 2220b. Added by sec. 312 of Public Law 94–161 (89 Stat. 849).

(1)[417] to implement program components through United States universities as authorized by paragraphs (2) through (5) of this subsection;

(2) to build and strengthen the institutional capacity and human resources skills of agriculturally developing countries so that these countries may participate more fully in the international agricultural problem-solving effort and to introduce and adapt new solutions to local circumstances;

(3)[418] to provide long-term program support for United States university global agricultural and related environmental collaborative research and learning opportunities for students, teachers, extension specialists, researchers, and the general public;

(4) to involve United States[419] universities more fully in the international network of agricultural science, including the international agricultural[420] research centers, the activities of international organizations such as the United Nations Development Program and the Food and Agriculture Organization, multilateral banks, the institutions of agriculturally developing nations, and United States and foreign nongovernmental organizations supporting extension and other productivity-enhancing programs;[421] and

(5) to provide program support for international agricultural research centers, to provide support for research projects identified for specific problem-solving needs, and to develop and strengthen national research systems in the developing countries.

(b) Programs under this title shall be carried out so as to—

(1) utilize and strengthen the capabilities of United States universities with public and private partners of universities[422] in—

(A) developing capacity in the cooperating nation for classroom teaching in agriculture, plant and animal sciences, human nutrition, and vocational and domestic arts and other relevant fields appropriate to local needs;

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[417] Sec. 3(a)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) amended and restated para. (1). It formerly read as follows:

"(1) to strengthen the capabilities of universities in teaching, research, and extension work to enable them to implement current programs authorized by paragraphs (2), (3), (4), and (5) of this subsection, and those proposed in the report required by section 300 of this title;".

[418] Sec. 3(a)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) amended and restated para. (3). It formerly read, as amended, as follows:

"(3) to provide program support for long-term collaborative university research, in the developing countries themselves to the maximum extent practicable, on food production, distribution, storage, marketing and consumption;".

[419] Sec. 3(a)(3)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted "United States" before "universities".

[420] Sec. 3(a)(3)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted "agricultural" before "research centers".

[421] Sec. 3(a)(3)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "and the institutions of agriculturally developing nations" and inserted in lieu thereof "multilateral banks, the institutions of agriculturally developing nations, and United States and foreign nongovernmental organizations supporting extension and other productivity-enhancing programs".

[422] Sec. 3(b)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "universities" and inserted in lieu thereof "United States universities with public and private partners of universities".

(B) agricultural research to be conducted in the cooperating nations, at international agricultural research centers, or in the United States;

(C) the planning, initiation, and development of extension services through which information concerning agriculture, environment,[423] and related subjects will be made available directly to agriculturalists[424] in the agriculturally developing nations by means of education and demonstration; or

(D) the exchange of educators, scientists, and students for the purpose of assisting in successful development in the cooperating nations;

(2) take into account the value to the United States agriculture of such programs, integrating to the extent practicable the programs and financing authorized under this title with those supported by other Federal or State resources, including resources of the private sector,[425] so as to maximize the contribution to the development of agriculture in the United States and in agriculturally developing nations; and

(3) whenever practicable, build on existing programs and institutions including those of the universities, the Department of Agriculture, State agricultural agencies, the Department of Commerce, the Department of the Interior, the Environmental Protection Agency, the Office of the United States Trade Representative, the Food and Drug Administration, other appropriate Federal agencies, and appropriate nongovernmental and business organizations.[426]

(c)[427] To the maximum extent practicable, activities under this section shall—

(1) be directly related to the food and agricultural needs of developing countries;

(2)[428] focus primarily on the needs of agricultural producers, rural families, processors, traders, consumers, and natural resources managers;

(3) be adapted to local circumstances;

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[423] Sec. 3(b)(1)(B)(i) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted ", environment," before "and related".

[424] Sec. 3(b)(1)(B)(ii) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "farmers and farm families" and inserted in lieu thereof "agriculturalists".

[425] Sec. 3(b)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted ", including resources of the private sector," after "Federal or State resources".

[426] Sec. 3(b)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "and the United States Department of Agriculture and the United States Department of Commerce." and inserted in lieu thereof ", the Department of Agriculture, State agricultural agencies, the Department of Commerce, the Department of the Interior, the Environmental Protection Agency, the Office of the United States Trade Representative, the Food and Drug Administration, other appropriate Federal agencies, and appropriate nongovernmental and business organizations.".

[427] Sec. 113(2) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364) amended and restated subsec. (c). It formerly read as follows:

"(c) To the maximum extent practicable, activities under this section shall (1) be designed to achieve the most effective interrelationship among the teaching of agricultural sciences, research, and extension work, (2) joins primarily on the needs of agricultural producers, (3) be adapted to local circumstances, and (4) be carried out within the developing countries."

[428] Sec. 3(c)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) amended and restated para. (2). It formerly read as follows:

"(2) be carried out within the developing countries;".

(4)[429] be carried out within the developing countries and transition countries comprising newly emerging democracies and newly liberalized economies; and

(5) emphasize the improvement of local systems for delivering the best available knowledge to the small farmers of such countries.

(d) The President shall exercise his authority under this section through the Administrator.[430]

(e)[431] The Administrator shall establish and carry out special programs under this title as part of ongoing programs for child survival, democratization, development of free enterprise, environmental and natural resource management, and other related programs.

Sec. 298.[432] **Board for International Food and Agricultural Development.**—(a) To assist in the administration of the programs authorized by this title, the President shall establish a permanent Board for International Food and Agricultural Development (hereafter in this title referred to as the "Board") consisting of seven members, not less than four to be selected from the universities. Terms of members shall be set by the President at the time of appointment. Members of the Board shall be entitled to such reimbursement for expenses incurred in the performance of their duties (including per diem in lieu of subsistence while away from their homes or regular place of business) as the President deems appropriate on a case-by-case basis.[433]

(b)[434] The Board's general areas of responsibility shall include participating in the planning, development, and implementation of, initiating recommendations for, and monitoring, the activities described in section 297 of this title.

(c) The Board's duties shall include, but not necessarily be limited to—

(1) participating in the formulation of basic policy, procedures, and criteria for project proposal review, selection, and monitoring;

(2) developing and keeping current a roster of universities—

(A) interested in exploring their potential for collaborative relationships with agricultural institutions, and

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[429] Sec. 3(c)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) amended and restated para. (4). It formerly read as follows:

"(4) provide for the most effective interrelationship between research, education, and extension in promoting agricultural development in developing countries; and".

[430] This authority of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[431] Sec. 3(d) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) added subsec. (e).

[432] 22 U.S.C. 2220c. Sec. 312 of Public Law 94–161 (89 Stat. 849) added sec. 298.

[433] Sec. 4(a) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted "on a case-by-case basis".

[434] Sec. 4(b) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) amended and restated subsec. (b). It formerly read as follows:

"(b) The Board's general areas of responsibility shall include, but not be limited to—

"(1) participating in the planning, development, and implementation of,

"(2) initiating recommendations for, and

"(3) monitoring of,

the activities described in section 297 of this title.".

with scientists working on significant programs designed to improve agricultural production, trade, and natural resource management in developing countries, and with private organizations seeking to increase agricultural production and trade, natural resources management, and household food security in developing and transition countries;[435]

(B) having capacity in the agricultural, environmental, and related social[436] sciences,

(C) able to maintain an appropriate balance of teaching, research, and extension functions,

(D) having capacity, experience, and commitment with respect to international agricultural efforts, and

(E) able to contribute to solving the problems addressed by this title;

(3) recommending which developing nations could benefit from programs carried out under this title, and identifying those nations which have an interest in establishing or developing agricultural institutions which engage in teaching, research, or extension activities;

(4) reviewing and evaluating memorandums of understanding or other documents that detail the terms and conditions between the Administrator and universities and their partners[437] participating in programs under this title;

(5) reviewing and evaluating agreements and activities authorized by this title and undertaken by universities and public and private partners of universities[438] to assure compliance with the purposes of this title;

(6)[439] recommending to the Administrator the apportionment of funds under section 297 of this title;[440]

(7) assessing the impact of programs carried out under this title in solving agricultural problems and natural resource issues in the developing nations, assuring efficiency in use of Federal resources, including in accordance with the Governmental[441] Performance and Results Act of 1993 (Public Law

[435] Sec. 4(c)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) struck out "increase food production in developing countries," and inserted in lieu thereof "improve agricultural production, trade, and natural resource management in developing countries, and with private organizations seeking to increase agricultural production and trade, natural resources management, and household food security in developing and transition countries;".

[436] Sec. 4(c)(1)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted ", environmental, and related social" before "sciences".

[437] Sec. 4(c)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted "and their partners" after "Administrator and universities".

[438] Sec. 4(c)(3) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted "and public and private partners of universities" after "universities".

[439] This function of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[440] Sec. 4(c)(4) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) struck out "and" at the end of para. (6).

[441] As enrolled. Should read "Government".

103–62; 107 Stat. 285), and the amendments made by that Act;[442]

(8)[443] developing information exchanges and consulting regularly with nongovernmental organizations, consumer groups, producers, agribusinesses and associations, agricultural cooperatives and commodity groups, State departments of agriculture, State agricultural research and extension agencies, and academic institutions;

(9)[443] investigating and resolving issues concerning implementation of this title as requested by universities; and

(10)[443] advising the Administrator on any and all issues as requested.

(d) The President may authorize the Board to create such subordinate units as may be necessary for the performance of its duties, including but not limited to the following:

(1) a Joint Policy[444] Committee to participate in the design[445] and development of the collaborative activities described in section 297;[446] and

(2) a Joint Operations Committee[447] which shall assist in and advise on the mechanisms and processes for implementation of activities described in section 297.[448]

(e) In addition to any other functions assigned to and agreed to by the Board, the Board shall be consulted in the preparation of the annual report required by section 300 of this title and on other agricultural development activities related to programs under this title.

Sec. 299.[449] **Authorization.**—(a) The President is authorized to use any of the funds hereafter made available under section 103 of this Act to carry out the purposes of this title. Funds made available for such purposes may be used without regard to the provisions of sections 110(b) and 122(d)[450] of this Act.

(b) Foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs

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[442] Sec. 4(c)(5) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) struck out "in the developing nations." and inserted in lieu thereof "and natural resource issues in the developing nations, assuring efficiency in use of Federal resources, including in accordance with the Governmental *[sic]* Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the amendments made by that Act;".

[443] Sec. 4(c)(6) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) added paras. (8), (9), and (10).

[444] Sec. 4(d)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "Research" and inserted in lieu thereof "Policy".

[445] Sec. 4(d)(1)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "administration" and inserted in lieu thereof "design".

[446] Sec. 4(d)(1)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "section 297(a)(3) of this title" and inserted in lieu thereof "section 297".

[447] Sec. 4(d)(2)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "Joint Committee on Country Programs" and inserted in lieu thereof "Joint Operations Committee".

[448] Sec. 4(d)(2)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "which shall assist in the implementation of the bilateral activities described in sections 297(a)(2), 297(a)(4), and 297(a)(5)." and inserted in lieu thereof "which shall assist in and advise on the mechanisms and processes for implementation of activities described in section 297.".

[449] 22 U.S.C. 2220d. Sec. 312 of Public Law 94–161 (89 Stat. 849) added sec. 299.

[450] Sec. 102(c)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941) struck out "110(b), 211(a), and 211(d)" and inserted in lieu thereof "110(b) and 122(d)".

of the United States shall be used to the maximum extent possible in lieu of dollars in carrying out the provisions of this title.

(c) Assistance authorized under this title shall be in addition to any allotments or grants that may be made under other authorizations.

(d) Universities may accept and expend funds from other sources, public and private, in order to carry out the purposes of this title. All such funds, both prospective and inhand, shall be periodically disclosed to the Administrator as he shall by regulation require, but no less often than in an annual report.[451]

Sec. 300.[452] **Annual Report.**—The President shall transmit to the Congress, not later than September 1[453] of each year, a report detailing the activities carried out pursuant to this title during the preceding fiscal year and containing a projection of programs and activities to be conducted during the subsequent five fiscal years. Each report shall contain a summary of the activities of the Board established pursuant to section 298 of this title and may include the separate views of the Board with respect to any aspect of the programs conducted or proposed to be conducted under this title.

Chapter 3—International Organizations and Programs

Sec. 301.[454] **General Authority.**—(a) When he determines it to be in the national interest, the President is authorized to make voluntary contributions on a grant basis to international organizations and to programs administered by such organizations, and in the case of the Indus Basin Development Fund administered by the International Bank for Reconstruction and Development to make grants and loans payable as to principal and interest in United States dollars and subject to the provisions of section 122(b),[455] on such terms and conditions as he may determine, in order to further the purposes of this part.

(b)[456] * * * [Repealed—1981]

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[451] This function of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[452] 22 U.S.C. 2220e. Sec. 312 of Public Law 94–161 (89 Stat. 849) added sec. 300.

[453] Sec. 5 of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "April 1" and inserted in lieu thereof "September 1".

[454] 22 U.S.C. 2221.

[455] Sec. 107(a) of the FA Act of 1966 (Public Law 89–583) inserted ", and in the case of the Indus Basin Development Fund administered by the International Bank for Reconstruction and Development to make grants and loans payable as to principal and interest in United States dollars and subject to the provisions of sec. 201(d)". Sec. 102(b)(2)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941) struck out "sec. 201(d)" and inserted in lieu thereof "sec. 122(b)".

[456] Subsec. (b), as amended by sec. 107(b) of the FA Act of 1966, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It formerly read as follows:

"(b) Contributions to the United Nations Development Program for the calendar years succeeding 1961 may not exceed forty per centum of the total amount contributed for such purposes (including assessed and audited local costs) for each such year. The President shall seek to assure that no contribution to the United Nations Development Program authorized by this Act shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime.".

(c)[457] No contributions by the United States shall be made to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.

(d)[458] In any case in which a fund established solely by United States contributions under this or any other Act is administered by an international organization under the terms of an agreement between the United States and such international organization, such agreement shall provide that the Comptroller General of the United States shall conduct such audits as are necessary to assure that such fund is administered in accordance with such agreement. The President shall undertake to modify any existing agreement entered into before the date of enactment of this subsection to conform to the requirements of the preceding sentence. The Comptroller General shall report simultaneously to the Congress and the President the results of the audit conducted under this subsection.[459]

(e)[460] (1) In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations of external, professionally qualified groups[461] of appropriate size for the purpose of providing an independent and continuous program of selective examinations, review, evaluation, and audits[462] of the programs and activities of such organizations. Such proposal shall provide that

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[457] Subsec. (c) was amended by sec. 108(a) of the FA Act of 1969 (Public Law 91–175). It formerly read as follows: "(c) In determining whether or not to continue furnishing assistance for Palestine refugees in the Near East through contributions to the United Nations Relief and Works agency for Palestine Refugees in the Near East, the President shall take into account (1) whether Israel and the Arab host governments are taking steps toward the resettlement and repatriation of such refugees, and (2) the extent and success of efforts by the Agency and the Arab host governments to rectify the Palestine refugee relief rolls. Contributions by the United States for the fiscal year 1967 shall not exceed $13,300,000. No contributions under this subsection shall be made except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army.".

Sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 213), provided the following:

"GAO REPORT

"SEC. 580. Not later than November 1, 2003, the Comptroller General of the United States shall provide a report to the Committees on Appropriations on the extent to which the Department of State is complying with section 301(c) of the Foreign Assistance Act of 1961, and on the implementation of procedures that have been established to meet the standards of the Department of State regarding compliance with the requirements of section 301(c).".

[458] Sec. 110(a) of the FA Act of 1967 (Public Law 90–137) added subsec. (d).

[459] Sec. 701(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156) added this sentence.

[460] Sec. 9(1) of the FA Act of 1973 (Public Law 93–189) added subsec. (e).

[461] The reference to external groups was inserted in lieu of a reference to a single group by sec. 702(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156). All other references in subsec. (e) to these groups were also made plural by sec. 702(b).

[462] The reference to an audit was added by sec. 702(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156).

such groups[461] shall be established in accordance with such terms of reference as such governing authority may prescribe and that the reports of such groups[461] on each examination, review, evaluation or audits[462] shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.[461]

(2) In the case of the International Bank for Reconstruction and Development and the Asian Development Bank, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audits[462] of the programs and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authorities may prescribe, and that the reports of such groups on each examination, review, evaluation, or audit[462] shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

(3)[463] * * * [Repealed—1981]

(f)[464] The President is hereby authorized to permit United States participation in the International Fertilizer Development Center and is authorized to use any of the funds made available under this part for the purpose of furnishing assistance to the Center on such terms and conditions as he may determine.

(g)[465] It is the sense of the Congress that the President should instruct the appropriate representatives of the United States to the United Nations to encourage the specialized agencies of the United Nations to transfer the funding of technical assistance programs carried out by such agencies to the United Nations Development Program.

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[463] Para. (3), as added by sec. 9(1) of the FA Act of 1973 and amended by sec. 702(b)(6) of Public Law 96–533, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Para. (3) had required that the U.S. representatives to these international organizations submit any reports they received under this subsection to the President for transmittal to Congress and the Comptroller General. The Comptroller General was also directed to periodically review these reports and submit any appropriate suggestions to the Congress and the President.

[464] Sec. 313(c) of Public Law 94–161 (89 Stat. 849) added subsec. (f).

[465] Sec. 117(d) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953) added subsec. (g).

(h)[466] The President is authorized to permit the United States to participate in and to use any of the funds made available under this part after the date of enactment of this subsection for the purpose of furnishing assistance (on such terms and conditions as the President may determine) to the International Food Policy Research Institute.

Sec. 302.[467] **Authorization.**—(a)(1) There are authorized to be appropriated to the President $270,000,000 for fiscal year 1986 and $236,084,000 for fiscal year 1987[468] for grants to carry out the purposes of this chapter, in addition to funds available under other Acts for such purposes. Of the amount appropriated for each of the fiscal years 1986 and 1987 pursuant to these authorizations—

(A) 59.65 percent shall be for the United Nations Development Program;

(B) 19.30 percent shall be for the United Nations Children's Fund;

(C) 7.20 percent shall be for the International Atomic Energy Agency, except that these funds may be contributed to that Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency;

(D) 5.44 percent shall be for Organization of American States development assistance programs;

(E) 3.51 percent shall be for the United Nations Environment Program;

(F) 0.70 percent shall be for the World Meteorological Organization;

(G) 0.70 percent shall be for the United Nations Capital Development Fund;

(H) 0.35 percent shall be for the United Nations Education and Training Program for Southern Africa;

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[466] Sec. 311(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) added subsec. (h).

[467] 22 U.S.C. 2222.

[468] Sec. 404 of Public Law 99–529 (100 Stat. 3010) struck out "$275,000,000 for fiscal year 1987" and inserted in lieu thereof "$236,084,000 for fiscal year 1987".

Sec. 402(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) inserted the initial authorization figures and earmarkings for fiscal years 1986 and 1987.

Authorizations under sec. 302 during recent years included the following: fiscal year 1975—$165,000,000; fiscal year 1976—$195,500,000; fiscal year 1977—$219,900,000; fiscal year 1978—$252,000,000; fiscal year 1979—$285,450,000; fiscal year 1980—$267,280,000; fiscal year 1981—$233,350,000; fiscal year 1982—$218,600,000; fiscal year 1983—$218,600,000; fiscal year 1984—$266,214,000; fiscal year 1985—no authorization; fiscal years 1988 through 2000—no authorization. No general authorization for fiscal year 2001; see, however, subsec. (k); fiscal years 2002 through 2005—no authorization.

Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and title IV of that Act (118 Stat. 2809) provided the following:

"INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $328,394,000: *Provided*, That none of the funds appropriated under this heading may be made available to the International Atomic Energy Agency (IAEA).".

See also paragraph in title II on nonproliferation, anti-terrorism, demining and related programs; sec. 515, relating to notification requirements; sec. 516, relating to limiting the availability of funds for international organizations and programs; sec. 522, relating to child survival and health activities; sec. 560, relating to contributions to the U.N. Population Fund; and sec. 570, relating to trade capacity building.

(I) 0.18 percent shall be for the United Nations Voluntary Fund for the Decade for Women;

(J) 0.07 percent shall be for the Convention on International Trade in Endangered Species;

(K) 0.70 percent shall be for the World Food Program;

(L) 0.18 percent shall be for the United Nations Institute for Namibia;

(M) 0.12 percent shall be for the United Nations Trust Fund for South Africa;

(N) 0.04 percent shall be for the United Nations Voluntary Fund for Victims of Torture;

(O) 0.07 percent shall be for the United Nations Industrial Development Organization;

(P) 0.55 percent shall be for the United Nations Development Program Trust Fund To Combat Poverty and Hunger in Africa;

(Q) 0.97 percent shall be for contributions to international conventions and scientific organizations;

(R) 0.18 percent for the United Nations Center on Human Settlements (Habitat); and

(S) 0.09 percent shall be for the World Heritage Fund.[469]

(2)[470] The Congress reaffirms its support for the work of the Inter-American Commission on Human Rights. To permit such Commission to better fulfill its function of insuring observance and respect for human rights within this hemisphere, not less than $357,000 of the amount appropriated for fiscal year 1976 and $358,000 of the amount appropriated for fiscal year 1977, for contributions to the Organization of American States, shall be used only for budgetary support for the Inter-American Commission on Human Rights.

(3)[471] * * * [Repealed—1981]

(b)(1)[472] There is authorized to be appropriated to the President for loans for Indus Basin Development to carry out the purposes of this section, in addition to funds available under this or any other Act for such purposes, for use beginning in the fiscal year 1969, $61,220,000.[473] Such amounts are authorized to remain available until expended.

(2)[472] There is authorized to be appropriated to the President for grants for Indus Basin Development, in addition to any other funds available for such purposes, for use in the fiscal year 1974,

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[469] Sec. 117(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953) also provided an authorization of $1,000,000 for contribution to the World Assembly on Aging.

[470] Sec. 313(a)(1)(C) of Public Law 94–161 (89 Stat. 849) added para. (2).

[471] Sec. 734(a) of the International Security and Development Cooperation Act 1981 (Public Law 97–113; 95 Stat. 1560) repealed para. (3), which had prohibited the use of funds under this subsection for the U.N. Institute for Namibia during fiscal year 1979 unless the President determined that such funds would not be used to support the military or paramilitary activities of the South-West African Peoples Organization.

[472] Sec. 108(c) of the FA Act of 1969 (Public Law 91–175) inserted para. designation "(1)" and para. (2).

[473] Sec. 313(a)(2) of Public Law 94–161 (89 Stat. 849) struck out "$51,220,000" and inserted in lieu thereof "$61,220,000".

The FA Appropriations Act, 1976, provided the following: "Indus Basin Development Fund, loans: For expenses authorized by section 302(b)(1) $10,000,000, to remain available until expended: *Provided,* That no other funds appropriated or made available under this Act shall be used for the purposes of such section during the current fiscal year.".

$14,500,000,[474] and for use in the fiscal year 1975, $14,500,000,[474] and for use beginning in the fiscal year 1976, $27,000,000,[475] which amounts shall remain available until expended. The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provisions of this Act.[476]

(c) None of the funds available to carry out this chapter shall be contributed to any international organization or to any foreign government or agency thereof to pay the costs of developing or operating any volunteer program of such organization, government, or agency relating to the selection, training, and programing of volunteer manpower.

(d)–(h)[477] * * * [Repealed—1978]

(i)[478] In addition to amounts otherwise available under this section there are authorized to be appropriated for fiscal year 1976 $1,000,000 and for fiscal year 1977 $2,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear missile facilities and materials.[479] Amounts appropriated under this subsection are authorized to remain available until expended.

(j)[480] In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $3,000,000 for fiscal year 1989 to be available only for United States contributions to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by this subsection—

(1) $2,000,000 shall be for a United States contribution to the United Nations Fund for Drug Abuse Control;

(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contribu-

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[474] Sec. 9(3) of the FA Act of 1973 (Public Law 93–189) struck out "for use in the fiscal year 1972, $15,000,000, and for use in the fiscal year 1973, $15,000,000" and inserted in lieu thereof "for use in the fiscal year 1974, $14,500,000, and for use in the fiscal year 1975, $14,500,000,".

[475] Sec. 313(a)(3) of Public Law 94–161 (89 Stat. 849) inserted "and for use beginning in the fiscal year 1976, $27,000,000".

The FA Appropriations Act, 1977, provided the following: "For necessary expenses to carry out the provisions of section 302(b)(2), $15,750,000.".

[476] Sec. 107(b)(2) of the FA Act of 1971 (Public Law 92–226) added the last sentence.

[477] Sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961) repealed subsecs. (d), (e), (f), (g), and (h).

[478] Sec. 505 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–392) added subsec. (i).

[479] The Supplemental Appropriations Act, 1977 (Public Law 95–26; 91 Stat. 66), provided the following:

"For an additional amount for "International organizations and programs", $31,000,000: *Provided,* That of the funds appropriated under this paragraph, $3,000,000 shall be allocated for a contribution to the International Atomic Energy Agency to strengthen the Agency's safeguards program.".

[480] Sec. 4107 of Public Law 100–690 (102 Stat. 4266) added subsec. (j).

tions to the budget of the Organization of American States for that fiscal year; and

(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year.

(k)[481] In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2004 through 2008[482] to be available only for United States contributions to the Vaccine Fund.[483]

(l)[481] In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2004 through 2008[484] to be available only for United States contributions to the International AIDS Vaccine Initiative.

(m)[485] In addition to amounts otherwise available under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2004 through 2008 to be available for United States contributions to malaria vaccine development programs, including the Malaria Vaccine Initiative of the Program for Appropriate Technologies in Health (PATH).

Sec. 303.[486] **Indus Basin Development.**—In the event that funds made available under this Act (other than part II) are used by or under the supervision of the International Bank for Reconstruction and Development in furtherance of the development of the Indus Basin through the program of cooperation among South Asian and other countries of the free world, which is designed to

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[481] Sec. 112(a) of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 753) added subsecs. (k) and (l). Sec. 112(b) of that Act provided the following:

"(b) REPORT.—At the close of fiscal year 2001, the President shall submit a report to the appropriate congressional committees on the effectiveness of the Global Alliance for Vaccines and Immunizations and the International AIDS Vaccine Initiative during that fiscal year in meeting the goals of—

"(1) improving access to sustainable immunization services;

"(2) expanding the use of all existing, safe, and cost-effective vaccines where they address a public health problem;

"(3) accelerating the development and introduction of new vaccines and technologies;

"(4) accelerating research and development efforts for vaccines needed primarily in developing countries; and

"(5) making immunization coverage a centerpiece in international development efforts.".

[482] Sec. 203(a)(1) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) struck out "$50,000,000 for each of the fiscal years 2001 and 2002" and inserted in lieu thereof "such sums as may be necessary for each of the fiscal years 2004 through 2008".

[483] Sec. 203(a)(2) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) struck out "Global Alliance for Vaccines and Immunizations" and inserted in lieu thereof "Vaccine Fund".

[484] Sec. 203(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) struck out "$10,000,000 for each of the fiscal years 2001 and 2002" and inserted in lieu thereof "such sums as may be necessary for each of the fiscal years 2004 through 2008".

[485] Sec. 203(c) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) added subsec. (m).

[486] 22 U.S.C. 2223.

promote economic growth and political stability in South Asia, such funds may be used in accordance with requirements, standards, or procedures established by the Bank concerning completion of plans and cost estimates and determination of feasibility, rather than with requirements, standards, or procedures concerning such matters set forth in this or other Acts; and such funds may also be used without regard to the provisions of section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241),[487] whenever the President determines that such provisions cannot be fully satisfied without seriously impeding or preventing accomplishment of the purposes of such programs: *Provided,* That compensating allowances are made in the administration of other programs to the same or other areas to which the requirements of said section 901(b) are applicable.

Sec. 304.[488] **United Nations Peacekeeping.** * * * [Repealed—1978]

Sec. 305.[489] **Integration of Women.**—The President is requested to instruct each representative of the United States to each international organization of which the United States is a member (including but not limited to the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the International Monetary Fund, the United Nations, and the Organization for Economic Cooperation and Development) to carry out their duties with respect to such organizations in such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policy-making positions within such organizations, thereby improving the status of women. The President is further requested, in making United States contributions to such organizations, to take into account the progress, or lack of progress, of such organizations in adopting and implementing policies and practices which encourage and promote the integration of women into the national economies of member and recipient countries, and into professional and policy-making positions within such organizations, in accordance with the World Plan of Action of the Decade for Women.[490]

Sec. 306.[491] **Reports on International Organizations.**—The annual reports to the Congress under section 2 of the Act of September 21, 1950 (64 Stat. 902, 22 U.S.C. 262a), shall be submitted within nine months after the end of the fiscal year to which they relate.

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[487] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[488] Sec. 304, as added by the FA Act of 1967 (Public Law 90–137), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[489] 22 U.S.C. 2225. Sec. 305 was added by sec. 54 of the FA Act of 1974 (Public Law 93–559), which inserted it at the end of part III, chapter 3. Sec. 313(b) of Public Law 94–161 reinserted it at the end of part I, chapter 3.

[490] Sec. 118(b) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 540) added this sentence.

[491] 22 U.S.C. 2226. Sec. 703 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3157) added sec. 306. Sec. 1301(b) of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3293) struck out subsec. designation "(a)" in this para., and struck out subsec. (b), which had required the President to submit semi-annual reports to the Congress listing all U.S. Government voluntary contributions to international organizations. Pursuant to Executive Order 12374 (July 28, 1982; 47 F.R. 32903), those reporting responsibilities had been delegated to the Secretary of State.

Sec. 307.[492] **Withholding of United States Proportionate Share for Certain Programs of International Organizations.**—(a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this chapter shall be available for the United States proportionate share for programs for Burma, Iraq, North Korea, Syria,[493] Libya, Iran, Cuba, or the Palestine Liberation Organization or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it,[494] or at the discretion of the

[492] 22 U.S.C. 2227. Sec. 403 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 219) added sec. 307.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided:

"LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2006.

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"LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

"SEC. 544. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.".

[493] Sec. 431(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 459) struck out "the South-West Africa People's Organization" and inserted "Burma, Iraq, North Korea, Syria".

Sec. 431(b) of Public Law 103–236 (108 Stat. 459) further provided the following:

"(b) UNITED NATIONS DEVELOPMENT PROGRAM.—

"(1) Except as provided in paragraphs (2) and (3), for fiscal years 1994 and 1995 none of the funds made available for United Nations Development Program or United Nations Development Program—Administered Funds shall be available for programs and activities in or for Burma.

"(2) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1994, $11,000,000 may be available only if the President certifies to the Congress that the United Nations Development Program's programs and activities in or for Burma promote the enjoyment of internationally guaranteed human rights in Burma and do not benefit the State Law and Order Restoration Council (SLORC) military regime.

"(3) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1995, $27,600,000 may be available only if the President certifies to the Congress that—

"(A) the United Nations Development Program has approved or initiated no new programs and no new funding for existing programs in or for Burma since the United Nations Development Program Governing Council (Executive Board) meeting of June 1993,

"(B) such programs address unforeseen urgent humanitarian concerns, or

"(C) a democratically elected government in Burma has agreed to such programs.".

[494] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30,

Continued

President, Communist countries listed in section 620(f) of this Act.[495]

(b) The Secretary of State—

(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this chapter; and

(2) shall report to the appropriate committees of the Congress the amounts of funds expended by each such organization for the purposes described in subsection (a) and the amount contributed by the United States to each such organization.

(c)[496] (1) Subject to paragraph (2), the limitations[497] of subsection (a) shall not apply to contributions to the International Atomic Energy Agency or the United Nations Children's Fund (UNICEF).

(2)[497] (A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this chapter and available for the International Atomic Energy Agency, the limitations of

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1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447); see secs. 534(d), 544, 547, and 550. See also sec. 555, restricting aid unless the Secretary of State certifies that certain conditions have been met pertaining to Palestinian statehood, sec. 558, prohibiting assistance to the Palestinian Broadcasting Corporation, and sec. 559, West Bank and Gaza Program.

On December 5, 1997, the President waived the provisions of sec. 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327); through April 14, 2004 (Presidential Determination No. 2004–04; October 14, 2003; 68 F.R. 60841); through October 14, 2004 (Presidential Determination No. 2004–28; April 14, 2004; 69 F.R. 21679); and through April 14, 2005 (Presidential Determination No. 2005–02; October 14, 2004; 69 F.R. 62795).

[495] Sec. 516 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681) added ", or at the discretion of the President, Communist countries listed in section 620(f) of this Act.".

Sec. 516 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provides the following:

"LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2006.".

[496] Sec. 431(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 459) added subsec. (c).

[497] Sec. 2809(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) struck out "The limitations" and inserted in lieu thereof "(1) Subject to paragraph (2), the limitations". Sec. 2809(a)(2) of that Act added para. (2). See also sec. 2809(b) and (c) of that Act, in *Legislation on Foreign Relations Through 2004*, vol. II.

subsection (a) shall apply to programs or projects of such Agency in Cuba.

(B)(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection of nuclear facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a).

(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba—

(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

(III) incorporates internationally accepted nuclear safety standards.

(d)[498] (1) Notwithstanding subsection (c), if the Secretary of State determines that programs and projects of the International Atomic Energy Agency in Iran are inconsistent with United States nuclear nonproliferation and safety goals, will provide Iran with training or expertise relevant to the development of nuclear weapons, or are being used as a cover for the acquisition of sensitive nuclear technology, the limitations of subsection (a) shall apply to such programs and projects, and the Secretary of State shall so notify the appropriate congressional committees (as defined in section 3 of the Foreign Relations Authorization Act, Fiscal Year 2003).

(2) A determination made by the Secretary of State under paragraph (1) shall be effective for the 1-year period beginning on the date of the determination.

[498] Sec. 1342 of the Iran Nuclear Proliferation Prevention Act of 2002 (subtitle D of title XIII of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1451) added subsec. (d).

Chapter 4—Supporting Assistance[499] [Repealed—1972]

Chapter 5—Contingencies[500]

Sec. 451.[501] **Contingencies.**[500]—(a)[502] (1) Notwithstanding any other provision of law, the President is authorized to use[503] funds made available to carry out any provision of this Act (other than the provisions of chapter 1 of this part) in order to provide, for any unanticipated contingencies,[504] assistance authorized by this part in accordance with the provisions applicable to the furnishing of such assistance, except that the authority of this subsection may not be used to authorize the use of more than $25,000,000 during any fiscal year.[505]

(2) The President shall report promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate each time he exercises the authority contained in this subsection.

(b)[506] * * * [Repealed—1981]

(c) No part of this fund shall be used to pay for any gifts to any officials of any foreign government made heretofore or hereafter.[507]

Chapter 6—Central America Democracy, Peace, and Development Initiative[508]

Sec. 461.[508, 509] **Statement of Policy.**—(a) The Congress finds that—

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[499] Sec. 202(b) of the FA Act of 1971 (Public Law 92–226) repealed chapter 4 of part I. This subject matter is now covered under chapter 4 of part II of this Act, Economic Support Fund.

[500] Sec. 2 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 701) changed the title of chapter 5 and sec. 451 from "**Contingency Fund**" to "**Contingencies**". Previously, sec. 503(1) of Public Law 94–329 substituted "**Contingency Fund**" for "**Disaster Relief**" in the title of chapter 5 while sec. 2(1) of Public Law 93–333 changed the title of chapter 5 from "**Contingency Fund**" to "**Disaster Relief**".

[501] 22 U.S.C. 2261. Sec. 28(c) of the FA Act of 1974 (Public Law 93–559) amended and restated sec. 451. It formerly read as follows:

"Sec. 451. Contingency Fund—(a) There is authorized to be appropriated to the President for each of the fiscal years 1974 and 1975 not to exceed $30,000,000, to provide assistance authorized by this part primarily for disaster relief purposes, in accordance with the provisions applicable to the furnishing of such assistance. (b) The President shall provide quarterly reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Speaker of the House of Representatives on the programing and the obligation of funds under subsection (a).".

[502] Sec. 2 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 701) amended and restated subsec. (a).

[503] Sec. 588(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2056), struck out "not to exceed $10,000,000 of" and "in any fiscal year" at these points, respectively.

[504] Sec. 588(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2056), struck out "emergency purposes" and inserted in lieu thereof "unanticipated contingencies".

[505] Sec. 588(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2056), added ", except that the authority of this subsection may not be used to authorize the use of more than $25,000,000 during any fiscal year.".

[506] Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed subsec. (b), which had required a quarterly report from the President concerning the programing and obligation of funds under this section.

[507] Sec. 452, which was added by sec. 2(2) of the Foreign Disaster Assistance Act of 1974 (Public Law 93–333) and formerly appeared at this point, was redesignated as sec. 494 by Sec. 101(4) of Public Law 94–161 (89 Stat. 849).

[508] Sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961) repealed chapter 6, as enacted in the Foreign Assistance Act of 1961, titled: "**Assistance to Countries Having Agrarian Economies**". Sec. 701 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 234) added a new chapter 6 (sec. 461 through 466).

[509] 22 U.S.C. 2271.

(1) the building of democracy, the restoration of peace, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States; and

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America.

(b)(1) The achievement of democracy, respect for human rights, peace, and equitable economic growth depends primarily on the cooperation and the human and economic resources of the people and governments of Central America. The Congress recognizes that the United States can make a significant contribution to such peaceful and democratic development through a consistent and coherent policy which includes a long-term commitment of assistance. This policy should be designed to support actively—

(A) democracy and political reform, including opening the political process to all members of society;

(B) full observance of internationally recognized human rights, including free elections, freedom of the press, freedom of association, and the elimination of all human rights abuses;

(C) leadership development, including training and educational programs to improve public administration and the administration of justice;

(D) land reform, reform in tax systems, encouragement of private enterprise and individual initiative, creation of favorable investment climates, curbing corruption where it exists, and spurring balanced trade;

(E) the establishment of the rule of law and an effective judicial system; and

(F) the termination of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of crimes and the prosecution to the extent possible of past offenders.

(2) The policy described in paragraph (1) should also promote equitable economic growth and development, including controlling the flight of capital and the effective use of foreign assistance and adhering to approved programs for economic stabilization and fiscal responsibility. Finally, this policy should foster dialog and negotiations—

(A) to achieve peace based upon the objectives of democratization, reduction of armament, an end to subversion, and the withdrawal of foreign military forces and advisers; and

(B) to provide a security shield against violence and intimidation.

(3) It is the purpose of this chapter to establish the statutory framework and to authorize the appropriations and financing necessary to carry out the policy described in this section.

(c) The Congress finds, therefore, that the people of the United States are willing to sustain and expand a program for economic and military assistance in Central America if the recipient countries can demonstrate progress toward and a commitment to these goals.

Sec. 462.[508, 510] **Conditions on Furnishing Assistance.**—The President shall ensure that assistance authorized by this Act and the Arms Export Control Act to Central American countries is furnished in a manner which fosters demonstrated progress toward and commitment to the objectives set forth in section 461. Where necessary to achieve this purpose, the President shall impose conditions on the furnishing of such assistance. In carrying out this section, the President shall consult with the Congress in regard to progress toward the objectives set forth in section 461, and any conditions imposed on the furnishing of assistance in furtherance of those objectives.

Sec. 463.[508, 511] **Peace Process in Central America.**—The Congress—

(1) strongly supports the initiatives taken by the Contadora group and the resulting Document of Objectives which has been agreed to by Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua and which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region; and

(2) finds that the United States should provide such assistance and support as may be appropriate in helping to reach comprehensive and verifiable final agreements, based on the Document of Objectives, which will ensure peaceful and enduring solutions to the Central American conflicts.

Sec. 464.[508, 512] **Economic Assistance Coordination.**—(a) The Congress finds that participation by Central American countries in an effective forum for dialog on, and the continuous review and advancement of, Central America's political, economic, and social development would foster cooperation between the United States and Central American countries.

(b) It is the sense of the Congress that—

(1) the President should enter into negotiations with the countries of Central America to establish a Central American Development Organization (hereafter in this section referred to as the "Organization") to help provide a continuous and coherent approach to the development of the Central American region; and

(2) the establishment of the Organization should be based upon the following principles:

(A) Participation in the Organization should be open to the United States, other donors, and those Central American countries that commit themselves to, among other things, respecting internationally recognized human rights, building democracy, and encouraging equitable economic growth through policy reforms.

(B) The Organization should be structured to include representatives from both the public and private sectors, including representatives from the labor, agriculture, and business communities.

(C) The Organization should meet periodically to carry out the functions described in subparagraphs (D) and (E)

[510] 22 U.S.C. 2272.
[511] 22 U.S.C. 2273.
[512] 22 U.S.C. 2274.

of this paragraph and should be supported by a limited professional secretariat.

(D) The Organization should make recommendations affecting Central American countries on such matters as—

(i) political, economic, and social development objectives, including the strengthening of democratic pluralism and the safeguarding of internationally recognized human rights;

(ii) mobilization of resources and external assistance needs; and

(iii) reform of economic policies and structures.

(E) The Organization should have the capacity for monitoring country performance on recommendations issued in accordance with subparagraph (D) of this paragraph and for evaluating progress toward meeting such country objectives.

(F) To the maximum extent practicable, the United States should follow the recommendations of the Organization in disbursing bilateral economic assistance for any Central American country. No more than 75 percent of such United States assistance in any fiscal year should be disbursed until the recommendations of the Organization for that fiscal year have been made final and communicated to the donor countries. The limitation on disbursements contained in the preceding sentence should apply only to recommendations made final and communicated to donor countries prior to the fourth quarter of such fiscal year. The United States representative to the Organization should urge other donor countries to similarly implement the recommendations of the Organization.

(G) The administrator of the agency primarily responsible for administering part I of this Act, or his designee, should represent the United States Government in the Organization and should carry out his functions in that capacity under the continuous supervision and general direction of the Secretary of State.

(c) Subject to subsection (d)(2), the President is authorized to participate in the Organization.

(d)(1) The administrator of the agency primarily responsible for administering part I of this Act, under the supervision and direction of the Secretary of State, shall prepare a detailed proposal to carry out this section and shall keep the Committee on Foreign Affairs [513] of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed concerning the development of this proposal.

(2) The President shall transmit to the Committee on Foreign Affairs [513] of the House of Representatives and the Committee on Foreign Relations of the Senate a copy of the text of any agreement, which he proposes to sign, that would provide for the establishment of and United States participation in the Organization no less than sixty days prior to his signature. During that sixty-day period there

[513] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

shall be full and formal consultations with and review by those committees in accordance with procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

Sec. 465.[508, 514] **Authorization for Fiscal Years 1988 and 1989.**—(a) In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President, for the purpose of furnishing nonmilitary assistance for Central American countries, $1,200,000,000 for each of the fiscal years 1988 and 1989, which are authorized to remain available until expended.

(b) For the purpose of providing the assistance described in subsection (a), funds appropriated pursuant to the authorizations in that subsection may be transferred by the President for obligation in accordance with the authorities of part I of this Act (including chapter 4 of part II), the Peace Corps Act, the Migration and Refugee Assistance Act of 1962, the United States Information and Education Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, the National Endowment for Democracy Act, and the State Department Basic Authorities Act of 1956.

Sec. 466.[508, 515] **Definitions.**—For the purposes of this chapter, the term "Central American countries" includes Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and regional programs which benefit such countries.

Chapter 7—Debt-For-Nature Exchanges [516]

Sec. 461.[517] **Definition.**—For purpose of this chapter, the term "debt-for-nature exchange" means the cancellation or redemption of the foreign debt of the government of a country in exchange for—

(1) that government's making available local currencies (including through the issuance of bonds) which are used only for eligible projects involving the conservation or protection of the environment in that country (as described in section 463);[518] or

(2) that government's financial resource or policy commitment to take certain specified actions to ensure the restoration,

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[514] 22 U.S.C. 2275.

[515] 22 U.S.C. 2276.

[516] Sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961) repealed chapter 7, as enacted in the Foreign Assistance Act of 1966 (Public Law 89–583), titled: "**Joint Commissions on Rural Development**". A new chapter 7 was added by sec. 711 of the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521).

[517] 22 U.S.C. 2281. All sections in chapter 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 471".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"DEBT-FOR-DEVELOPMENT

"SEC. 528. In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and, subject to the regular notification procedures of the Committees on Appropriations, any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.".

See also in that Act, sec. 566, relating to authority to engage in debt buybacks or sales.

[518] All sections in chapter 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Reference should read "section 473".

protection, or sustainable use of natural resources within that country; or

(3) a combination of assets and actions under both paragraphs (1) and (2).

Sec. 462.[519] **Assistance for Commercial Debt Exchanges.**—(a) The Administrator of the Agency for International Development is authorized to furnish assistance, in the form of grants on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible country which will be canceled or redeemed under the terms of an agreement with that government as part of a debt-for-nature exchange.

(b) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in subsection (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

Sec. 463.[520] **Eligible Projects.**—(a) The Administrator of the Agency for International Development shall seek to ensure that debt-for-nature exchanges under this chapter support one or more of the following activities by either the host government, a local private conservation group, or a combination thereof:

(1) restoration, protection, or sustainable use of the world's oceans and atmosphere;

(2) restoration, protection, or sustainable use of diverse animal and plant species;

(3) establishment, restoration, protection, and maintenance of parks and reserves;

(4) development and implementation of sound systems of natural resource management;

(5) development and support of local conservation programs;

(6) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(7) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

(8) design and implementation of sound programs of land and ecosystem management; and

(9) promotion of regenerative approaches in farming, forestry, fishing, and watershed management.

(b)(1) In cooperation with nongovernmental organizations, the Administrator of the Agency for International Development shall seek to identify those areas, which because of an imminent threat,

[519] 22 U.S.C. 2282. All sections in chapter 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 472".

[520] 22 U.S.C. 2283. All sections in chapter 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 473".

are in particular need of immediate attention to prevent the loss of unique biological life or valuable ecosystem.

(2) The Administrator of the Agency for International Development shall encourage as many eligible countries as possible to propose such exchanges with the purpose of demonstrating to a large number of governments the feasibility and benefits of sustainable development.

Sec. 464.[521] **Eligible Countries.**—In order for a foreign country to be eligible to participate in a debt-for-nature exchange under this chapter, the Administrator of the Agency for International Development shall determine that—

(1) the host country is fully committed to the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange;

(2) a long-term plan has been prepared by the host country, or private conservation group, which adequately provides for the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange or that such a plan will be prepared in a timely manner; and

(3) there is a government agency or a local nongovernmental organization, or combination thereof, in the host country with the capability, commitment, and record of environmental concern to oversee the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange.

Sec. 465.[522] **Terms and Conditions.**—(a) The terms and conditions for making grants under this chapter shall be deemed to be fulfilled upon final approval by the Administrator of the Agency for International Development of the debt-for-nature exchange, a certification by the nongovernmental organization that the host government has accepted the terms of the exchange, and that an agreement has been reached to cancel the commercial debt in an agreed upon fashion.

(b) Grants made under this section are intended to complement, and not substitute for, assistance otherwise available to a foreign country under this Act or any other provision of law.

(c) The United States Government is prohibited from accepting title or interest in any land in a foreign country as a condition on the debt exchange.

Sec. 466.[523] **Pilot Program for Sub-Saharan Africa.**—(a) The Administrator of the Agency for International Development, in cooperation with nongovernmental conservation organizations, shall invite the government of each country in sub-Saharan Africa to submit a list of those areas of severely degraded national resources which threaten human survival and well-being and the opportunity

[521] 22 U.S.C. 2284. All sections in chapter 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 474".

[522] 22 U.S.C. 2285. All sections in chapter 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 475".

[523] 22 U.S.C. 2286. All sections in chapter 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 476".

for future economic growth or those areas of biological or ecological importance within the territory of that country.

(b) The Administrator of the Agency for International Development shall assess the list submitted by each country under subsection (a) and shall seek to reach agreement with the host country for the restoration and future sustainable use of those areas.

(c)(1) The Administrator of the Agency for International Development is authorized to make grants, on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible sub-Saharan country in exchange for commitments by that government to restore natural resources identified by the host country under subsection (a) or for commitments to develop plans for sustainable use of such resources.

(2) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

Chapter 8—International Narcotics Control [524]

SEC. 481.[525] POLICY, GENERAL AUTHORITIES, COORDINATION, FOREIGN POLICE ACTIONS, DEFINITIONS, AND OTHER PROVISIONS.

(a) POLICY AND GENERAL AUTHORITIES.—

[524] Sec. 109 of the FA Act of 1971 (Public Law 92–226) added chapter 8. See other legislation on international narcotics control in *Legislation on Foreign Relations Through 2004*, vol. I–B, particularly the establishment of the President's Council on Counter-Narcotics (title VII, sec. 709, of Public Law 105–277), and the Western Hemisphere Drug Elimination Act (title VIII of Public Law 105–277).

[525] 22 U.S.C. 2291. Sec. 1519(a) of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 4060) amended sec. 481 at subsec. (a) by redesignating former subpara. (E) as (F), and inserting a new subpara. (E).

Sec. 1519(b) of Public Law 102–550, furthermore, amended sec. 481(e) to require a report on major money laundering countries.

Sec. 4 of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4914), however, substantially amended and restated sec. 481. Sec. 4(a) struck the section designation, section heading, and subsec. (a), and restated these through subpara. (F).

Chapter 8 was originally added by sec. 109 of the FA Act of 1971. See other legislation on international narcotics control in *Legislation on Foreign Relations Through 2004*, vol. I–B.

The original sec. 481 read as follows:

"It is the sense of the Congress that effective international cooperation is necessary to put an end to the illicit production, trafficking in, and abuse of dangerous drugs. In order to promote such cooperation, the President is authorized to conclude agreements with other countries to facilitate control of the production, processing, transportation, and distribution of narcotic analgesics, including opium and its derivatives, other narcotic drugs and psychotropics and other controlled substances as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513). Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of the production of, processing of, and traffic in, narcotic and psychotropic drugs. In furnishing such assistance the President may use any of the funds made available to carry out the provisions of this Act. The President shall suspend economic and military assistance furnished under this or any other Act, and shall suspend sales under the Foreign Military Sales Act and under title I of the Agriculture Trade Development and Assistance Act of 1954 with respect to any country when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United

Continued

(1) STATEMENTS OF POLICY.—(A) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

(D)[526] International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(E)[526] The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

(F)[526] The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

(G)[526] Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

(2) In order to promote such cooperation, the President is authorized to conclude agreements, including reciprocal maritime agreements,[527] with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

(3)[528] In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral develop-

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States Government personnel or their dependents, or from entering the United States unlawfully. Such suspension shall continue until the President determines that the government of such country has taken adequate steps to carry out the purposes of this chapter.".

Sec. 481(a) had been amended previously by sec. 503 of the Foreign Relations Authorization Act of 1972, sec. 11 of the FA Act of 1973, sec. 1003(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, sec. 4502 of the International Narcotics Control Act of 1988, and sec. 17 of the International Narcotics Control Act of 1989.

[526] Sec. 131(a)(1) of Public Law 104–164 (110 Stat. 1429) redesignated subparas. (D) through (F) as subparas. (E) through (G), and added a new subpara. (D).

[527] Sec. 4(b) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) inserted ", including reciprocal maritime agreements,".

[528] Sec. 2017 of Public Law 99–570 (100 Stat. 3207–68) added para. (3). Sec. 2017 redesignated the previous para. (3) as para. (4).

ment banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

(4)[528] Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes.[529]

(b)[530] COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—

(1) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(2) RULE OF CONSTRUCTION.—Nothing contained in this subsection or section 489(b) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.[531]

(c)[532] PARTICIPATION IN FOREIGN POLICE ACTIONS.—

(1) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

(2) PARTICIPATION IN ARREST ACTIONS.—Paragraph (1) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

(3) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Paragraph (1) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

(4) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, paragraph (1) does not apply

[529] Sec. 131(a)(2) of Public Law 104–164 (110 Stat. 1429) added ", or for other anticrime purposes".

[530] Sec. 4(c) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) amended and restated subsec. (b). Originally, subsec. (b) was added to sec. 481 by sec. 11(a) of the FA Act of 1973 (Public Law 93–189). This subsection has previously been amended and restated by sec. 17(b) of the International Narcotics Control Act of 1989, and sec. 604 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83).

[531] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. D.

[532] Sec. 15 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1963) comprehensively amended and restated subsec. (c). It had previously been restated by sec. 2009 of Public Law 99–570 (100 Stat. 3207–64). Subsec. (c), often referred to as the "Mansfield Amendment," was originally added by sec. 504(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 764).

with respect to maritime law enforcement operations in the territorial sea or archipelagic waters[533] of that country.

(5) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

(6) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This subsection does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces Arrangements.

(d)[534] USE OF HERBICIDES FOR AERIAL ERADICATION.—

(1) MONITORING.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

(2)[535] ANNUAL REPORTS.—In the annual report required by section 489(a),[536] the President shall report on the impact on the environment and the health of individuals of the use under this chapter of a herbicide for aerial eradication.

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[533] Sec. 4(d) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) inserted "or archipelagic waters" after "sea".

[534] Subsec. (d), as added by sec. 4 of Public Law 95–384 (92 Stat. 730), was amended by sec. 3(b) of Public Law 96–92 (93 Stat. 702), amended by sec. 502(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1538), and was further amended and restated by sec. 17(c) of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1964). Sec. 502(a)(2) and (3) of Public Law 97–113 also stipulated the conditions under which funds appropriated prior to enactment of this amendment could be utilized generally, and specifically in the case of assistance for Colombia appropriated in fiscal year 1980. Subsection (d) previously read as follows:

"(d)(1) The Secretary of State shall inform the Secretary of Health and Human Services of the use or intended use by any country or international organization of any herbicide to eradicate marihuana in a program receiving assistance under this chapter.

"(2) The Secretary of Health and Human Services shall monitor the impact on the health of persons who may use or consume marihuana of the spraying of a herbicide to eradicate such marihuana in a program receiving assistance under this chapter, and if the Secretary determines that such persons are exposed to amounts of such herbicide which are harmful to their health, the Secretary shall prepare and transmit a report to the Congress setting forth such determination together with any recommendations the Secretary may have.

"(3) Of the funds authorized to be appropriated for the fiscal year 1982 under section 482, the President is urged to use not less than $100,000 to develop a substance that clearly and readily warns persons who may use or consume marihuana that it has been sprayed with the herbicide paraquat or other herbicide harmful to the health of such person.

"(4) If the Secretary of Agriculture determines that a substance has been developed that clearly and readily warns persons who may use or consume marihuana that it has been sprayed with the herbicide paraquat or other herbicide harmful to the health of such persons, such substance shall be used in conjunction with the spraying of paraquat or such other herbicide in any program receiving assistance under this chapter.

"(5)(A) The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide in the aerial eradication of coca in order to determine the impact of such use on the environment and on the health of individuals.

"(B) The President shall report on such impact in the annual report required by subsection (e).

"(C) If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.".

[535] Sec. 101(a) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) struck out para. (2), and redesignated paras. (3) and (4) as paras. (2) and (3). Para. (2) formerly required that the Secretary of State inform the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency of the use or intended use by any country or international organization of any herbicide for aerial eradication in a program receiving assistance under this chapter.

[536] Sec. 6(b)(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) struck out "subsection (e)" and inserted in lieu thereof "section 489(a)".

(3) REPORT UPON DETERMINATION OF HARM TO ENVIRONMENT OR HEALTH.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs[537] of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.

(e)[538] DEFINITIONS.—For purposes of this chapter and other provisions of this Act relating specifically to international narcotics matters—

(1) the term "legal and law enforcement measures" means—

(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control;

(2)[539] the term "major illicit drug producing country" means a country in which—

(A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;

(B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or

(C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States;

(3) the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country of countries concerned;

(4)[540] the term "United States assistance" means—

(A) any assistance under this Act (including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation), other than—

(i) assistance under this chapter,

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[537] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[538] Sec. 101(b)(1) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) struck out "Except as provided in sections 490(h) and (i) with respect to the definition of major illicit drug producing country and major drug-transit country, for" as the opening clause of subsec. (e), inserting in lieu thereof "For". Previously, sec. 6(b)(3) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) amended and restated the opening sentence of subsec. (e). Sec. 1003(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1053) added the original subsec. (e).

[539] Sec. 101(b)(2) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) amended and restated para. (2), changing the measure of "major illicit drug producing country" from quantity of production to acreage devoted to production. Previously, sec. 17(e) of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1965) restated para. (2), adding emphasis on illicit production.

[540] Sec. 5(b) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4931) amended and restated para. (4).

(ii) any other narcotics-related assistance under this part (including chapter 4 of part II), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act,

(iii) disaster relief assistance, including any assistance under chapter 9 of this part,

(iv) assistance which involves the provision of food (including monetization of food) or medicine, and

(v) assistance for refugees;

(B) sales, or financing on any terms, under the Arms Export Control Act;

(C) the provision of agricultural commodities, other than food, under the Agricultural Trade Development and Assistance Act of 1954; and

(D) financing under the Export-Import Bank Act of 1945;

(5)[541] the term "major drug-transit country" means a country—

(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or[542]

(B) through which are transported such drugs or substances;[543]

(6)[543] the term "precursor chemical" has the same meaning as the term "listed chemical" has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33);[544]

(7)[543] the term "major money laundering country" means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking; and

(8)[543] the term "appropriate congressional committees" means the Committee on Foreign Affairs[545] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

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[541] Sec. 2005(c)(3) of Public Law 95–570 (100 Stat. 3207–63) added para. (5).

[542] Sec. 1519(c) of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 4060) (1) inserted "or" to the end of subpara. (A); (2) struck out "or" at the end of subpara. (B) and inserted a period (but did not strike out semicolon); and (3) struck out subpara. (C), which formerly read "(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.".

[543] Sec. 11(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) struck out a period at the end of para. 5; inserted "; and"; and added para. (6). Subsequently, sec. 101(b) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) struck out "; and", redesignated para. (6) as para. (8), and added new paras. (6) and (7).

[544] Para. (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33) defines "listed chemical" as "any list I chemical or any list II chemical". List I chemicals are listed in para. (34) of that section; list II chemicals in para. (35).

[545] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

Sec. 482.[546] **Authorization.**—(a)[547] (1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $147,783,000 for fiscal year 1993 and $171,500,000 for fiscal year 1994.[548]

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[546] 22 U.S.C. 2291a. Sec. 482, as added by sec. 503 of the Foreign Relations Authorization Act of 1972, was amended and restated by sec. 3 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 614). It formerly read as follows:

"SEC. 482. AUTHORIZATION.—To carry out the purposes of section 481, there are authorized to be appropriated to the President $42,500,000 for each of the fiscal years 1974 and 1975, $40,000,000 for the fiscal year 1976, no part of which may be obligated for or on behalf of any country where illegal traffic in opiates has been a significant problem unless and until the President determines and certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that assistance furnished to such country pursuant to the authority in this chapter is significantly reducing the amount of illegal opiates entering the international market, and not to exceed $34,000,000 for the fiscal year 1977. Amounts appropriated under this section are authorized to remain available until expended.".

[547] Sec. 5(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731) added subsec. designation "(a)" and the original text of subsec. (b). Subsec. (a) was further amended and restated by sec. 3 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 701); and further amended by Sec. 402(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3149). The 1980 amendment, in addition to other changes in subsection (a), struck out a paragraph which had earmarked $16 million for Colombia during fiscal year 1980 for a variety of items used in the interdiction of drug traffic.

Subsec. (a) was further amended and restated when sec. 502(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1539) substituted the authorization levels for fiscal years 1982 and 1983 in lieu of the figure for fiscal year 1981 and deleted a paragraph limiting the fiscal year 1981 U.S. contribution to the U.N. Fund for Drug Abuse Control to $3,000,000 or 50 percent of total contributions, whichever is less.

Subsec. (a) was further amended when sec. 4201 of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4267) set the fiscal year 1989 authorization level and struck out the following:

"In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year to 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less that $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under this chapter. These funds shall be used primarily for aircraft which will be based in Latin America for use for narcotics control eradication and interdiction efforts throughout the region. These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts.".

Para. (3) subsec. (a), added by sec. 614 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 231), was struck out by the International Narcotics Control Act of 1988. It previously read as follows:

"(3) Funds authorized to be appropriated by this section for fiscal year 1986 and for fiscal year 1987 may be used for a contribution to the United Nations Fund for Drug Abuse Control only if that organization includes in its crop substitution projects a plan for cooperation with the law enforcement forces of the host country.".

[548] Authorizations under sec. 482 during recent years included the following: fiscal year 1975—$42,500,000; fiscal year 1976—$40,000,000; fiscal year 1977—$34,000,000; fiscal year 1978—$39,000,000; fiscal year 1979—$40,000,000; fiscal year 1980—$51,758,000; fiscal year 1981—$38,573,000; fiscal year 1982—$37,700,000; fiscal year 1983—$37,700,000; fiscal year 1984—$47,000,000; fiscal year 1985—no authorization; fiscal years 1995 through 2005—no authorization.

Sec. 602 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 228), added the authorizations for fiscal years 1986 ($57,529,000) and 1987 ($75,445,000). The authorization amount for 1987 was subsequently amended by sec. 401 of Public Law 99–529 and by sec. 2002(1) of Public Law 99–570 (100 Stat. 3207–60). Sec. 16 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1964) added authorization for fiscal year 1990 ($115,000,000). Sec. 5 of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3354) authorized $150,000,000 for fiscal year 1991. Sec. 3 of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4914) added authorization for fiscal years 1993 and 1994.

Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and title II of that Act (118 Stat. 2809) provided the following:

Continued

"DEPARTMENT OF STATE

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"INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $328,820,000, to remain available until September 30, 2007: *Provided,* That during fiscal year 2005, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the funds appropriated under this heading, not less than $11,900,000 should be made available for training programs and activities of the International Law Enforcement Academies: *Provided further,* That of the funds appropriated under this heading, not less than $4,000,000 should be made available for assistance for the Philippines for police training and other related activities: *Provided further,* That $10,000,000 of the funds appropriated under this heading shall be made available for demand reduction programs: *Provided further,* That $40,000,000 of the funds appropriated under this heading should be made available for assistance for Mexico: *Provided further,* That $10,500,000 of the funds appropriated under this heading should be made available for assistance for countries and programs in Africa: *Provided further,* That of the funds appropriated under this heading, $3,000,000 shall be made available for assistance for the Government of Malta for the purchase of helicopters to enhance its ability to control its borders and deter terrorists: *Provided further,* That of the funds appropriated under this heading, not more than $30,300,000 may be available for administrative expenses.

"ANDEAN COUNTERDRUG INITIATIVE

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $731,000,000, to remain available until September 30, 2007: *Provided,* That in fiscal year 2005, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further,* That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further,* That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: *Provided further,* That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the funds appropriated under this heading, not less than $264,600,000 shall be made available for alternative development/institution building, of which $237,000,000 shall be apportioned directly to the United States Agency for International Development, including $125,700,000 for assistance for Colombia: *Provided further,* That with respect to funds apportioned to the United States Agency for International Development under the previous proviso, the responsibility for policy decisions for the use of such funds, including what activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of the Administrator of the United States Agency for International Development in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs: *Provided further,* That of the funds appropriated under this heading, not less than $6,000,000 should be made available for judicial reform programs in Colombia: *Provided further,* That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $6,000,000 shall be made available to the United States Agency for International Development for organizations and programs to protect human rights: *Provided further,* That funds made available in this Act for demobilization/reintegration of members of foreign terrorist organizations in Colombia shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations: *Provided further,* That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b)[549] PROCUREMENT OF WEAPONS AND AMMUNITION.—

(1) PROHIBITION.—Except as provided in paragraph (2), funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to funds for the procurement of—

(A) weapons or ammunition provided only for the defensive arming of aircraft used for narcotics-related purposes, or

(B) firearms and related ammunition provided only for defensive purposes to employees or contract personnel of the Department of State engaged in activities under this chapter,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

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for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for comparable use in the United States and with Colombian laws; and (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment: *Provided further,* That such funds may not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims: *Provided further,* That such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: *Provided further,* That of the funds appropriated under this heading, $2,000,000 should be made available through nongovernmental organizations for programs to protect biodiversity and indigenous reserves in Colombia: *Provided further,* That funds appropriated by this Act may be used for aerial fumigation in Colombia's national parks or reserves only if the Secretary of State determines that it is in accordance with Colombian laws and that there are no effective alternatives to reduce drug cultivation in these areas: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further,* That funds appropriated under this heading that are available for assistance for the Bolivian military and police may be made available for such purposes only if the Bolivian military and police are respecting human rights and cooperating with civilian judicial authorities, and the Bolivian Government is prosecuting and punishing those responsible for violations of human rights: *Provided further,* That of the funds appropriated under this heading, not more than $16,285,000 may be available for administrative expenses of the Department of State, and not more than $7,800,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.".

See also in that Act: sec. 515—Notification Requirements, and sec. 565—Special Debt Relief for the Poorest.

[549] Sec. 4(e) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) amended and restated subsec. (b). Subsection (b) was originally added by sec. 5(b) of the International Security Assistance Act of 1978.

(c)[550] CONTRIBUTIONS AND REIMBURSEMENT.—(1) To[551] ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an "in kind" basis.

(2)[552] (A) The President is authorized to accept contributions from foreign governments to carry out the purposes of this chapter. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

(B) At the time of submission of the annual congressional presentation documents required by section 634(a), the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.

(3)[552] The President is authorized to provide assistance under this chapter on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

(d)[553] ADMINISTRATIVE ASSISTANCE.—(1) Except as provided in paragraph (2), personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau designated by the Secretary of State to replace the Bureau for International Narcotics Matters.

(2) Paragraph (1) shall not apply to the extent that it would result in a reduction in funds available for antinarcotics assistance to foreign countries.

(e)[554] ADVANCE NOTIFICATION OF TRANSFER OF SEIZED ASSETS.—The President shall notify the appropriate congressional committees at least 10 days prior to any transfer by the United States Government to a foreign country for narcotics control purposes of any property or funds seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity.

(f)[555] TREATMENT OF FUNDS.—Funds transferred to and consolidated with funds appropriated pursuant to this chapter may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this chapter. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this chapter.

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[550] Redesignated from subsec. (d) by sec. 6(b)(4) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932). Originally added by sec. 608 of Public Law 99–83 (99 Stat. 229); amended and restated by sec. 17(g) of the International Narcotics Control Act of 1989.

[551] Sec. 131(b)(1) of Public Law 104–164 (110 Stat. 1429) struck out "CONTRIBUTION BY RECIPIENT COUNTRY.—To" and inserted in lieu thereof "CONTRIBUTIONS AND REIMBURSEMENT.—(1) To".

[552] Sec. 131(b)(2) of Public Law 104–164 (110 Stat. 1429) added paras. (2) and (3).

[553] Sec. 164(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 411), added subsec. (d).

[554] Sec. 101(c) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) added subsec. (e).

[555] Sec. 131(c) of Public Law 104–164 (110 Stat. 1429) added secs. (f) and (g).

(g)[555] EXCESS PROPERTY.—For purposes of this chapter, the Secretary of State may use the authority of section 608, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this chapter.

Sec. 483.[556] Prohibition on Use of Foreign Assistance for Reimbursements for Drug Crop Eradications.—Funds made available to carry out this Act may not be used to reimburse persons whose illicit drug crops are eradicated.

SEC. 484.[557] REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.

(a) RETENTION OF TITLE TO AIRCRAFT.—

(1) IN GENERAL.—(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this chapter, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

(2) EXCEPTIONS.—(A) Paragraph (1) shall not apply to the extent that—

(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and

(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

(3) ASSISTANCE FOR LEASING OF AIRCRAFT.—(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act may be used to finance the leasing of aircraft under chapter 6 of that Act.

(B) Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense

[556] 22 U.S.C. 2291b. Added by sec. 609 of Public Law 99–83 (99 Stat. 230).

[557] 22 U.S.C. 2291c. Sec. 4(f)(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4916) amended and restated sec. 484. Sec. 484 was originally added by sec. 2003 of the International Narcotics Control Act of 1986, and amended by sec. 7 of the International Narcotics Control Act of 1990.

Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

(b)[558] PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

(c)[559] REPORTS.—In the reports submitted pursuant to section 489(a),[560] the President shall discuss—

(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

Sec. 485.[561] Records of Aircraft Use.—(a) REQUIREMENT TO MAINTAIN RECORDS.—The President[562] shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

(b) CONGRESSIONAL ACCESS TO RECORDS.—The President shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs[563] of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

Sec. 486.[564] Reallocation of Funds Withheld from Countries Which Fail to Take Adequate Steps to Halt Illicit Drug Production or Trafficking.

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[558] Sec. 4(f)(2)(B) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck "IN GENERAL" and inserted in lieu thereof "PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT". Sec. 4(f)(2)(D) of that Act redesignated sec. 489(a) as sec. 484(b).

[559] Sec. 4(f)(2)(D) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) redesignated sec. 489(b) as sec. 484(c).

[560] Sec. 4(f)(2)(C) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck out "subsection (e)", and inserted in lieu thereof "section 489(a)".

[561] 22 U.S.C. 2291d. Added by sec. 2003 of Public Law 99–570 (100 Stat. 3207–61).

[562] Sec. 4(f)(3) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck out "Secretary of State" both places it appeared in sec. 485 and inserted in lieu thereof "President".

[563] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[564] 22 U.S.C. 2291e. Added by sec. 4206(a) of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4270). Sec. 4206(b) of the same Act stipulated the following:

"(1) The amendment made by subsection (a) of this section supersedes section 578(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461).

"(2) Funds may be transferred pursuant to paragraph (1) of section 486(a) of the Foreign Assistance Act of 1961 (as enacted by this section) notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.".

(a)[565] If any funds authorized to be appropriated for any fiscal year for assistance under this Act[566] are not used for assistance for the country for which those funds were allocated because of the requirements of section 490[567] or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

(2) OTHER[568] ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional[569] assistance for those countries.

Sec. 487.[570] Prohibition on Assistance to Drug Traffickers. (a) PROHIBITION.—The President shall take all reasonable steps to ensure that assistance under this Act and the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe—

(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating to[571] narcotic or psychotropic drugs or other controlled substances;[572] or

(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, con-

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[565] Sec. 101(d)(1) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out subsec. (a) catchline, which read "ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—".

[566] Sec. 101(d)(2) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "security assistance" and inserted in lieu thereof "assistance under this Act".

[567] Sec. 6(b)(5)(A) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) struck out "481(h)", and inserted in lieu thereof "490".

[568] Sec. 101(d)(3)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "SECURITY" in the para. (2) catchline, and inserted in lieu thereof "OTHER". Sec. 101(d)(4) of that Act struck out subsec. (b) in this section, which had provided a definition of "security assistance".

[569] Sec. 101(d)(3)(B) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "security" here.

[570] 22 U.S.C. 2291f. Added by sec. 4503 of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4285).

[571] Sec. 101(e) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) inserted "to" after "relating".

[572] Sec. 6(b)(6) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) struck out "(as defined in section 481(i)(3) of this Act)" preceding the semicolon.

spirator, or colluder with others in the illicit trafficking in any such substance.

(b)[573] REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

(c) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect.

SEC. 488.[574] LIMITATIONS ON ACQUISITION OF REAL PROPERTY AND CONSTRUCTION OF FACILITIES.

(a) ACQUISITION OF REAL PROPERTY.—

(1) PROHIBITION.—Funds made available to carry out this chapter may not be used to acquire (by purchase or other means) any land or other real property for use by foreign military, paramilitary, or law enforcement forces.

(2) EXCEPTION FOR CERTAIN LEASES.—Paragraph (1) shall not apply to the acquisition of real property by lease of a duration not to exceed 2 years.

(b) CONSTRUCTION OF FACILITIES.—

(1) LIMITATION.—Funds made available to carry out this chapter may not be used for construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such construction, the President notifies the appropriate congressional committees in accordance with procedures applicable to reprogramming notifications under section 634A.

(2) EXCEPTION.—Paragraph (1) shall not apply to the construction of facilities which would require the obligation of less than $750,000 under this chapter.

SEC. 489.[575] REPORTING REQUIREMENTS.

(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—Not later than March 1[576] of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Com-

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[573] The Bureau of International Narcotics Matters, Department of State, issued regulations to implement sec. 487 in Public Notice 2840 (22 CFR Part 140; 63 F.R. 36571; July 7, 1998). The initial proposed rule was issued in Public Notice 2159 (60 F.R. 7737; February 9, 1995).

[574] 22 U.S.C. 2291g. Sec. 4(g) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) amended and restated sec. 488. It was originally added by sec. 4505 of the International Narcotics Control Act of 1988. Sec. 671(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1407), struck out subsec. (a)(3), which had required the Secretary of State to report to Congress at the end of each quarter on all leases entered into pursuant to para. (2).

[575] 22 U.S.C. 2291h. Added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917).

Sec. 101(f)(1)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "**FOR FISCAL YEARS 1993 AND 1994**" from the section heading and inserted in lieu thereof "**FOR FISCAL YEAR 1995**". Sec. 1112(c)(1) of Public Law 104–66 (109 Stat. 707) struck out "**FOR FISCAL YEAR 1995**".

The original sec. 489 was added by sec. 4507 of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4286). Sec. 4(f)(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck out subsecs. (c) and (d) of the original sec. 489, and restated sec. 489, subsecs. (a) and (b), as sec. 484, subsecs. (c) and (d).

Subsec. (c) of this sec. was struck out by sec. 1112(c)(2) of Public Law 104–66 (109 Stat. 707). Originally enacted as subsec. (d), redesignated as subsec. (c) by sec. 101(f)(1)(D) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692). Subsec. (c) formerly read as follows:

"(c) EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 489A does not apply during that fiscal year.".

[576] Sec. 101(f)(1)(B)(i) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "April 1" in subsec. (a), and inserted in lieu thereof "March 1".

mittee on Foreign Relations of the Senate, a report containing the following:

(1) For each country that received assistance under this chapter for either of the 2 preceding fiscal years, a report on the extent to which the country has—

(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including appropriate information on the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries. The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

(3)[577] The identity of those countries which are—

[577] Sec. 101(f)(1)(B)(ii) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out subpara. (B), and redesignated subparas. (C) and (D) as subparas. (B) and (C). Subpara. (B) formerly read as follows:

"(B) the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States;".

(A) major illicit drug producing countries or major drug-transit countries as determined under section 490(h);

(B) major sources of precursor chemicals used in the production of illicit narcotics; or

(C) major money laundering countries.

(4) In addition, for each country identified pursuant to paragraph (3), the following:

(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

(B) Whether as a matter of government policy or practice, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

(7) In addition, for those countries identified pursuant to paragraph (3)(D) the following:

(A)(i) Which countries have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

(ii) which countries identified pursuant to clause (i) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

(iii) which countries identified pursuant to clause (ii)—

(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

(B) Which countries—

(i) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations; and

(ii) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

(C) Findings on each country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

(vi) enacted laws for the sharing of seized narcotics assets with other governments;

(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

(b) ANNUAL REPORTS ON ASSISTANCE.—

(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

(A) specify the amount and nature of the assistance provided or to be provided;

(B) include, for each country identified in subsection (a)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

(i) the assistance provided or to be provided to such country by that agency, and

(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 489A.[578] * * * [Repealed—1995]

SEC. 490.[579] **ANNUAL CERTIFICATION PROCEDURES.**

(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

[578] Formerly at 22 U.S.C. 2291i. Sec. 1112 of Public Law 104–66 (109 Stat. 707) repealed secs. 489A—Reporting Requirements Applicable After September 30, 1995—and 490A—Annual Certification Procedures After September 30, 1995. That section also amended the section catchlines of secs. 489 and 490, striking out "FOR FISCAL YEAR 1995" in each case. Sec. 489A was originally added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917), the heading originally read "Reporting Requirements Applicable After September 30, 1994.". Sec. 101(f)(2) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "1994" and inserted in lieu thereof "1995".

[579] 22 U.S.C. 2291j. Added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917), the heading originally read "**ANNUAL CERTIFICATION PROCEDURES FOR FISCAL YEARS 1993 AND 1994.**". Sec. 101(g)(1)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "**FOR FISCAL YEARS**

1993 AND 1994", and inserted in lieu thereof "**FOR FISCAL YEAR 1995**". Sec. 1112(b) of Public Law 104–66 (109 Stat. 707) struck out "**FOR FISCAL YEAR 1995**".

Sec. 1112(d)(2) of Public Law 104–66 (104 Stat. 707) struck out subsec. (i) to this section. Previously amended and restated by sec. 101(g)(1)(H) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693), subsec. (i) most recently read as follows:

"(i) EFFECTIVE DATES OF SECTIONS.—This section applies only during fiscal year 1995. Section 490A does not apply during that fiscal year.".

Sec. 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1424; 22 U.S.C. 2291j–1), provided the following:

"**SEC. 706. INTERNATIONAL DRUG CONTROL CERTIFICATION PROCEDURES.**

"During any fiscal year, funds that would otherwise be withheld from obligation or expenditure under section 490 of the Foreign Assistance Act of 1961 may be obligated or expended beginning October 1 of such fiscal year provided that:

"(1) REPORT.—Not later than September 15 of the previous fiscal year the President has submitted to the appropriate congressional committees a report identifying each country determined by the President to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

"(2) DESIGNATION AND JUSTIFICATION.—In each report under paragraph (1), the President shall also—

"(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

"(i) to adhere to its obligations under international counternarcotics agreements; and

"(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961; and

"(B) include a justification for each country so designated.

"(3) LIMITATION ON ASSISTANCE FOR DESIGNATED COUNTRIES.—In the case of a country identified in a report under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided to such country in the subsequent fiscal year only if the President determines and reports to the appropriate congressional committees that—

"(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

"(B) subsequent to the designation being made under paragraph (2)(A), the country has made substantial efforts—

"(i) to adhere to its obligations under international counternarcotics agreements; and

"(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961.

"(4) INTERNATIONAL COUNTERNARCOTICS AGREEMENT DEFINED.—In this section, the term "international counternarcotics agreement" means—

"(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

"(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

"(i) the production, distribution, and interdiction of illicit drugs;

"(ii) demand reduction;

"(iii) the activities of criminal organizations;

"(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence);

"(v) the extradition of nationals and individuals involved in drug-related criminal activity;

"(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity;

"(vii) border security;

"(viii) money laundering;

"(ix) illicit firearms trafficking;

"(x) corruption;

"(xi) control of precursor chemicals;

"(xii) asset forfeiture; and

"(xiii) related training and technical assistance,

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

"(5) APPLICATION.—(A) Section 490 (a) through (h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(a)-(h)) shall not apply during any fiscal year with respect to any country identified in the report required by paragraph (1) of this section.

"(B) Notwithstanding paragraphs (1) through (5)(A) of this section, the President may apply the procedures set forth in section 490 (a) through (h) of the Foreign Assistance Act of 1961 during any fiscal year with respect to any country determined to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

"(6) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or modifies the requirement in section 489(a) of the Foreign Assistance Act of 1961 (with respect to the Inter-

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national Narcotics Control Strategy Report) for the transmittal of a report not later than March 1, each fiscal year under that section.

"(7) TRANSITION RULE.—For funds obligated or expended under this section in fiscal year 2003, the date for submission of the report required by paragraph (1) of this section shall be at least 15 days before funds are obligated or expended.

"(8) EFFECTIVE DATE.—This section shall take effect upon the date of enactment of this Act into law and shall remain in effect thereafter unless Congress enacts subsequent legislation repealing such section.".

Pursuant to sec. 706, the President submitted the following determination on September 15, 2004 (Presidential Determination No. 2004–47; 69 F.R. 57809):

"Pursuant to section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), I hereby identify the following countries as major drug-transit or major illicit drug producing countries: Afghanistan, The Bahamas, Bolivia, Brazil, Burma, China, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Venezuela, and Vietnam.

"The Majors List applies by its terms to 'countries'. The United States Government interprets the term broadly to include entities that exercise autonomy over actions or omissions that could lead to a decision to place them on the list and, subsequently, to determine their eligibility for certification. A country's presence on the Majors List is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug-transit or drug-producing country set forth in section 481(e)(5) of the Foreign Assistance Act of 1961, as amended (FAA), one of the reasons that major drug-transit or illicit drug producing countries are placed on the list is the combination of geographical, commercial, and economic factors that allow drugs to transit or be produced despite the concerned government's most assiduous enforcement measures.

Pursuant to section 706(2)(A) of the FRAA, I hereby designate Burma as a country that has failed demonstrably during the previous 12 months to adhere to its obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Attached to this report is a justification (statement of explanation) for the determination on Burma, as required by section 706(2)(B).

"I have removed Thailand from the list of major drug-transit or major illicit drug producing countries. Thailand's opium poppy cultivation is well below the levels specified in the FRAA; no heroin processing laboratories have been found in Thailand for several years, and Thailand is no longer a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; nor is it a country through which such drugs or substances are transported.

"In contrast to the Government of Haiti's dismal performance last year under the Aristide regime, the new Interim Government of Haiti (IGOH), headed by Prime minister Latortue, has taken substantive—if limited—counter-narcotics actions in the few months it has been in office. Nevertheless, we remain deeply concerned about the ability of Haitian law enforcement to reorganize and restructure sufficiently to carry out sustained counternarcotics efforts.

"The decreased use of MDMA (Ecstasy) among young people in the United States is a hopeful sigh, but we continue to place priority on stopping the threat of club drugs, including MDMA, of which the The Netherlands continues to be the dominant source country. The Government of The Netherlands is an enthusiastic and capable partner, and we commend its efforts. We continue to be concerned, however, by obstacles to mutual legal assistance and extradition from The Netherlands. There is a need to work more deliberately to disrupt the criminal organizations responsible for the production and trafficking of synthetic drugs. Specifically, we urge enhanced use of financial investigation, including full exploitation of anti-money laundering statutes and financial investigators to identify and dismantle trafficking organizations, and to seize and forfeit the assets acquired from the drug trade.

"While the vast majority of illicit drugs entering the United States continue to come from South America and Mexico, we remain concerned about the substantial flow of illicit drugs from Canada. I commend Canada for its successful efforts to curb the diversion of precursor chemicals used in methamphetamine production. We are now working intensively with Canadian authorities to address the increase in the smuggling of Canadian-produced marijuana into the United States; however we are concerned the lack of significant judicial sanctions against marijuana industry by organized criminal groups. Canada has expressed concern to us about the flow of cocaine and other illicit substances through the United States into Canada. United States and Canadian law enforcement personnel have collaborated on a number of investigations that have led to the dismantling of several criminal organizations. The two governments will continue to work closely in the year ahead to confront these shared threats.

"Nigeria put measures in place to increase the effectiveness of the National Drug Law Enforcement Agency, and also arrested a trafficker wanted by the United States, which met the agreed-upon interdiction targets. However, Nigeria must take significant and decisive action to investigate and prosecute political corruption, which continues to undermine the transparency of its government. President Obasanjo took steps to address corruption at the G–8 meetings in Sea Island, Georgia, by entering into a Compact to Promote Transparency and Combat Corruption. Positive transparent measures will in turn benefit Nigeria's anti-narcotics efforts, the rule of law, and all democratic institutions.

"Despite good faith efforts on the part of the central Afghanistan government, we are concerned about increased opium crop production in the provinces.

"We are deeply concerned about heroin and methamphetamine linked to North Korea being trafficked to East Asian countries. We consider it highly likely that state agents and enterprises in North Korea are involved in the narcotics trade. While we know that some opium poppy is cultivated in North Korea, reliable information confirming the extent of opium production is cur-

(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country[580] shall be withheld from obligation and expenditure, except as provided in subsection (b). This paragraph shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after March 1[581] of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country (as determined under subsection (h)), except as provided in subsection (b). For purposes of this paragraph, the term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

(b) CERTIFICATION PROCEDURES.—

(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489(a), that—

(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention

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rently lacking. There are also clear indications that North Koreans traffic in, and probably manufacture, methamphetamine. In recent years, authorities in the region have routinely seized shipments of methamphetamine and/or heroin that had been transferred to traffickers' ships from North Korean vessels. The April 2003 seizure of 125 kilograms of heroin smuggled to Australia aboard the North Korean-owned vessel 'Pong Su' is the latest and largest seizure of heroin pointing to North Korean complicity in the drug trade. Although there is no evidence that narcotics originating in or transiting North Korea reach the United States, we are working closely with our partners in the region to stop North Korean involvement in illicit narcotics production and trafficking.

"We appreciate the efforts of China, Hong Kong, Taiwan, and others in the region to stop the diversion of pseudoephedrine and ephedrine used to manufacture methamphetamine. However, considering the growing methamphetamine problem in North America and Asia, additional collaborative efforts to control these precursor chemicals are necessary.".

Recent previous determinations: Presidential Determination No. 2003–38, September 15, 2003 (68 F.R. 54973); Presidential Determination No. 2003–14, January 30, 2003 (68 F.R. 5787).

[580] Sec. 101(g)(1)(B) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "(as determined under subsection (h))" after "major drug-transit country".

[581] Sec. 101(g)(1)(C) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "April 1" and inserted in lieu thereof "March 1".

Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

(3) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

(c) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit

cultivation and production into the illicit markets and to prevent illicit cultivation and production.[582]

(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 30[583] calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 489(a), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

(f) RECERTIFICATION.—Subsection (e) shall apply to a country described in that subsection until—

(1) the President, at the time of submission of the report required by section 489(a), makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

(2) the President, at any other time, makes the certification described in subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

(A) the President also certifies that—

(i) that country has undergone a fundamental change in government, or

(ii) there has been a fundamental change in the conditions that were the reason—

(I) why the President had not made a certification with respect to that country under subsection (b)(1)(A), or

(II) if he had made such a certification and the Congress enacted a joint resolution disapproving the determination contained in the certification, why the Congress enacted that joint resolution; or

[582] Sec. 101(g)(1)(D) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "that such country has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.", and inserted in lieu thereof "that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production.".

[583] Sec. 101(g)(1)(E) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "45" and inserted in lieu thereof "30".

(B) the Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1)(B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

(g)[584] SENATE PROCEDURES.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(h)[585] DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Not later than November 1[585] of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act.

SEC. 490A.[586] * * * [Repealed—1995]

Chapter 9—International Disaster Assistance[587]

Sec. 491.[588] **Policy and General Authority.**—(a) The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

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[584] Subsec. (g) formerly read "CONGRESSIONAL REVIEW PROCEDURES.—(1) SENATE.—". Sec. 101(g)(1)(F) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck this out, inserted "SENATE PROCEDURES.—", and struck out para. (2), which had read as follows:

"(2) HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

[585] Sec. 101(g)(1)(G) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "FOR FISCAL YEARS 1993 AND 1994" in the subsec. catchline, and struck out "January 1" in lieu of "November 1" in the text.

[586] Formerly at 22 U.S.C. 2291k. Sec. 1112 of Public Law 104–66 (109 Stat. 707) repealed secs. 489A—Reporting Requirements Applicable After September 30, 1995—and 490A—Annual Certification Procedures After September 30, 1995. That section also amended the section catchlines of secs. 489 and 490, striking out "FOR FISCAL YEAR 1995" in each case. Originally added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917).

Sec. 101(g)(2)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "1994" from the section catchline, and inserted in lieu thereof "1995".

[587] Sec. 101(1) of Public Law 94–161 (89 Stat. 849) inserted "**International Disaster Assistance**" in lieu of "**Refugee Relief Assistance**".

See also Executive Order 13151 (April 27, 2000; 65 F.R. 25617), establishing an Interagency Coordinating Committee to provide leadership and oversight through a Global Disaster Information Network "to use information technology more effectively to reduce loss of life and property from natural and man-made disasters".

[588] 22 U.S.C. 2292. Added by sec. 101(3) of Public Law 94–161 (80 Stat. 849). An earlier sec. 491, which was added by sec. 109 of the FA Act of 1971, and repealed by sec. 101(2) of Public Law 94–161 (89 Stat. 849), read as follows:

"**Sec. 491. Refugee Relief Assistance**.—There is authorized to be appropriated to the President for the fiscal year 1972, in addition to funds otherwise available for such purposes, not to exceed $250,000,000, to remain available until expended, for use by the President in providing assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan. Such assistance shall be distributed, to the maximum extent practicable, under the auspices of and by international institutions and relief agencies or United States voluntary agencies.".

(b) Subject to the limitations[589] in section 492, and notwithstanding any other provision of this or any other Act, the President is authorized to furnish assistance to any foreign country, international organization, or private voluntary organization,[590] on such terms and conditions as he may determine, for international disaster relief and rehabilitation, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad.

(c) In carrying out the provisions of this section the President shall insure that the assistance provided by the United States shall, to the greatest extent possible, reach those most in need of relief and rehabilitation as a result of natural and manmade disasters.

Sec. 492.[591] **Authorization.**—(a)[592] There are authorized to be appropriated to the President to carry out section 491, $25,000,000 for the fiscal year 1986 and $25,000,000 for the fiscal year 1987.[593]

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[589] Sec. 404(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3150) struck out "on appropriations" at this point.

[590] Sec. 118(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953) struck out "or international organization" and inserted in lieu thereof "international organization, or private voluntary organization,".

[591] 22 U.S.C. 2292a. Added by sec. 101(3) of Public Law 94–161 (89 Stat. 849).

[592] Sec. 404(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3150)inserted subsec. designation "(a)" and subsec. (b).

[593] The authorization figures for fiscal years 1986 and 1987 were inserted by sec. 404 of the International Security and Development Cooperation Act of 1985. (Public Law 99–83; 99 Stat. 219). Authorizations under Sec. 492 in recent years included the following: fiscal year 1979—$25,000,000; fiscal year 1980—$21,800,000; fiscal year 1981—$25,000,000; fiscal year 1982—$27,000,000; fiscal year 1983—$27,000,000; fiscal year 1984—$25,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and title II of that Act (118 Stat. 2809) provided the following:

"INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

"For necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 for international disaster relief, rehabilitation, and reconstruction assistance, $335,500,000, to remain available until expended.

"In addition, for necessary expenses for assistance for famine prevention and relief, including for mitigation of the effects of famine, $34,500,000, to remain available until expended: *Provided*, That such funds shall be made available utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, and shall be in addition to amounts otherwise available for such purposes: *Provided further*, That funds appropriated by this paragraph shall be available for obligation subject to prior consultation with the Committees on Appropriations.

"TRANSITION INITIATIVES

"For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $49,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided,* That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further,* That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance: *Provided further,* That if the President determines that is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to $15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds appropriated under this heading: *Provided further,* That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.".

Title II, chapter 2 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1225), provided the following:

Continued

Amounts appropriated under this section are authorized to remain available until expended.[594]

(b)[592] In addition to amounts otherwise available to carry out this chapter, up to $50,000,000 in any fiscal year may be obligated against appropriations under this part (other than this chapter) for use in providing assistance in accordance with the authorities and general policies of section 491. Amounts subsequently appropriated under this chapter with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this subsection with respect to that disaster.

Sec. 493.[595] **Disaster Assistance—Coordination.**—The President is authorized to appoint a Special Coordinator for International Disaster Assistance whose responsibility shall be to promote maximum effectiveness and coordination in responses to foreign disasters by United States agencies and between the United States and other donors. Included among the Special Coordinator's responsibilities shall be the formulation and updating of contingency plans for providing disaster relief.

"OTHER BILATERAL ECONOMIC ASSISTANCE

"FUNDS APPROPRIATED TO THE PRESIDENT

"IRAQ RELIEF AND RECONSTRUCTION FUND

"(INCLUDING TRANSFER OF FUNDS)

"For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961, for security, relief, rehabilitation and reconstruction in Iraq, $18,649,000,000, to remain available until September 30, 2006, to be allocated as follows: * * * *Provided further,* That of the funds appropriated under this heading, $100,000,000 shall be transferred to and consolidated with funds appropriated by this Act for 'Economic Support Fund' for assistance for Jordan, $100,000,000 of such funds shall be transferred to and consolidated with funds appropriated by this Act for 'International Disaster and Famine Assistance' for assistance for Liberia, and $10,000,000 of such funds shall be transferred to and consolidated with funds appropriated by this Act for 'International Disaster and Famine Assistance' for assistance for Sudan.".

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 573, 578), provided the following:

"INTERNATIONAL DISASTER ASSISTANCE

"For an additional amount for 'International Disaster Assistance', $143,800,000, to remain available until expended: *Provided,* That amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961 for the purpose of addressing relief and rehabilitation needs in Iraq, prior to enactment of this Act, shall be in addition to the amount that may be obligated in any fiscal year under that section: *Provided further,* That during the remainder of fiscal year 2003 the authority referenced in the preceding proviso may not be utilized unless written notice has been provided to the Committees on Appropriations not less than 5 days prior to the exercise of such authority.

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"GENERAL PROVISIONS, THIS CHAPTER

"SEC. 1501. Any appropriation made available in this chapter under the headings 'International Disaster Assistance', 'United States Emergency Refugee and Migration Assistance Fund', 'Nonproliferation, Anti-Terrorism, Demining and Related Programs', 'Peacekeeping Operations', or 'Iraq Relief and Reconstruction Fund' may be transferred between such appropriations for use for any of the purposes for which the funds in such receiving account may be used: *Provided,* That the total amount transferred from funds appropriated under these headings shall not exceed $100,000,000: *Provided further,* That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority contained in this section: *Provided further,* That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 5 days in advance of the obligations of funds.".

[594] A sentence that called for a quarterly report on the programming and obligation of funds under sec. 492 and had previously appeared at this point, was struck by sec. 118(b)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953).

[595] 22 U.S.C. 2292b. Added by sec. 101(3) of Public Law 94–161 (89 Stat. 849).

Sec. 494.[596] **Disaster Relief Assistance.**—There is authorized to be appropriated, in addition to other sums available for such purposes, $65,000,000 for use by the President for disaster relief and emergency recovery needs in Pakistan, and Nicaragua, under such terms and conditions as he may determine, such sums to remain available until expended.

Sec. 494A.[597] **Famine and Disaster Relief to Drought-Stricken African Nations.** * * * [Repealed—1978]

Sec. 494B.[598] **African Development Program.** * * * [Redesignated—1977]

Sec. 495.[599] **Cyprus Relief and Rehabilitation.**—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Cyprus. There is authorized to be appropriated for the purposes of this section, in addition to amounts otherwise available for such purposes, $40,000,000.[600] Such amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policy and general authority contained in section 491.

Sec. 495A.[601] **Guatemala Relief and Rehabilitation.** * * * [Repealed—1978]

Sec. 495B.[602] **Italy Relief and Rehabilitation.**—(a) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated $25,000,000 for the fiscal year 1976 to furnish assistance under this chapter for the relief and rehabilitation of the people who have been victimized by the recent earthquake in Italy. Amounts appropriated under this section are authorized to remain available until expended.

(b)[603] There are authorized to be appropriated to the President $30,000,000 for the fiscal year 1978 for relief, rehabilitation, and reconstruction assistance, in accordance with the provisions of section 491 and on such terms and conditions as he may determine, for the people who have been victimized by the recent earthquakes

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[596] 22 U.S.C. 2292c. Former sec. 452, which was added by sec. 2(2) of the Foreign Disaster Assistance Act of 1974 (Public Law 93–333), was redesignated as sec. 494 by sec. 101(4) of Public Law 94–161 (89 Stat. 849).

[597] Sec. 494A, originally added as sec. 639A by the FA Act of 1973 and subsequently redesignated as sec. 494A by Public Law 94–161 (89 Stat. 849), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[598] Sec. 494B, originally added as sec. 639B of this Act by the FA Act of 1973 and later redesignated as sec. 494B in 1975, was subsequently redesignated as sec. 120 (Sahel Development Program—Planning) by sec. 115 of Public Law 95–88 (91 Stat. 539).

[599] 22 U.S.C. 2292f. Added by sec. 101(8) of Public Law 94–161 (89 Stat. 849).

[600] Sec. 402 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 757) struck out "$30,000,000" and inserted in lieu thereof "$40,000,000".

The FA Appropriations Act, 1976, provided the following: "Cyprus relief and rehabilitation: For necessary expenses to carry out the provisions of section 495, $25,000,000.".

For "Cyprus relief and rehabilitation" for the period July 1, 1976, through September 30, 1976, $5,000,000.

[601] Sec. 495A, as added by Public Law 94–276 (90 Stat. 397), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[602] 22 U.S.C. 2292h. Added by sec. 415 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 761).

[603] Sec. 120 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541) redesignated subsec. (b) as subsec. (c) and added this new subsec. (b).

The FA Appropriations Act, 1978, provided the following:

"Italy relief and rehabilitation assistance: For necessary expenses to carry out the provisions of section 495B, $25,000,000.".

in Italy. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Italy may be charged to the appropriations authorized under this section.

(d)[604] (1) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from the earthquakes in southern Italy in late 1980. Accordingly, there are authorized to be appropriated to the President, in addition to amounts otherwise available for such purpose, $50,000,000 for the fiscal year 1981 for relief, rehabilitation, and reconstruction assistance for the victims of those earthquakes. Such assistance shall be provided in accordance with the policies and general authorities of section 491 and on such terms and conditions as the President may determine.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(3) Obligations incurred against other appropriations or accounts for the purpose of providing relief, rehabilitation, and reconstruction assistance for the victims of the late 1980 earthquakes in southern Italy may be charged to appropriations, enacted after those obligations were incurred, for assistance for that purpose under this chapter.

Sec. 495C.[605] **Lebanon Relief and Rehabilitation.**—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from the civil strife in Lebanon and to restore the confidence of the people of Lebanon, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Lebanon.

(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $20,000,000, which amount is authorized to remain available until expended.[606]

(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

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[604] Public Law 96–525 (94 Stat. 3043) added subsec. (d).

The full $50,000,000 authorized in this subsection for Italian earthquake disaster assistance was appropriated by Public Law 96–536, the continuing resolution providing foreign aid funds for fiscal year 1981. This $50,000,000 was designated as an earmarking out of the total of $73,000,000 appropriated in fiscal year 1981 for international disaster assistance. The FA Appropriations, 1982, also provided that of the $27,000,000 made available under sec. 491, "not less than $10,000,000 shall be used for earthquake relief and reconstruction in southern Italy.". The FA Appropriations Act, 1984 (sec. 101(b)(1) of the Further Continuing Appropriations Act, 1984) further provided that out of the $25,000,000 made available under sec. 491, "$10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 103 through 106 of such Act.".

[605] 22 U.S.C. 2292i. Added by sec. 416 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 762).

[606] The FA Appropriations Act, 1977, provided the following: "For necessary expenses to carry out the provisions of section 495C, $20,000,000.".

(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

(e)[607] * * * [Repealed—1978]

Sec. 495D.[608] **Romanian Relief and Rehabilitation.**—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from recent earthquakes in Romania, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other earthquake victims in Romania.

(b) There are hereby authorized to be appropriated to the President for the fiscal year 1977, notwithstanding any other provisions of this Act, in addition to amounts otherwise available for such purposes, not to exceed $20,000,000, which amount is authorized to remain available until expended.[609]

(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Romania may be charged to the appropriations authorized under this section.

(e)[610] * * * [Repealed—1981]

(f) Nothing in this section shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki) Final Act and the United Nations Declaration on Human Rights, or as constituting a precedent for or commitment to provide United States development assistance to Romania, and the Romanian Government shall be so notified when aid is furnished under this section.

Sec. 495E.[611] **Turkey Relief, Rehabilitation, and Reconstruction.**—The President is requested to use up to $10,000,000 of the funds made available under section 492 of this Act to provide relief, rehabilitation, and reconstruction assistance to the victims of the recent earthquakes in Turkey.

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[607] Subsec. (e), which called for a quarterly report on programing and obligation of funds under sec. 495C, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[608] 22 U.S.C. 2292j. Added by Public Law 95–21 (91 Stat. 48).

[609] The FA Appropriations Act, 1978, provided the following:

"SEC. 601. For expenses necessary to carry out the provisions of section 495D of the Foreign Assistance Act of 1961, as amended, $13,000,000 for the fiscal year 1977 for Romanian relief and rehabilitation assistance, to remain available until expended.".

[610] Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed subsec. (e), which had required a quarterly report from the President on the programing and obligation of funds under this section.

[611] 22 U.S.C. 2292k. Originally added as sec. 495D by sec. 121 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541). Redesignated as sec. 495E by sec. 119(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953).

Sec. 495F.[612] **African Rehabilitation and Resettlement.**—(a) The Congress recognizes that United States assistance is necessary to help developing countries in Africa meet the longer term rehabilitation and resettlement needs of displaced persons and other innocent victims of civil strife. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the longer term rehabilitation and resettlement needs of such victims. Funds for this purpose should be used to assist African governments in providing semipermanent housing, potable water supply systems, and sanitary facilities which are generally not provided by existing refugee relief agencies.

(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $15,000,000 for the fiscal year 1981.[613] Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.

Sec. 495G.[614] **Special Caribbean Hurricane Relief Assistance.**—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief and reconstruction in the Caribbean to assist in alleviating the human suffering caused by recent hurricanes in that region. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $25,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.[615] Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.

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[612] 22 U.S.C. 2292*l*. Sec. 495F, as added by sec. 119(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953), was amended and restated by sec. 405 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3150). It formerly read as follows:

"SEC. 495F. ASSISTANCE TO AFRICAN REFUGEES.—The President is authorized to furnish assistance, on such terms and conditions as he may determine, exclusively for the relief and rehabilitation of African refugees and other needy people located in Africa. There is authorized to be appropriated for the fiscal year 1980 for purposes of this section in addition to amounts otherwise available for such purposes, $14,920,000, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.".

[613] Authorizations under sec. 495F during recent years included the following: fiscal year 1979—$15,000,000; fiscal year 1980—$14,920,000.

During fiscal year 1981, foreign assistance programs operated pursuant to a series of continuing resolutions. The last continuing resolution in the series (H.J. Res. 644, Public Law 96–536) provided (with several exceptions) such amounts as may be necessary for continuing projects or activities "which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96–787), and in accordance with associated agreements stated in the Joint Explanatory Statements of the Committee of Conference, accompanying H.R. 4473 * * *" (this conference report was never approved by Congress). H.R. 4473 provided the following: "Assistance to African refugees: For necessary expenses to carry out the provisions of section 495F, $14,250,000: *Provided,* That these funds shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure.".

[614] 22 U.S.C. 2292m. Added by Public Law 96–109 (93 Stat. 842). Such Act also stated that priority should be given to furnishing agricultural commodities under Public Law 480 to this hurricane affected area.

[615] The Supplemental Appropriation and Rescission Bill, 1980 (Public Law 96–304; 94 Stat. 873), contained $10 million intended for special Caribbean hurricane disaster relief.

Sec. 495H.[616] **Cambodian Disaster Relief Assistance.**—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from famine and disease in Cambodia. Accordingly, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief to alleviate the suffering of the victims of famine and disease in Cambodia. Assistance provided under this section shall be for humanitarian purposes and limited to the civilian population, with emphasis on providing food, medicine and medical care, clothing, temporary shelter, transportation for emergency supplies and personnel, and similar assistance to save human lives.

(b) Assistance provided under this section or any other provision of law to alleviate the human suffering caused by famine and disease in Cambodia shall be provided, to the maximum extent practicable, through international agencies and private voluntary organizations such as (among others) the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, Catholic Relief Services, Oxfam, and the International Rescue Committee.

(c)(1) In providing assistance under this section, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine and disease for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the assistance is being distributed within Cambodia.

(2)[617] * * * [Repealed—1981]

(d)(1) In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $30,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.[618]

(2) Obligations incurred, prior to the enactment of appropriations to carry out this section, against other appropriations or accounts for the purpose of alleviating the human suffering caused by famine and disease in Cambodia may be charged to the appropriations authorized by paragraph (1) of this subsection.

(3) The President may exercise the authority of section 610(a) of this Act (without regard to the 20 percent limitation contained in that section on increases in accounts) in order to transfer, for use in carrying out this section, up to $30,000,000 of the funds made available for the fiscal year 1980 to carry out other provisions of this Act.

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[616] 22 U.S.C. 2292n. Added by sec. 2 of Public Law 96–110 (93 Stat. 843). Sec. 4 of such Act also required a report from the President by Jan. 12, 1980, regarding total costs of the U.S. Government and State and local governments of domestic and foreign assistance to refugees during fiscal years 1980 and 1981. Subsequently, sec. 1011(a)(4) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1061) repealed sec. 4 of Public Law 96–110.

[617] Para. (2), which had required a report by the President that adequate procedures have been established ensure that the assistance provided under this section is reaching the innocent victims of famine and disease for whom it is intended, was repealed by sec. 734(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Such report was submitted on February 11, 1980.

[618] The Supplemental Appropriation and Rescission Bill, 1980 (Public Law 96–304; 94 Stat. 873), included $30 million intended for Cambodian Disaster Relief Assistance.

(4) Priority shall be given in allocating assistance under the Agricultural Trade Development and Assistance Act of 1954 to furnishing agricultural commodities for use in carrying out this section.

(e) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.

Sec. 495I.[619] **Assistance for Displaced Persons in Central America.**—(a)(1) The Congress recognizes that prompt United States assistance is necessary to help meet the basic human needs of persons displaced by strife in El Salvador. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to help alleviate the suffering of these displaced persons. Assistance provided under this section shall be for humanitarian purposes, with emphasis on the provision of food, medicine, medical care, and shelter and, where possible, implementation of other relief and rehabilitation activities. The Congress encourages the use, where appropriate of the services of private and voluntary organizations and international relief agencies in the provision of assistance under this section.

(2) The Congress understands that the country of Belize has expressed interest and willingness in the resettlement in its territory of Haitian nationals who desire to settle in Belize. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to assist the Government of Belize in the resettlement of Haitian nationals in the national territory of Belize.

(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $5,000,000 for the fiscal year 1982 and $5,000,000 for the fiscal year 1983.[620] Amounts appropriated under this section are authorized to remain available until expended.

(c) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.

Sec. 495J.[621] **Lebanon Emergency Relief, Rehabilitation, and Reconstruction Assistance.**—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering and resettlement needs of the innocent victims of

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[619] 22 U.S.C. 2292o. Added by sec. 504 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1540).

[620] The FA Appropriations Act, 1982, provided that out of the $473 million in funds for migration and refugee assistance during fiscal year 1982, "$5,000,000 of this amount shall be used for assistance for persons displaced by strife in El Salvador as provided in H.R. 3566 as reported May 19, 1981.". Under the provisions of the Further Continuing Appropriations Act, 1983 (Public Law 97–377), which continued funding for foreign assistance at the rates and under the terms and conditions provided in the FA Appropriations Act, 1982, with exceptions, no prior year earmarking of funds under the "Migration and Refugee Assistance" account would apply.

[621] 22 U.S.C. 2292p. Added by Public Law 97–208 (96 Stat. 138). The Supplemental Appropriations Act, 1982 (Public Law 97–257; 96 Stat. 818 at 833), included the following:

"LEBANON EMERGENCY RELIEF

"(TRANSFER OF FUNDS)

"For expenses necessary to carry out the provisions of section 495J of the Foreign Assistance Act of 1961, $50,000,000 which shall be derived by transfer from the Department of State, 'Migration and Refugee Assistance', to remain available until expended: *Provided,* That of such amount not less than $10,000,000 shall be available only for the America University of Beirut.".

recent strife in Lebanon. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief, rehabilitation, and reconstruction needs of such victims. Assistance provided under this section shall emphasize the provision of food, medicine, clothing, shelter, and water supply systems, and similar efforts to ameliorate the suffering of the people in Lebanon.

(b) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $50,000,000 to carry out this section. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491.

Sec. 495K.[622] **African Famine Assistance.**—

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance for famine relief, rehabilitation, and recovery in Africa. Assistance under this section shall be provided for humanitarian purposes and shall be provided on a grant basis. Such assistance shall include—

(1) relief, rehabilitation, and recovery projects to benefit the poorest people, including the furnishing of seeds for planting, fertilizer, pesticides, farm implements, farm animals and vaccine and veterinary services to protect livestock upon which people depend, blankets, clothing, and shelter, disease prevention and health care projects, water projects (including water purification and well-drilling), small-scale agricultural projects, and food protection and preservation projects; and

(2) projects to meet emergency health needs, including vaccinations.

(b) USES OF FUNDS.—

(1) PRIVATE AND VOLUNTARY ORGANIZATIONS AND INTERNATIONAL ORGANIZATIONS.—Funds authorized to be appropriated by this section shall be used primarily for grants to private and voluntary organizations and international organizations.

(2) EMERGENCY HEALTH PROJECTS.—A significant portion of the funds authorized to be appropriated by this section shall be used for emergency health projects pursuant to subsection (a)(2).

(3) MANAGEMENT SUPPORT ACTIVITIES.—Of the amount authorized to be appropriated by this section, $2,500,000 shall be transferred to the "Operating Expenses of the Agency for International Development" account. These funds shall be used for

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[622] 22 U.S.C. 2292q. Added by sec. 2 of the African Relief and Recovery Act of 1985 (Public Law 99–8; 99 Stat. 21).

The Urgent Supplemental Appropriations, 1985—African Famine Relief (Public Law 99–10; 99 Stat. 27), provided the following:

"For an additional amount for international disaster assistance, $137,500,000 for emergency relief and recovery assistance for Africa, to be available only for such purpose and to remain available until March 31, 1986 *Provided,* That the Committee on Appropriations of each House of Congress is notified five days in advance of the obligation of any funds made available under this paragraph, unless the emergency is life threatening and immediate action is necessary.

"OPERATING EXPENSES

"Of the amount appropriated in this Act for 'International disaster' assistance, $2,500,000 shall be transferred to 'Operating expenses of the Agency for International Development' to be used for monitoring food and disaster assistance in Africa.".

management support activities associated with the planning, monitoring, and supervision of emergency food and disaster assistance provided in those countries in Africa described in section 5(a) of the African Famine Relief and Recovery Act of 1985.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts otherwise available for such purpose, there are authorized to be appropriated $137,500,000 for the fiscal year 1985 for use in providing assistance under this section.

(d) POLICIES AND AUTHORITIES TO BE APPLIED.—Assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491.

Chapter 10—Development Fund for Africa [623]

Sec. 496.[624] **Long-Term Development Assistance for Sub-Saharan Africa.**—(a) FINDINGS.—The Congress finds that—

(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies

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[623] Sec. 562(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added chapter 10, secs. 496–497. Previously, chapter 10, sec. 496, relating to assistance to Portugal and Portuguese colonies in Africa gaining independence, as added by sec. 53 of the Foreign Assistance Act of 1974, was repealed by sec. 1211(a)(4) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279).

Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2030), further stated:

"(b) EVALUATIONS.—It is the sense of the Congress that there should be periodic evaluations of the progress of the Agency for International Development in achieving the purpose specified in section 496(c) of the Foreign Assistance Act of 1961.

"(c) REPORTS TO CONGRESS.—As part of the annual Congressional Presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961 in three countries in sub-Saharan Africa which represent differing economic situations and levels of progress. The description shall include—

"(1) the nature and extent of consultation to ensure local perspectives, as described in subsections (e)(1) and (f) of section 496;

"(2) the degree of involvement of local people in the implementation of projects having a local focus;

"(3) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

"(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

"(5) a description of the assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.".

See related legislation in "Assistance to Africa," in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[624] 22 U.S.C. 2293.

contained in this section, for long-term development in sub-Saharan Africa.

(c) PURPOSE OF ASSISTANCE.—

(1) PURPOSE.—The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is equitable, participatory, environmentally sustainable, and self-reliant.

(2) USE OF ASSISTANCE TO ENCOURAGE PRIVATE SECTOR DEVELOPMENT.—Assistance under this section should, in a manner consistent with paragraph (1), be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

(1) any reference in any law to chapter 1 of this part (including references to sections 103 through 106) shall be deemed to include a reference to this section; and

(2) assistance under this section shall be provided consistent with the policies contained in section 102.

(e) PRIVATE AND VOLUNTARY ORGANIZATIONS.—

(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The Agency for International Development shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the Agency for International Development should consult closely with African, United States, and other private and voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

(2) DEFINITION OF PRIVATE AND VOLUNTARY ORGANIZATIONS.—For purposes of this section, the term "private and voluntary organization" includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, nonprofit development research institutions, and indigenous local organizations, which are private and nonprofit.

(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which as a local focus.

(g) PARTICIPATION OF AFRICAN WOMEN.—The Agency for International Development shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decisionmaking) and integration of African women in each of the critical sectors described in subsection (i).

(h) TYPES OF ASSISTANCE.—

(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize pri-

marily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

(2) REFORM OF ECONOMIC POLICIES.—

(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of sectoral economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of economic policies to support the critical sectoral priorities described in subsection (i).

(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers, the urban poor, and children including displaced children) and long-term environmental interests from possible negative consequences of the reforms.

(3)[625] DEMOCRATIZATION AND CONFLICT RESOLUTION CAPABILITIES.—Assistance under this section may also include program assistance—

(A) to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and

(B) to strengthen conflict resolution capabilities of governmental, intergovernmental, and nongovernmental entities in sub-Saharan Africa.

(4)[625] OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1), (2), and (3).[626] Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of sections 103 through 106 of this Act.

(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base primarily in ways

[625] Sec. 127(c)(1) of the African Growth and Opportunity Act (title I of Public Law 106–200; 114 Stat. 273) redesignated para. (3) as para. (4) and added a new para. (3).

[626] Sec. 127(c)(1) of the African Growth and Opportunity Act (title I of Public Law 106–200; 114 Stat. 273) struck out "paragraphs (1) and (2)" and inserted in lieu thereof "paragraphs (1), (2), and (3)".

which increase agricultural production, through the following:

(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations.

(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

(2) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children (including displaced children) through the establishment of primary health care systems that give priority to preventive health and that will be ultimately self-sustaining. In addition, providing training and training facilities, in sub-Saharan Africa, for doctors and other health care providers, notwithstanding any provision of law that restricts assistance to foreign countries.[627]

(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunities in micro- and small-scale labor-intensive enterprises.

(j) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The Agency for International Development should target the equivalent of 10 percent of the amount authorized to be appro-

[627] Sec. 111(b) of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 752) added this sentence.

priated for each fiscal year to carry out this chapter for each of the following:

(1) The activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

(2) The activities described in subsection (i)(2).

(3) The activities described in subsection (i)(3).

(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

(m) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

(n) RELATION TO OTHER AUTHORITIES.—

(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally funded programs which benefit sub-Saharan Africa shall continue to be funded under chapter 1 of part I of this Act.

(2) TRANSFER AUTHORITIES.—

(A) The transfer authority contained in section 109 of this Act shall not apply with respect to this section.

(B) The transfer authority contained in section 610(a) of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

(3) REPROGRAMMING NOTIFICATIONS.—Section 634A of this Act does not apply with respect to funds made available to carry out this section.

(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 604(a) of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti/Apartheid[628] Act of 1986.

(o) SUPPORT FOR SADCC PROJECTS.—

(1) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in

[628] Should read "Anti-Apartheid".

paragraph (2), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the member states forming that regional institution.

(2) SECTORS.—The sectors with respect to which assistance may be provided under this subsection are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

(3) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and authorities contained in the preceding subsection of this section.

Sec. 497.[629] **Authorizations of Appropriations for the Development Fund for Africa.**—Funds appropriated to carry out this chapter are authorized to be made available until expended. It is the sense of the Congress that the authority of this subsection[630]

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[629] 22 U.S.C. 2294.

[630] Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and title II of that Act (118 Stat. 2809) provided the following:

"UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"(INCLUDING TRANSFER OF FUNDS)

"For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,550,000,000, to remain available until September 30, 2006: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $345,000,000 for child survival and maternal health; $30,000,000 for vulnerable children; $350,000,000 for HIV/AIDS including not less than $30,000,000 to support the development of microbicides as a means for combating HIV/AIDS; $200,000,000 for other infectious diseases; and $375,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: *Provided further,* That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the 'Global Fund'), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That of the funds appropriated under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, that were withheld from obligation to the Global Fund, not less than $87,800,000 shall be made available to the Global Fund, notwithstanding section 202(d)(4) of Public Law 108–25 which required such withholding from the Global Fund in fiscal year 2004: *Provided further,* That the funds made available in the previous proviso shall be subject to any withholding required by section 202(d)(4) of Public Law 108–25 for contributions made to the Global Fund in fiscal year 2005: *Provided*

Continued

further, That up to 5 percent of the aggregate amount of funds made available to the Global Fund in fiscal year 2005 may be made available to the United States Agency for International Development for technical assistance related to the activities of the Global Fund: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, not less than $27,000,000 should be made available for the International AIDS Vaccine Initiative: *Provided further,* That of the funds appropriated under this heading, $65,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the United States Agency for International Development' for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term 'motivate', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That to the maximum extent feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act or prior appropriations Acts that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States: *Provided further,* That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

"DEVELOPMENT ASSISTANCE

"For necessary expenses of the United States Agency for International Development to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,460,000,000, to remain available until September 30, 2006: *Provided*, That $194,000,000 should be allocated for trade capacity building: *Provided further*, That $300,000,000 should be allocated for basic education: *Provided further*, That of the funds appropriated under this heading and managed by the United States Agency for International Development Bureau of Democracy, Conflict, and Humanitarian Assistance, not less than $15,000,000 shall be made available only for programs to improve women's leadership capacity in recipient countries: *Provided further*, That such funds may not be made available for construction: *Provided further,* That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $25,000,000 should be made available for plant biotechnology research and development: *Provided further,* That not less than $2,300,000 should be made available for core support for the International Fertilizer Develop-

should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 496.

Chapter 11—Support for the Economic and Democratic Development of the Independent States of the Former Soviet Union [631]

SEC. 498.[632, 633] ASSISTANCE FOR THE INDEPENDENT STATES.

The President is authorized to provide assistance to the independent states of the former Soviet Union under this chapter for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—Meeting urgent humanitarian needs (including those arising from the health effects of exposure to radiation in the Chernobyl region), in particular—

(A) meeting needs for medicine, medical supplies and equipment, and food, including the nutritional needs of infants such as processed baby food; and

(B) continuing efforts to rebuild from the earthquake in Armenia.

(2)[634] DEMOCRACY AND RULE OF LAW.—Establishing a democratic and free society by fostering—

(A) political, social, and economic pluralism;

(B) respect for internationally recognized human rights and the rule of law;

(C) the development of institutions of democratic governance, including electoral and legislative processes;

(D) the institution and improvement of public administration at the national, intergovernmental, regional, and local level;

(E)[634] development and support of grass-roots and nongovernmental organizations promoting democracy, the rule

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ment Center: *Provided further,* That of the funds appropriated under this heading, not less than $20,000,000 should be made available for the American Schools and Hospitals Abroad program: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $37,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further*, That funds appropriated under this heading should be made available for programs in sub-Saharan Africa to address sexual and gender-based violence: *Provided further,* That of the funds appropriated under this heading, $2,000,000 should be made available to develop clean water treatment activities in developing countries: *Provided further,* That of the funds appropriated by this Act, $100,000,000 shall be made available for drinking water supply projects and related activities.".

Relating to family planning, see also the President's Memorandum of March 28, 2001, to the Administrator of the U.S. Agency for International Development, restoring the Mexico City Policy (66 F.R. 17303).

[631] Sec. 201 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3324) added chapter 11, secs. 498–498C.

[632] 22 U.S.C. 2295.

[633] Section 3(b) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the President in sec. 498. This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act. Sec. 3 of that Executive Order ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(4) (division G of Public Law 105–277; 112 Stat. 2681).

[634] Sec. 4(a)(1)(A) of the Russian Democracy Act of 2002 (Public Law 107–246; 116 Stat. 1514) struck out "DEMOCRACY" and inserted in lieu thereof "DEMOCRACY AND RULE OF LAW". Sec. 4(a)(1)(B) of that Act struck out subparas. (E) and (G), relating to the development of a free and independent media and administration of justice, respectively. Sec. 4(a)(1)(C) redesignated subpara. (F) as subpara. (I), and sec. 4(a)(1)(D) added new subparas. (E) through (H). Lastly, sec. 4(A)(1)(E) added a new subpara. (J).

of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

(F)[634] international exchanges and other forms of public diplomacy to promote greater understanding on how democracy, the public policy process, market institutions, and an independent judiciary function in Western societies;

(G)[634] political parties and coalitions committed to promoting democracy, human rights, and economic reforms;

(H)[634] support for civic organizations committed to promoting human rights;

(I)[634] the development of effective control by elected civilian officials over, and the development of a nonpolitical officer corps in, the military and security forces; and

(J)[634] strengthened administration of justice through programs and activities carried out in accordance with section 498B(e), including—

(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary;

(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

(iii) support for the creation of legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.

(3)[635] INDEPENDENT MEDIA.—Developing free and independent media, including—

(A) supporting all forms of independent media reporting, including print, radio, and television;

(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental civic organizations on methods and uses of Internet-based media; and

(C) training in journalism, including investigative journalism techniques that educate the public on the costs of corruption and act as a deterrent against corrupt officials.

(4) FREE MARKET SYSTEMS.—Creating and developing private enterprise and free market systems based on the principle of private ownership of property, including—

[635] Sec. 4(a)(2) of the Russian Democracy Act of 2002 (Public Law 107–246; 116 Stat. 1514) redesignated paras. (3) through (13) as paras. (4) through (14), respectively, and added a new para. (3). Previously, reference to independent media appeared in sec. 498(2)(E), also struck out by the Russian Democracy Act of 2002. See preceding footnote.

(A) the development of private cooperatives, credit unions, and labor unions;

(B) the improvement in the collection and analysis of statistical information;

(C) the reform and restructuring of banking and financial systems; and

(D) the protection of intellectual property.

(5) TRADE AND INVESTMENT.—Creating conditions that promote trade and investment, and encouraging participation of the United States private sector in the development of the private sector in the independent states of the former Soviet Union.

(6) FOOD DISTRIBUTION AND PRODUCTION.—Promoting market-based mechanisms for the distribution of the inputs necessary to agricultural production and for the handling, marketing, storage, and processing of agricultural commodities; encouraging policies that provide incentives for agricultural production; and creating institutions that provide technical and financial support for the agricultural sector.

(7) HEALTH AND HUMAN SERVICES.—Promoting programs to strengthen and build institutions that provide quality health care and voluntary family planning services, housing, and other services and policies that are components of a social safety net, particularly for infants, children, and people with disabilities.

(8) EDUCATION AND EDUCATIONAL TELEVISION.—Promoting broad-based educational reform at all levels, in particular—

(A) by assisting the development of curricula and by making available textbooks, other educational materials, and appropriate telecommunications technologies for the delivery of educational and instructional programming; and

(B) by assisting the development of the skills necessary to produce educational television programs aimed at promoting basic skills and the human values associated with a democratic society and a free market economy.

(9) ENERGY EFFICIENCY AND PRODUCTION.—Promoting market-based pricing policies and the transfer of technologies that reduce energy wastage and harmful emissions; supporting developmentally sound capital energy projects that utilize United States advanced coal technologies; and promoting efficient production, use, and transportation of oil, gas, coal, and other sources of energy.

(10) CIVILIAN NUCLEAR REACTOR SAFETY.—Implementing—

(A) a program of short-term safety upgrade of civilian nuclear power plants, including the training of power plant personnel, implementation of improved procedures for nuclear power plant operation, the development of effective and independent regulatory authorities, and cost-effective hardware upgrades; and

(B) a program to retire those civilian nuclear power plants whose capacity could be more cost-effectively replaced through energy efficiency.

(11) ENVIRONMENT.—Enhancing the human and natural environment and conserving environmental resources, including through—

(A) facilitation of the adoption of environmentally-sound policies and technologies, environmental restoration, and sustainable use of natural resources;

(B) promotion of the provision of environmental technology, education, and training by United States businesses, not-for-profit organizations, and institutions of higher education; and

(C) promotion of cooperative research efforts to validate and improve environmental monitoring of protracted radiation exposure.

(12) TRANSPORTATION AND TELECOMMUNICATIONS.—Improving transportation and telecommunications infrastructure and management, including intermodal transportation systems to ensure the safe and efficient movement of people, products, and materials.

(13) DRUG EDUCATION, INTERDICTION, AND ERADICATION.—Promoting drug education, interdiction, and eradication programs.

(14) MIGRATION.—Protecting and caring for refugees, displaced persons, and other migrants; addressing the root causes of migration; and promoting the development of appropriate immigration and emigration laws and procedures.

SEC. 498A.[636] CRITERIA FOR ASSISTANCE TO GOVERNMENTS OF THE INDEPENDENT STATES.

(a)[637] IN GENERAL.—In providing assistance under this chapter for the government of any independent state of the former Soviet Union, the President shall take into account not only relative need but also the extent to which that independent state is acting to—

(1) make significant progress toward, and is committed to the comprehensive implementation of, a democratic system based on principles of the rule of law, individual freedoms, and representative government determined by free and fair elections;

(2) make significant progress in, and is committed to the comprehensive implementation of, economic reform based on market principles, private ownership, and integration into the world economy, including implementation of the legal and pol-

[636] 22 U.S.C. 2295a. Sec. 907 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3357) prohibits assistance to the Government of Azerbaijan unless the President determines that that Government "is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.".

Title II of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2127), para. on Assistance for the Independent States of the Former Soviet Union, however, exempts the application of sec. 907 for a range of foreign assistance such as democracy support, Trade and Development Agency, Export-Import Bank, and OPIC programs, and humanitarian assistance. The para. also authorizes the President to waive sec. 907 if he determines that it is necessary to support U.S. efforts to counter international terrorism or other related concerns. The President issued such a waiver on January 25, 2002 (Presidential Determination No. 2002–06; 67 F.R. 5921).

See also footnote at sec. 498C.

[637] Sec. 2(c) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) those functions conferred upon the President in secs. 498A(a), 498B(c) and 498B(g).

icy frameworks necessary for such reform (including protection of intellectual property and respect for contracts);

(3) respect internationally recognized human rights, including the rights of minorities and the rights to freedom of religion and emigration;

(4) respect international law and obligations and adhere to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Charter of Paris, including the obligations to refrain from the threat or use of force and to settle disputes peacefully;

(5) cooperate in seeking peaceful resolution of ethnic and regional conflicts;

(6) implement responsible security policies, including—

(A) adhering to arms control obligations derived from agreements signed by the former Soviet Union;

(B) reducing military forces and expenditures to a level consistent with legitimate defense requirements;

(C) not proliferating nuclear, biological, or chemical weapons, their delivery systems, or related technologies; and

(D) restraining conventional weapons transfers;

(7) take constructive actions to protect the international environment, prevent significant transborder pollution, and promote sustainable use of natural resources;

(8) deny support for acts of international terrorism;

(9) accept responsibility for paying an equitable portion of the indebtedness to United States firms incurred by the former Soviet Union;

(10) cooperate with the United States Government in uncovering all evidence regarding Americans listed as prisoners-of-war, or otherwise missing during American operations, who were detained in the former Soviet Union during the Cold War; and

(11) terminate support for the communist regime in Cuba, including removal of troops, closing military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,[638] and ceasing trade subsidies and economic, nuclear, and other assistance.

(b)[639] INELIGIBILITY FOR ASSISTANCE.—The President shall not provide assistance under this chapter—

(1) for the government of any independent state that the President determines is engaged in a consistent pattern of

[638] Sec. 106(b) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 795) struck out "of military facilities" and inserted in lieu thereof "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos".

Sec. 111(b) of that Act (110 Stat. 802) further provided that: "Notwithstanding any other provision of law, the President shall withhold from assistance allocated on or after [March 12, 1996], for any country an amount equal to the sum of assistance and credits, if any, provided on or after [March 12, 1996] by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.".

[639] Sec. 1(a)(2) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the President in paras. (1), (2), (3), and (5) of sec. 498A(b).

See also in the Foreign Assistance Appropriations, 2005 (division D of Public Law 108–447; 118 Stat. 2809): title II, paragraph relating to assistance for the independent states of the former Soviet Union; and sec. 517—Independent States of the Former Soviet Union.

gross violations of internationally recognized human rights or of international law;

(2) for the government of any independent state that the President determines has failed to take constructive actions to facilitate the effective implementation of applicable arms control obligations derived from agreements signed by the former Soviet Union;

(3) for the government of any independent state that the President determines has, on or after the date of enactment of this chapter, knowingly transferred to another country—

(A) missiles or missile technology inconsistent with the guidelines and parameters of the Missile Technology Control Regime; or

(B) any material, equipment, or technology that would contribute significantly to the ability of such country to manufacture any weapon of mass destruction (including nuclear, chemical, and biological weapons) if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapon;

(4) for the government of any independent state that is prohibited from receiving such assistance by section 101 or 102 of the Arms Export Control Act[640] or sections 306(a)(1) and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991;[641, 642]

(5)[642] for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30–day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Cuban Government; or

(6)[642] for the Government of Russia if it has failed to make significant progress on the removal of Russian or Commonwealth of Independent States troops from Estonia, Latvia, and Lithuania or if it has failed to undertake good faith efforts, such as negotiations, to end other military practices that violate the sovereignty of the Baltic states.

(c) EXCEPTIONS TO INELIGIBILITY.—Assistance prohibited by subsection (b) or any similar provision of law, other than assistance prohibited by the provisions referred to in subsection (b)(4), may be furnished under any of the following circumstances:

(1)[643] The President determines that furnishing such assistance is important to the national interest of the United States.

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[640] Formerly referred to "section 669 or 670" of this Act. Sec. 826(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 519), repealed those two sections, and sec. 826(c) of that Act stated that "Any reference in law as of the date of enactment of this Act [April 30, 1994] to section 669 or 670 of the Foreign Assistance Act of 1961 shall, after such date, be deemed to be a reference to section 101 or 102, as the case may be, of the Arms Export Control Act.".

[641] For text of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[642] Sec. 106(c)(1) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 796) struck out "or" at the end of para. (4); redesignated para. (5) as para. (6); and added a new para. (5).

[643] Sec. 1(a)(3) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Secretary of State those functions conferred upon the President in para-

(2)[644] The President determines that furnishing such assistance will foster respect for internationally recognized human rights and the rule of law or the development of institutions of democratic governance.

(3)[645] The assistance is furnished for the alleviation of suffering resulting from a natural or man-made disaster.

(4)[646] The assistance is provided under the secondary school exchange program administered by the United States Information Agency.

The President shall immediately report to the Congress any determination under paragraph (1) or (2) or any decision to provide assistance under paragraph (3).

(d)[647] REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—

(1) REDUCTION IN ASSISTANCE.—Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of the enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

(2) WAIVER.—(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

(B) At the time of a certification made with respect to Russia under subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the

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graph (1) of "section 498A(C)", "and the requirement to make reports under that section regarding determinations under that paragraph". As there is no such designation in the Foreign Assistance Act, the Executive Order is probably referring to sec. 498A(c).

[644] Sec. 2(d) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) those functions conferred upon the President in paragraph (2) of sec. 498A(c), and the requirement to make reports under that section regarding determinations under that paragraph.

[645] Sec. 3(c) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the President in para. (3) of sec. 498A(c), and the requirement to make reports under that section regarding determinations under that paragraph. This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act. Sec. 3 of that Executive Order ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(4) (division G of Public Law 105–277; 112 Stat. 2681).

[646] Sec. 106(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 796) added para. (4).

[647] Sec. 106(d)(2) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 797) added subsec. (d). Sec. 106(d)(1) of that Act further provided the following:

"(d) FACILITIES AT LOURDES, CUBA.—

"(1) DISAPPROVAL OF CREDITS.—The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.".

intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

(C) The report required by subparagraph (B) may be submitted in classified form.

(D) For purposes of this paragraph, the term "appropriate congressional committees" includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(3) EXCEPTIONS TO REDUCTIONS IN ASSISTANCE.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) technical assistance for safety upgrades of civilian nuclear power plants;

(D) the creation of private sector or nongovernmental organizations that are independent of government control;

(E) the development of a free market economic system;

(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).

SEC. 498B.[648] AUTHORITIES RELATING TO ASSISTANCE AND OTHER PROVISIONS.

(a) ASSISTANCE THROUGH GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS.—Assistance under this chapter may be provided to governments or through nongovernmental organizations.

(b) TECHNICAL AND MANAGERIAL ASSISTANCE.—Technical assistance under this chapter shall, to the maximum extent feasible, be provided on a long term, on-site basis and shall emphasize the provision of practical, management and other problem-solving advice, particularly advice on private enterprise provided by United States business volunteers.

(c)[637] ENTERPRISE FUNDS.—Activities supported pursuant to this chapter may include the establishment of and the provision of support for one or more enterprise funds for the independent states of the former Soviet Union. If the President determines[649] that an enterprise fund should be established and supported under this

[648] 22 U.S.C. 2295b.

[649] In Department of State Public Notice 1926 of December 10, 1993, the Coordinator of U.S. Assistance to the New Independent States determined that the following enterprise funds should be established and supported under chapter 11 of part I of the Act: (1) The Russian-American Enterprise Fund, (2) The Fund for Large Enterprise Restructuring, and (3) The Central Asia Regional Enterprise Fund (58 F.R. 69441). Department of State Public Notice 1976 of March 23, 1994, determined that the Western NIS Enterprise Fund should be established and supported under chapter 11 of part I (59 F.R. 16255). Department of State Public Notice 2228 of June 23, 1995, determined that the U.S. Russia Investment Fund should be established and supported under chapter 11 of part I (61 F.R. 36176).

chapter, the provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall be deemed to apply with respect to such enterprise fund and to funds made available to such enterprise fund pursuant to this chapter.

(d) COOPERATIVE DEVELOPMENT AND RESEARCH PROJECTS.—Assistance under this chapter may include support for cooperative development projects, including cooperative development research projects, among the United States, other countries, and independent states of the former Soviet Union.

(e) ADMINISTRATION OF JUSTICE PROGRAMS.—In order to strengthen the administration of justice in the independent states of the former Soviet Union under paragraph (2)(J)[650] of section 498, the President may exercise the same authorities as are available under section 534 of this Act, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

(f) USE OF ECONOMIC SUPPORT FUNDS.—Any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this chapter.

(g)[637] USE OF SEED AGENCY FUNDS AND ADMINISTRATIVE AUTHORITIES.—The President may authorize any agency of the United States Government that has authority to conduct activities under the Support for East European Democracy (SEED) Act of 1989 to use—

(1) any funds that are available to it for activities related to international affairs outside Eastern Europe, and

(2) any administrative authorities that are available to it for activities with respect to Eastern Europe,

to conduct activities authorized by section 498 with respect to the independent states of the former Soviet Union.

(h)[651] PROCUREMENT RESTRICTIONS.—Funds made available for assistance under this chapter may be used for procurement—

(1) in the United States, the independent states of the former Soviet Union, or a developing country; or

(2) in any other country but only if—

(A) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in paragraph (1); or

(B) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(i) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in paragraph (1), or

[650] Sec. 4(b) of the Russian Democracy Act of 2002 (Public Law 107–246; 116 Stat. 1515) struck out "paragraph (2)(G)" and inserted in lieu thereof "paragraph (2)(J)".

[651] Sec. 5(a) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the head of the agency that is responsible for administering relevant programs or activities those functions conferred upon the President in secs. 498B(h) and 498B(i). This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act.

(ii) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(i) TERMS AND CONDITIONS.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine, consistent with applicable provisions of law (except as otherwise provided in subsection (j)).

(j) WAIVER OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Funds authorized to be appropriated for fiscal year 1993 by this chapter, and any other funds appropriated for fiscal year 1993 that are used under the authority of subsection (f) or (g), may be used to provide assistance under this chapter notwithstanding any other provision of law, except for—

(A) this chapter;

(B) section 634A of this Act and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs Act;

(C) sections 101 and 102 of the Arms Export Control Act[652] and sections 306 and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1961,[653] to the extent that they apply to assistance to governments; and

(D) section 1341 of title 31, United States Code (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.[654]

(2) NUCLEAR REACTOR SAFETY AND RELATED ACTIVITIES.—Any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology) shall not apply with respect to funds used pursuant to this chapter.

(k) DEFINITIONS.—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this chapter, the term "appropriate congressional committees" means the Committee on Foreign Affairs[655] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—As used in this chapter, the terms "independent states of the former Soviet Union" and "independent states" have the mean-

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[652] Formerly referred to sections 669 and 670 of this Act. Sec. 826(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 519) repealed those two sections, and sec. 826(c) of that Act stated that "Any reference in law as of the date of enactment of this Act [April 30, 1994] to section 669 or 670 of the Foreign Assistance Act of 1961 shall, after such date, be deemed to be a reference to section 101 or 102 , as the case may be, of the Arms Export Control Act.".

[653] So in original. Should read "1991". Sec. 306 (22 U.S.C. 5604) and sec. 307 (22 U.S.C. 5605) may be found in *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[654] Public Law 97–258 (96 Stat. 877 at 923), Public Law 93–344 (88 Stat. 297), Public Law 99–177 (99 Stat. 1037), and title XIII of Public Law 101–508 (104 Stat. 1388–573), respectively.

[655] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

ing given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.

(3)[656] NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term "nonmarket based trade" includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

(A) exports to the Cuban Government on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

(B) imports from the Cuban Government at preferential tariff rates;

(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Cuban Government is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

(D) the exchange, reduction, or forgiveness of debt of the Cuban Government in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(4) CUBAN GOVERNMENT.—(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

SEC. 498C.[657] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this chapter, there are authorized to be appropriated to the President for fiscal year 1993 $410,000,000, in addition to amounts otherwise available for assistance for the independent states of the former Soviet Union. Amounts appropriated pursuant to this subsection are authorized to remain available until expended.[658]

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[656] Sec. 106(c)(2) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 796) added para. (3).

[657] 22 U.S.C. 2295c.

[658] Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and titles II and V of that Act (118 Stat. 2809), provided the following:

"ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

"(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $560,000,000, to remain available until September 30, 2006: *Provided,* That the provisions of such chapters shall apply

Continued

to funds appropriated by this paragraph: *Provided further,* That funds made available for the Southern Caucasus region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further,* That of the funds appropriated under this heading, $3,859,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: *Provided further,* That of the funds appropriated under this heading, $17,500,000 shall be made available solely for assistance for the Russian Far East: *Provided further,* That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses.

"(b) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than $5,000,000 should be made available for nuclear reactor safety initiatives, and not less than $1,500,000 shall be made available for coal mine safety programs.

"(c) Of the funds appropriated under this heading, not less than $55,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

"(d)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation—

"(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

"(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

"(2) Paragraph (1) shall not apply to—

"(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

"(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

"(e) Section 907 of the FREEDOM Support Act shall not apply to—

"(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

"(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

"(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

"(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

"(5) any financing provided under the Export-Import Bank Act of 1945; or

"(6) humanitarian assistance.

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"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $402,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That of this amount not to exceed $32,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That funds available during fiscal year 2005 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2005 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2006: *Provided further,* That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That funds appropriated under this heading that are avail-

(b) OPERATING EXPENSES.—

(1) AUTHORITY TO TRANSFER PROGRAM FUNDS.—Subject to paragraph (2), funds made available under subsection (a) may be transferred to, and merged with, funds appropriated for "Operating Expenses of the Agency for International Development". Funds so transferred may be expended for administrative costs in carrying out this chapter, including reimbursement of the Department of State for its incremental costs associated with assistance provided under this chapter.

(2)[659] LIMITATION ON AMOUNT TRANSFERRED.—Not more than 2 percent of the funds made available for a fiscal year under subsection (a) may be transferred pursuant to paragraph (1) unless, at least 15 days before transferring any additional amount, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of this Act.

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able for 'Anti-terrorism Assistance' and 'Export Control and Border Security' shall remain available until September 30, 2006.

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"TITLE V—GENERAL PROVISIONS

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"INDEPENDENT STATES OF THE FORMER SOVIET UNION

"SEC. 517. (a) None of the funds appropriated under the heading 'Assistance for the Independent States of the Former Soviet Union' shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

"(b) None of the funds appropriated under the heading 'Assistance for the Independent States of the Former Soviet Union' shall be made available for any state to enhance its military capability: *Provided,* That this restriction does not apply to demilitarization, demining or nonproliferation programs.

"(c) Funds appropriated under the heading 'Assistance for the Independent States of the Former Soviet Union' for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

"(d) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

"(e) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading 'Assistance for the Independent States of the Former Soviet Union' and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to Europe and Eurasia and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.".

See also the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3320), in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[659] Sec. 3(b) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the President in sec. 498C(b)(2). This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act. Sec. 3 of that Executive Order ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(4) (division G of Public Law 105–277; 112 Stat. 2681).

Chapter 12—Support for the Economic and Political Independence of the Countries of the South Caucasus and Central Asia[660]

SEC. 499.[661] UNITED STATES ASSISTANCE TO PROMOTE RECONCILIATION AND RECOVERY FROM REGIONAL CONFLICTS.

(a) PURPOSE OF ASSISTANCE.—The purposes of assistance under this section include—

(1) the creation of the basis for reconciliation between belligerents;

(2) the promotion of economic development in areas of the countries of the South Caucasus and Central Asia impacted by civil conflict and war; and

(3) the encouragement of broad regional cooperation among countries of the South Caucasus and Central Asia that have been destabilized by internal conflicts.

(b) AUTHORIZATION FOR ASSISTANCE.—

(1) IN GENERAL.—To carry out the purposes of subsection (a), the President is authorized to provide humanitarian assistance and economic reconstruction assistance for the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(2) DEFINITION OF HUMANITARIAN ASSISTANCE.—In this subsection, the term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies and equipment, education, and clothing.

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include—

(1) providing for the humanitarian needs of victims of the conflicts;

(2) facilitating the return of refugees and internally displaced persons to their homes; and

(3) assisting in the reconstruction of residential and economic infrastructure destroyed by war.

SEC. 499A.[662] ECONOMIC ASSISTANCE.

(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to foster economic growth and development, including the conditions necessary for regional economic cooperation, in the South Caucasus and Central Asia.

(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide assistance for the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(c) ACTIVITIES SUPPORTED.—In addition to the activities described in section 498, activities supported by assistance under subsection (b) should support the development of the structures and means necessary for the growth of private sector economies based upon market principles.

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[660] Sec. 596(b) of the Silk Road Strategy Act of 1999 (sec. 596 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535) added chapter 12 to part I of this Act.

[661] 22 U.S.C. 2296.

[662] 22 U.S.C. 2296a.

SEC. 499B.[663] DEVELOPMENT OF INFRASTRUCTURE.

(a) PURPOSE OF PROGRAMS.—The purposes of programs under this section include—

(1) to develop the physical infrastructure necessary for regional cooperation among the countries of the South Caucasus and Central Asia; and

(2) to encourage closer economic relations and to facilitate the removal of impediments to cross-border commerce among those countries and the United States and other developed nations.

(b) AUTHORIZATION FOR PROGRAMS.—To carry out the purposes of subsection (a), the following types of programs for the countries of the South Caucasus and Central Asia may be used to support the activities described in subsection (c):

(1) Activities by the Export-Import Bank to complete the review process for eligibility for financing under the Export-Import Bank Act of 1945.

(2) The provision of insurance, reinsurance, financing, or other assistance by the Overseas Private Investment Corporation.

(3) Assistance under section 661 of this Act (relating to the Trade and Development Agency).

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by programs under subsection (b) include promoting actively the participation of United States companies and investors in the planning, financing, and construction of infrastructure for communications, transportation, including air transportation, and energy and trade including highways, railroads, port facilities, shipping, banking, insurance, telecommunications networks, and gas and oil pipelines.

SEC. 499C.[664] BORDER CONTROL ASSISTANCE.

(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section includes the assistance of the countries of the South Caucasus and Central Asia to secure their borders and implement effective controls necessary to prevent the trafficking of illegal narcotics and the proliferation of technology and materials related to weapons of mass destruction (as defined in section 2332a(c)(2) of title 18, United States Code), and to contain and inhibit transnational organized criminal activities.

(b)[665] AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide assist-

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[663] 22 U.S.C. 2296b.

[664] 22 U.S.C. 2296c.

[665] Sec. 516 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 859) provided the following:

"SEC. 516. BORDER SECURITY AND TERRITORIAL INDEPENDENCE.

"(a) GUUAM COUNTRIES AND ARMENIA.—For the purpose of carrying out section 499C of the Foreign Assistance Act of 1961 and assisting GUUAM countries and Armenia to strengthen national control of their borders and to promote the independence and territorial sovereignty of such countries, the following amounts are authorized to be made available for fiscal years 2001 and 2002:

"(1) $5,000,000 for fiscal year 2001 and $20,000,000 for fiscal year 2002 are of the amounts made available under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

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ance to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include assisting those countries of the South Caucasus and Central Asia in developing capabilities to maintain national border guards, coast guard, and customs controls.

SEC. 499D.[666] STRENGTHENING DEMOCRACY, TOLERANCE, AND THE DEVELOPMENT OF CIVIL SOCIETY.

(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to promote institutions of democratic government and to create the conditions for the growth of pluralistic societies, including religious tolerance and respect for internationally recognized human rights.

(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide the following types of assistance to the countries of the South Caucasus and Central Asia:

(1) Assistance for democracy building, including programs to strengthen parliamentary institutions and practices.

(2) Assistance for the development of nongovernmental organizations.

(3) Assistance for development of independent media.

(4) Assistance for the development of the rule of law, a strong independent judiciary, and transparency in political practice and commercial transactions.

(5) International exchanges and advanced professional training programs in skill areas central to the development of civil society.

(6) Assistance to promote increased adherence to civil and political rights under section 116(e) of this Act.

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include activities that are designed to advance progress toward the development of democracy.

SEC. 499E.[667] ADMINISTRATIVE AUTHORITIES.

(a) ASSISTANCE THROUGH GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS.—Assistance under this chapter may be provided to governments or through nongovernmental organizations.

(b) USE OF ECONOMIC SUPPORT FUNDS.—Except as otherwise provided, any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet

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"(2) $2,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 of the amounts made available under chapter 9 of part II of the Foreign Assistance Act of 1961, as added by section 301.

"(3) $500,000 for fiscal year 2001 and $5,000,000 for fiscal year 2002 of the amounts made available to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

"(4) $1,000,000 for fiscal year 2001 and $2,000,000 for fiscal year 2002 of the amounts made available to carry out chapter 8 of part II of the Foreign Assistance Act.

"(b) GUUAM COUNTRIES DEFINED.—In this section, the term 'GUUAM countries' means the group of countries that signed a protocol on quadrilateral cooperation on November 25, 1997, together with Uzbekistan.".

[666] 22 U.S.C. 2296d.

[667] 22 U.S.C. 2296e.

Union may be used in accordance with the provisions of this chapter.

(c) TERMS AND CONDITIONS.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine.

(d) AVAILABLE AUTHORITIES.—The authority in this chapter to provide assistance for the countries of the South Caucasus and Central Asia is in addition to the authority to provide such assistance under the FREEDOM Support Act (22 U.S.C. 5801 et seq.) or any other Act, and the authorities applicable to the provision of assistance under chapter 11 may be used to provide assistance under this chapter.

SEC. 499F.[668] **DEFINITIONS.**

In this chapter:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA.—The term "countries of the South Caucasus and Central Asia" means Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

PART II[669]

Chapter 1—Policy[670]

Sec. 501.[671] **Statement of Policy.**—The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except for individual or collective self-defense. The Congress hereby finds that the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid. It is the purpose of this part to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying countries against violation and invasion.

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[668] 22 U.S.C. 2296f.

[669] Sec. 594(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1692), inserted a chapter 12 at the end of Part I, preceding this note, to provide for the Enterprise for the Americas Initiative. Sec. 602(b) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669), struck out this amendment, however, and inserted "Part IV—Enterprise for the Americas Initiative" beginning at sec. 701 of this Act.

[670] Sec. 201(a) of the FA Act of 1963 struck out the words "**Short Title and**" in the chapter heading which formerly read "**Short Title and Policy**".

[671] 22 U.S.C. 2301. Former sec. 502 was designated sec. 501 by sec. 201(a)(1) of the FA Act of 1967 (Public Law 90–137). Former sec. 501, which related to the short title, was repealed by sec. 201(b) of the FA Act of 1963 (Public Law 88–205).

The Congress recognizes that the peace of the world and the security of the United States are endangered so long as hostile countries[672] continue by threat of military action, by the use of economic pressure, and by internal subversion, or other means to attempt to bring under their domination peoples now free and independent and continue to deny the rights of freedom and self-government to peoples and countries once free but now subject to such domination.

It is the sense of the Congress that an important contribution toward peace would be made by the establishment under the Organization of American States of an international military force.

In enacting this legislation, it is therefore the intention of the Congress to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, improving the ability of friendly countries and international organizations to deter or, if necessary, defeat[673] aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security, and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress. The Congress urges that all other countries able to contribute join in a common undertaking to meet the goals stated in this part.

It is the sense of the Congress that in the administration of this part priority shall be given to the needs of those countries in danger of becoming victims of[674] aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.

Finally, the Congress reaffirms its full support of the progress of the members of the North Atlantic Treaty Organization toward increased cooperation in political, military, and economic affairs. In particular, the Congress welcomes the steps which have been taken to promote multilateral programs of coordinated procurement, research, development, and production of defense articles and urges that such programs be expanded to the fullest extent possible to further the defense of the North Atlantic area.

Sec. 502.[675] **Utilization of Defense Articles and Services.**—Defense articles and defense services[676] to any country shall be furnished solely for internal security (including for antiterrorism and nonproliferation purposes),[677] for legitimate self-defense, to

[672] Sec. 705(1)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "international communism and the countries it controls" and inserted in lieu thereof "hostile countries".

[673] Sec. 705(1)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Communist or Communist-supported" from this point.

[674] Sec. 705(1)(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "active Communist or Communist-supported aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion." and inserted in lieu thereof "aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.". This paragraph was added originally by sec. 201(a)(2) of the FA Act of 1967 (Public Law 90–137).

[675] 22 U.S.C. 2302. Former subsec. (a) of sec. 505 was redesignated sec. 502 by sec. 201(d)(1) of the FA Act of 1967 (Public Law 90–137).

[676] The words to this point were substituted for "Utilization of Assistance.—(a) Military assistance" by sec. 201(d)(2) of the FA Act of 1967 (Public Law 90–137).

[677] Sec. 701 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 861) inserted "(including for antiterrorism and nonproliferation purposes)" after "internal security".

permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security,[678] or for the purpose of assisting foreign military forces in less developed friendly countries (or the voluntary efforts of personnel of the Armed Forces of the United States in such countries) to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort.

Sec. 502A.[679] * * * [Repealed—1996]

Sec. 502B.[680] **Human Rights.**—(a)(1)[681] The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

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[678] Sec. 201(c)(1) of the FA Act of 1965 (Public Law 89–171) struck out a colon and added the remainder of this section from this point.

[679] Formerly at 22 U.S.C. 2302. Sec. 104(b)(2)(A) of Public Law 104–164 (110 Stat. 1426) repealed sec. 502A. Originally added by sec. 12(a) of the FA Act of 1973, the section had read as follows:

"SEC. 502A. Excess Defense Articles.—Excess defense articles shall be provided whenever possible rather than providing such articles by the procurement of new items.".

[680] 22 U.S.C. 2304. Sec. 502B, which was added by sec. 46 of the FA Act of 1974 (Public Law 93–559), was amended by sec. 301(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 748), and by the Export Administration Amendments Act of 1985 (Public Law 99–64; 99 Stat. 156.) It formerly read as follows:

"SEC. 502B. Human Rights.—It is the sense of Congress that except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person.

"(b) Whenever proposing or furnishing security assistance to any government falling within the provisions of paragraph (a), the President shall advise the Congress of the extraordinary circumstances necessitating the assistance.

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation by such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross and anybody acting under the authority of the United Nations or of the Organization of American States.

"(d) For purposes of this section, 'security assistance' means assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) of this part, assistance under part V (Indochina Postwar Reconstruction) or part VI (Middle East Peace) of this Act, sales under the Foreign Military Sales Act, or assistance for public safety under this or any other Act.".

[681] Sec. 6(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731) amended and restated para. (1).

(2)[682] Except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights. Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1979[683] for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979), that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses. Assistance may not be provided under chapter 5 of this part to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance.[684]

(3) In furtherance of paragraphs (1) and (2),[685] the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

(4)[686] In determining whether the government of a country engages in a consistent pattern of gross violations of internationally recognized human rights, the President shall give particular consideration to whether the government—

(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

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

(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs pro-

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[682] Sec. 6(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731) struck out "It is further the policy of the United States that," at this point.

[683] Sec. 704 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3157) struck out "Export Administration Act of 1969" and inserted in lieu thereof "Export Administration Act of 1979".

[684] Sec. 6 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731, 732) added the final two sentences.

[685] Sec. 6(e) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 732) struck out "the foregoing policy" and inserted in lieu thereof "paragraphs (1) and (2),".

[686] Sec. 421(b) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2810) added para. (4).

posed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor[687] and with the assistance of the Ambassador at Large for International Religious Freedom,[688] with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. Wherever applicable, such report shall include consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987).[689] Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.[690] Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).[691] Wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur, including the descriptions of such acts required under section 116(d)(8).[692] Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country.[693] Each report under this section shall describe the extent to which each country has extended protection to refugees, including the provision of first asylum and re-

[687] Sec. 162(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), struck out "Human Rights and Humanitarian Affairs" and inserted in lieu thereof "Democracy, Human Rights, and Labor". Previously, sec. 109(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105; 91 Stat. 846) changed the title designation from "Coordinator for Human Rights and Humanitarian Affairs" to "Assistant Secretary of State for Human Rights and Humanitarian Affairs".

[688] Sec. 102(d)(2)(A) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2795) inserted "and with the assistance of the Ambassador at Large for International Religious Freedom" after "Labor".

[689] Sec. 806(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added the sentence beginning "Wherever applicable" referring to war crimes and crimes of genocide.

[690] Sec. 127 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331) added the sentence beginning "Wherever applicable" referring to coercive population control.

[691] Sec. 102(d)(2)(B) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2795) added the sentence that begins "Such report shall also include".

[692] Sec. 6(a)(2) of the Global Anti-Semitism Review Act of 2004 (Public Law 108–332; 118 Stat. 1285) added the sentence that refers to sec. 116(d)(8).

[693] Sec. 665(b) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1407) added this sentence. Sec. 665(c) of that Act further provided the following:

"(c) SEPARATE REPORT.—The information to be included in the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 pursuant to the amendments made by subsections (a) and (b) may be submitted by the Secretary as a separate report. If the Secretary elects to submit such information as a separate report, such report shall be submitted not later than 30 days after the date of submission of the report required by section 116(d) and 502B(b) of the Foreign Assistance Act of 1961.".

settlement.[694] Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State.[695] Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year.[696] In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

(c)(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[697] of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor,[687] with respect to the country designated in such request, setting forth—

(A) all the available information about observance of and respect for human rights and fundamental freedom in that country, and a detailed description of practices by the recipient government with respect thereto;

(B) the steps the United States has taken to—

(i) promote respect for and observance of human rights in that country and discourage any practices which are inimical to internationally recognized human rights, and

(ii) publicly or privately call attention to, and disassociate the United States and any security assistance provided for such country from, such practices;

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[694] Sec. 252 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added the sentence relating to the protection of refugees.

[695] Sec. 683(b) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1411) added the report requirement relating to compulsory recruitment and conscription of individuals under the age of 18.

[696] Sec. 201(b) of Public Law 104–319 (110 Stat. 3864) added this sentence.

[697] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Previously, sec. 9(a)(6) of the U.S.C. Technical Amendments (Public Law 103–437; 108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

(C) whether, in the opinion of the Secretary of State, notwithstanding any such practices—

(i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, if so, a description of such circumstances and the extent to which such assistance should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to provide such assistance; and

(D) such other information as such committee or such House may request.

(2)(A) A resolution of request under paragraph (1) of this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) The term "certification", as used in section 601 of such Act, means, for the purposes of this subsection, a resolution of request of the Senate under paragraph (1) of this subsection.

(3) In the event a statement with respect to a country is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within thirty days after receipt of such request, no security assistance shall be delivered to such country except as may thereafter be specifically authorized by law from such country unless and until such statement is transmitted.

(4)(A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating, restricting, or continuing security assistance for such country. In the event such a joint resolution is adopted, such assistance shall be so terminated, so restricted, or so continued, as the case may be.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

(d) For the purposes of this section—

(1) the term "gross violations of internationally recognized human rights" includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons,[698] and other flagrant denial of the right to life, liberty, or the security of person; and

(2) the term "security assistance" means—

[698] Sec. 701(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156) inserted "causing the disappearance of persons by the abduction and clandestine detention of those persons,".

(A) assistance under chapter 2 (military assistance) or chapter 4 (economic support fund)[699] or chapter 5 (military education and training) or chapter 6 (peacekeeping operations) or chapter 8 (antiterrorism assistance) of this part;[700]

(B) sales of defense articles or services, extensions of credits (including participations in credits),[701] and guaranties of loans under the Arms Export Control Act; or

(C) any license in effect with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act.

(e)[702] Notwithstanding any other provision of law, funds authorized to be appropriated under part I of this Act may be made available for the furnishing of assistance to any country with respect to which the President finds that such a significant improvement in its human rights record has occurred as to warrant lifting the prohibition on furnishing such assistance in the national interest of the United States.

(f)[703] In allocating the funds authorized to be appropriated by this Act and the Arms Export Control Act, the President shall take into account significant improvements in the human rights records of recipient countries, except that such allocations may not contravene any other provision of law.

(g)[704] Whenever the provisions of subsection (e) or (f) of this section are applied, the President shall report to the Congress before making any funds available pursuant to those subsections. The report shall specify the country involved, the amount and kinds of assistance to be provided, and the justification for providing the assistance, including a description of the significant improvements which have occurred in the country's human rights record.

(h)[705] (1) The report required by subsection (b) shall include the following:

(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

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[699] Sec. 10(b)(1) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 735) struck out "security supporting assistance" and inserted in lieu thereof "economic support fund".

[700] Sec. 12(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737) added "or chapter 6 (peacekeeping operations)" and struck out "or part VI (assistance to the Middle East) of this Act" which had previously been the final phrase of this paragraph.

The International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations Act, 1984; Public Law 98–151) added the words "or chapter 8 (antiterrorism assistance)". Pursuant to Public Law 98–151, this amendment was enacted as stated in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983.

[701] While the printed slip law did not include a close parentheses in subpara. (B), it is interpreted that such a mark was intended to be inserted at this point.

[702] Sec. 511 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 380) added subsec. (e).

[703] Sec. 4 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 702) added subsec. (f).

[704] Sec. 1201 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276) added subsec. (g).

[705] Sec. 104(b) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1472) added subsec. (h).

(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

(ii) Which government authorities in that country are involved in activities to combat such trafficking.

(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.

Chapter 2—Military Assistance

Sec. 503.[706] **General Authority.**—(a) The President is authorized to furnish military assistance, on such terms and conditions as he may determine,[707] to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance, by—

(1) acquiring from any source and providing (by loan or grant) any defense article or defense service;

(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a non-combatant nature; or

(3)[708] transferring such of the funds appropriated or otherwise made available under this chapter as the President may determine for assistance to a recipient country,[709] to the ac-

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[706] 22 U.S.C. 2311. Sec. 12(b)(1) of the FA Act of 1973 (Public Law 93–189) amended and restated sec. 503, which formerly read as follows:

"SEC. 503. GENERAL AUTHORITY.—The President is authorized to furnish military assistance on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance by—

"(a) acquiring from any source and providing (by loan or grant) any defense article or defense service;

"(b) making financial contributions to multilateral programs for the acquisition or construction of facilities for collective defense;

"(c) providing financial assistance for expenses incident to participation by the United States Government in regional or collective defense organizations;

"(d) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a noncombatant nature, including those related to training or advice.".

[707] In 2004, the President determined "that the furnishing of defense articles and services to the RSS [Regional Security System] will strengthen the security of the United States and promote world peace" (Presidential Determination No. 2004–20 of January 5, 2004; 69 F.R. 2477). The President made a similar determination to provide defense articles and services to Iraq (Presidential Determination No. 2004–40 of July 21, 2004; 69 F.R. 46399), and for the African Union (Presidential Determination No. 2004–50 of September 24, 2004; 69 F.R. 58789).

In 2003, the President made a similar determination for Serbia and Montenegro (Presidential Determination No. 2003–22 of May 6, 2003; 68 F.R. 25809).

In 2002, the President made similar determinations for the Governments of Palau, Kiribati, and Tuvalu (Presidential Determination No. 2002–09 of March 12, 2002; 67 F.R. 13245); for the Governments of Armenia, Azerbaijan, and Tajikistan (Presidential Determination No. 2002–15 of April 18, 2002; 67 F.R. 20429); and for East Timor (Presidential Determination No. 02–19 of May 27, 2002; 67 F.R. 39245).

In 2000, the President made a similar determination for the Economic Community of Western African States (Presidential Determination No. 2000–13 of February 16, 2000; 65 F.R. 10069).

In 1999, the President made similar determinations for Croatia (Presidential Determination No. 99–21 of April 8, 1999); and the Organization for Security and Cooperation in Europe (Presidential Determination No. 99–31 of June 30, 1999; 64 F.R. 37033).

In 1997, the President made similar determinations for the Governments of Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, Russia, Ukraine, and Uzbekistan (Presidential Determination No. 97–19 of March 11, 1997; 62 F.R. 13531).

In 1995 and 1996, the President made similar determinations for Angola (Presidential Determination No. 95–32 of July 28, 1995; 60 F.R. 40255), Mongolia (Presidential Determination No. 95–38 of August 22, 1995; 60 F.R. 50069), Bosnia and Herzegovina (Presidential Determination No. 96–10 of February 23, 1996; 61 F.R. 8463), Slovenia, and the Former Yugoslav Republic of Macedonia (Presidential Determination No. 96–18 of March 8, 1996; 61 F.R. 11497).

[708] Sec. 112(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3138) added para. (3).

Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329–131), stipulated: "That, after September 30, 1989, none of the funds appropriated under this heading shall be made available for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961". This proviso was subsequently repealed by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268).

[709] Sec. 110(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1536) struck out "specified in section 504(a)(1) of this Act, within the dollar limitations of that section" and inserted in lieu thereof "country".

count in which funds for the procurement of defense articles and defense services under section 21 and section 22 of the Arms Export Control Act have been deposited for such recipient, to be merged with such deposited funds, and to be used solely to meet obligations of the recipient for payment for sales under that Act. Sales which are wholly paid from funds transferred under paragraph (3) or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act[710] shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard).[710]

(b) In addition to such other terms and conditions as the President may determine pursuant to subsection (a), defense articles may be loaned thereunder only if—

(1) there is a bona fide reason, other than the shortage of funds, for providing such articles on a loan basis rather than on a grant basis;

(2) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period unless the loan is then renewed;

(3) the loan period is of fixed duration not exceeding five years, during which such article may be recalled for any reason by the United States;

(4) the agency making the loan is reimbursed for the loan based on the amount charged to the appropriation for military assistance under subsection (c); and

(5)[711] the loan agreement provides that (A) if the defense article is damaged while on loan, the country or international organization to which it was loaned will reimburse the United States for the cost of restoring or replacing the defense article, and (B) if the defense article is lost or destroyed while on loan, the country or international organization to which it was loaned will pay to the United States an amount equal to the replacement cost (less any depreciation in the value) of the defense article.

(c)(1) In the case of any loan of a defense article or defense service made under this section, there shall be a charge to the appropriation for military assistance for any fiscal year while the article or service is on loan in an amount based on—

(A) the out-of-pocket expenses authorized to be incurred in connection with such loan during such fiscal year; and

(B) the depreciation which occurs during such year while such article is on loan.

(2) The provisions of this subsection shall not apply—

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[710] Sec. 123(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205) added this sentence. The language "or from funds * * * Act" and "(other than the Coast Guard)" was added by Sec. 586(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), to become effective on October 1, 1989.

[711] Sec. 109(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1536) amended and restated para. (5). It formerly read as follows:

"(5) arrangements are made with the agency making the loan to be reimbursed in the event such article is lost or destroyed while on loan, such reimbursement being made first out of any funds available to carry out this chapter and based on the depreciated value of the article at the time of loss or destruction.".

(A) to any particular defense article or defense service which the United States Government agreed, prior to the date of enactment of this subsection, to lend; and

(B) to any defense article or defense service, or portion thereof, acquired with funds appropriated for military assistance under this Act.

Sec. 504.[712] **Authorization.**—(a)[713] (1) There are authorized to be appropriated to the President to carry out the purposes of this chapter $805,100,000 for the fiscal year 1986 and $805,100,000 for the fiscal year 1987.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b) In order to make sure that a dollar spent on military assistance to foreign countries is as necessary as a dollar spent for the United States military establishment, the President shall establish procedures for programing and budgeting so that programs of military assistance come into direct competition for financial support with other activities and programs of the Department of Defense.

Sec. 505.[714] **Conditions of Eligibility.**—(a) In addition to such other provisions as the President may require, no defense articles or related training or other defense service[715] shall be furnished to any country on a grant basis unless it shall have agreed that—

(1) it will not, without the consent of the President—

(A) permit any use of such articles or related training or other defense service[715] by anyone not an officer, employee, or agent of that country,

(B) transfer, or permit any officer, employee, or agent of that country to transfer such articles or related training or other defense service[715] by gift, sale, or otherwise, or

(C) use or permit the use of such articles or related training or other defense service[715] for purposes other than those for which furnished;

(2) it will maintain the security of such articles or related training or other defense service,[715] and will provide substantially the same degree of security protection afforded to such articles or related training or other defense service[715] by the United States Government;

(3) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with re-

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[712] 22 U.S.C. 2312.

[713] Sec. 103 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195) amended and restated subsec. (a).

Authorizations under sec. 504 in recent years included the following: fiscal year 1977—$235,000,000; fiscal year 1978—$228,900,000; fiscal year 1979—$133,500,000; fiscal year 1980—$110,200,000; fiscal year 1981—$106,100,000; fiscal year 1982—$238,500,000; fiscal year 1983—$238,500,000; fiscal year 1984—$639,700,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

Sec. 587(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1689), provided the following:

"(c) Of the funds made available (including earmarked funds) in Public Law 101–513 and prior Acts making appropriations for foreign operations, export financing, and related programs to carry out the provisions of section 23 of the Arms Export Control Act and section 503 of the Foreign Assistance Act of 1961, $45,750,000 are rescinded.".

[714] 22 U.S.C. 2314. Former sec. 506 was redesignated sec. 505 by sec. 201(e) of the FA Act of 1967 (Public Law 90–137).

[715] Sec. 203(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) added "or related training or other defense service".

gard to the use of such articles or related training or other defense service;[715] and

(4) unless the President consents to other disposition, it will return to the United States Government for such use or disposition as the President considers in the best interests of the United States, such articles or related training or other defense service[715] which are no longer needed for the purposes for which furnished.

(b) No defense articles shall be furnished on a grant basis to any country at a cost in excess of $3,000,000 in any fiscal year unless the President determines—

(1) that such country conforms to the purposes and principles of the Charter of the United Nations;

(2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or[716] the defensive strength of the free world;

(3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and

(4) that the increased ability of such country to defend itself is important to the security of the United States.

(c)[717] The President shall regularly reduce and, with such deliberate speed as orderly procedure and other relevant considerations, including prior commitments, will permit, shall terminate all further grants of military equipment and supplies to any country having sufficient wealth to enable it, in the judgment of the President, to maintain and equip its own military forces at adequate strength, without undue burden to its economy.

(d)[717, 718] (1) Assistance and deliveries of assistance under this chapter to any country shall be terminated as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, the Mutual Security Act of 1954,[719] or any predecessor Foreign Assistance Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (A) by using such articles or services for a purpose not authorized under section 502 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 502, for a purpose not authorized under such agreement; (B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (C) by failing to maintain the security of such articles or services.

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[716] Sec. 201(b) of the FA Act of 1971 (Public Law 92–226) struck out "and" and inserted in lieu thereof "or".

[717] Sec. 201(a) of the FA Act of 1962 (Public Law 87–565) added subsecs. (c) and (d).

[718] Sec. 304(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 751) amended and restated subsec. (d), which formerly read as follows:

"(d) Any country which hereafter uses defense articles or defense services furnished such country under this Act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in substantial violation of the provisions of this chapter or any agreements entered into pursuant to any of such Acts shall be immediately ineligible for further assistance.".

[719] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

(2)(A) Assistance and deliveries of assistance shall be terminated pursuant to paragraph (1) of this subsection if the President so determines and so states in writing to the Congress, or if the Congress so finds by joint resolution.

(B) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3) Assistance to a country shall remain terminated in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(4) The authority contained in section 614(a) of this Act may not be used to waive the provisions of this section with respect to further assistance under this chapter.

(e)[720] In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[721] In addition, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

(f)[720] Effective July 1, 1974, no defense article shall be furnished to any country on a grant basis unless such country shall have agreed that the net proceeds of sale received by such country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this chapter will be paid to the United States Government and shall be available to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.[722] In the case of items which were delivered

[720] The Foreign Assistance Act of 1971 (Public Law 92–226) repealed a former subsec. (e), relating to conditions of eligibility. New subsecs. (e) and (f) were added by sec. 12(3) of the FA Act of 1973 (Public Law 93–189).

[721] Sec. 204(b)(2) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) amended sec. 505(e) by striking out the following words after "country": ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred".

[722] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. E.

prior to 1985,[723] the President may waive the requirement that such net proceeds be paid to the United States Government if he determines that to do so is in the national interest of the United States.[724]

(g)[725] (1) It is the policy of the United States that no assistance under this chapter should be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex.

(2)(A) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(B) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(3) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any transaction in which any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the furnishing of assistance under this chapter, or education and training under chapter 5, to any foreign country. Such reports shall include (A) a description of the facts and circumstances of any such discrimination, (B) the response thereto on the part of the United States or any agency or employee thereof, and (C) the result of such response, if any.

(4)(A) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[726] of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for

[723] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1998), struck out "1975" and inserted in lieu thereof "1985".

[724] Sec. 123(b) of the International Security Cooperation and Development Act of 1985 (Public Law 99–83; 99 Stat. 205) added the last sentence.

[725] Sec. 302(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 751) added subsec. (g).

[726] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Previously, sec. 9(a)(6) of the U.S.C. Technical Amendments (Public Law 103–437; 108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

Democracy, Human Rights, and Labor,[727] with respect to the country designated in such request, setting forth—

(i) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin, or sex, and prevent any such person from participating in a transaction involving the furnishing of any assistance under this chapter or any education and training under chapter 5;

(ii) the response of the United States thereto and the results of such response;

(iii) whether, in the opinion of the President, notwithstanding any such policies or practices—

(I) extraordinary circumstances exist which necessitate a continuation of such assistance or education and training transaction, and, if so, a description of such circumstances and the extent to which such assistance or education and training transaction should be continued (subject to such conditions as Congress may impose under this section), and

(II) on all the facts it is in the national interest of the United States to continue such assistance or education and training transaction; and

(iv) such other information as such committee may request.

(B) In the event a statement with respect to an assistance or training transaction is requested pursuant to subparagraph (A) of this paragraph but is not transmitted in accordance therewith within 60 days after receipt of such request, such assistance or training transaction shall be suspended unless and until such statement is transmitted.

(C)(i) In the event a statement with respect to an assistance or training transaction is transmitted under subparagraph (A) of this paragraph, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such assistance or training transaction.

(ii) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(iii) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under subparagraph (A) of this paragraph.

Sec. 506.[728] **Special Authority.**—(a)(1)[729] If the President determines and reports to the Congress in accordance with section 652 of this Act that—

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[727] Sec. 162(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), struck out "Human Rights and Humanitarian Affairs" and inserted in lieu thereof "Democracy, Human Rights, and Labor". Previously, sec. 109(a)(4) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105; 91 Stat. 846) changed the title designation from "Coordinator for Human Rights and Humanitarian Affairs" to "Assistant Secretary of State for Human Rights and Humanitarian Affairs".

[728] 22 U.S.C. 2318. Former sec. 510 was redesignated sec. 506 by sec. 201(j)(1) of the FA Act of 1967 (Public Law 90–137). Sec. 506, as amended by sec. 102 of Public Law 94–329, was further amended and restated by sec. 5(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 702).

[729] Sec. 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1236), inserted the para. designation "(1)", redesignated former para.(1) and (2) as subparas. (A) and (B), and inserted a new "(2)(A)" and "(B)".

(A)[729] an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

(B)[729] the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed $100,000,000 in any fiscal year.[730]

(2)(A)[729, 731] If the President determines and reports to the Congress in accordance with section 652 of this Act that it is in the national interest of the United States to draw down articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—[732]

(i) for the purposes and under the authorities of—

(I) chapter 8 of part I (relating to international narcotics control assistance);

(II) chapter 9 of part I (relating to international disaster assistance);[733]

(III) chapter 8 of part II (relating to antiterrorism assistance);

(IV) chapter 9 of part II (relating to nonproliferation assistance); or

(V) the Migration and Refugee Assistance Act of 1962; or

Pursuant to sec. 506 of this Act and provisions of the Afghanistan Freedom Support Act, on December 16, 2003, the President directed "the drawdown of up to $135 million of defense articles, defense services, and military education and training from the Department of Defense for the Transitional Islamic State of Afghanistan." (Presidential Determination No. 2004–15; 68 F.R. 75385).

Pursuant to sec. 506 of this Act and provisions of the Afghanistan Freedom Support Act (Public law 107–327), on February 13, 2003, the President directed "the drawdown of up to $165 million of defense articles, defense services, and military education and training from the Department of Defense, $158 million for the Transitional Islamic State of Afghanistan, and $7 million to Jordan to assist in its operations in Afghanistan, and further have determined, in accordance with section 205 of the [Afghanistan Freedom Support] Act, that such assistance to Jordan is important to the national security interests of the United States." (Presidential Determination No. 2003–15; 68 F.R. 10651).

[730] The aggregate value of this special authority was increased from $10 million to $50 million by sec. 112(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3139). It was subsequently increased from $50 million to $75 million by sec. 110(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526), and to $100 million from $75 million by sec. 103(a) of Public Law 104–164 (110 Stat. 1423).

[731] On January 4, 2005, the President determined that "it is in the national interest of the United States to draw down articles and services from the inventory and resources of the Department of Defense, for the purpose of providing international disaster relief assistance to countries affected by the Asian tsunami. I therefore direct the drawdown of up to $65 million of defense articles and services from the inventory and resources of the Department of Defense for these countries for the purposes and under the authorities of chapter 9 of part I of the FAA related to international disaster assistance" (Presidential Determination No. 2005–16; 70 F.R. 1787).

[732] Sec. 103(b) of Public Law 104–164 (110 Stat. 1423) amended and restated the latter part of subpara. (A).

[733] Sec. 121(b) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 850) struck out "or" at the end of subclause (II), struck out subclause (III), which had referred to the Migration and Refugee Assistance Act of 1962 (restated in new subclause (V)), and added new subclauses (III), (IV), and (V).

(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

(I) to support cooperative efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.

(B) An aggregate value of not to exceed[734] $200,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

(i) not more than $75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

(ii) not more than $75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and

(iii) not more than $15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph.

(b)(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs[726] of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress. In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 634A.[735]

(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section, including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets.[736]

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[734] Sec. 103(b)(2) of Public Law 104–164 (110 Stat. 1424) struck out "$75,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph." and inserted in lieu thereof text from this point to the end of subpara. (B). Sec. 121(a) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 850) subsequently struck out "$150,000,000" and inserted in lieu thereof "$200,000,000".

[735] Sec. 103(b)(3) of Public Law 104–164 (110 Stat. 1424) added this sentence.

[736] Sec. 576(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2433), added ", including providing the Congress with a report detailing all defense articles, defense services, and military education and training

(c)[737] For the purposes of any provision of law that authorizes the drawdown of defense or other articles or commodities, or defense or other services from an agency of the United States Government, such drawdown may include the supply of commercial trans-

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delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets.".

[737] Sec. 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2433), redesignated subsec. (c) as subsec. (d), and added a new subsec. (c).

Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"(INCLUDING TRANSFER OF FUNDS)

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,783,500,000: *Provided*, That of the funds appropriated under this heading, not less than $2,220,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $580,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That of the funds appropriated by this paragraph, $206,000,000 should be made available for assistance for Jordan: *Provided further,* That in addition to the funds appropriated under this heading, up to $150,000,000 for assistance for Pakistan may be derived by transfer from unobligated balances of funds appropriated under the headings 'Economic Support Fund' and 'Foreign Military Financing Program' in prior appropriations Acts and not otherwise designated in those Acts for a specific country, use, or purpose: *Provided further,* That of the funds appropriated under this heading, not more than $2,000,000 may be made available for assistance for Uganda and only for non-lethal military equipment if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uganda has made significant progress in: (1) the protection of human rights, especially preventing acts of torture; (2) the protection of civilians in northern and eastern Uganda; and (3) the professionalization of the Ugandan armed forces: *Provided further,* That funds appropriated or otherwise made available by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

"None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan and Guatemala: *Provided further,* That none of the funds appropriated under this heading may be made available for assistance for Haiti except pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That only those countries for which assistance was justified for the 'Foreign Military Sales Financing Program' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $40,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2005 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.".

portation and related services that are acquired by contract for the purposes of the drawdown in question if the cost to acquire such commercial transportation and related services is less than the cost to the United States Government of providing such services from existing agency assets.

(d)[737] There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

Sec. 507.[738] **Restrictions on Military Aid to Latin America.** * * * [Repealed—1973]

Sec. 508.[738] **Restrictions on Military Aid to Africa.** * * * [Repealed—1973]

Sec. 509.[738] **Certification of Recipient's Capability.** * * * [Repealed—1973]

Sec. 510.[739] **Restrictions on Training Foreign Military Students.** * * * [Repealed—1976]

Sec. 511.[740] **Considerations in Furnishing Military Assistance.**—Decisions to furnish military assistance made under this part shall take into account[741] whether such assistance will—

(1) contribute to an arms race;

(2) increase the possibility of outbreak or escalation of conflict; or

(3) prejudice the development of bilateral or multilateral arms control arrangements.

Sec. 512.[742] **Military Assistance Advisory Groups and Missions.** * * * [Repealed—1973]

Sec. 513.[743] **Military Assistance Authorizations for Thailand and Laos, and South Vietnam.** * * * [Repealed—1981]

Sec. 514.[744] **Stockpiling of Defense Articles for Foreign Countries.**—(a) No defense article in the inventory of the Depart-

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[738] Sec. 12(b)(5) of the FA Act of 1973 (Public Law 93–189) repealed secs. 507, 508, and 509.

[739] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) repealed sec. 510.

[740] 22 U.S.C. 2321d. Sec. 201(f) of the FA Act of 1971 (Public Law 92–226) added sec. 511.

[741] Sec. 1225(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681) struck out "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to" and inserted in lieu thereof "take into account". Previously, sec. 150(c) of the Foreign Relations Authorization Act, Fiscal Year 1976 (Public Law 94–141) struck out the words "take into account" and inserted in lieu thereof "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to".

[742] Sec. 12(5) of the FA Act of 1973 (Public Law 93–189) repealed sec. 512.

[743] Sec. 513, as added by sec. 20(f) of the FA Act of 1971 (Public Law 92–226) and amended by sec. 12(6)(B) of the FA Act of 1973 (Public Law 93–189) and sec. 12 of the FA Act of 1974 (Public Law 93–559), and was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Sec. 513 had prohibited military assistance for Thailand (after June 30, 1972), Laos (after June 30, 1974), and South Vietnam (after June 30, 1976) unless the assistance had been authorized under this Act or the Foreign Military Sales Act (now the Arms Export Control Act).

[744] 22 U.S.C. 2321h. Sec. 201(f) of Public Law 92–226 (86 Stat. 26) added the original sec. 514, which concerned special foreign country accounts. Sec. 12(b) of Public Law 93–189 (87 Stat. 722) repealed the sec. This new sec. 514, as added by sec. 15 of Public Law 93–559 (88 Stat. 1799), was amended by sec. 103 of the International Security Assistance and Arms Export Control Act of 1976. It formerly read:

"(a) Notwithstanding any other provision of law, no funds, other than funds made available under this chapter or section 401(a) of Public Law 89–367 (80 Stat. 37), or any subsequent corresponding legislation, may be obligated for the purpose of stockpiling any defense article or war reserve material, including the acquisition, storage, or maintenance of any war reserve equipment, secondary items, or munitions, if such article or material is set aside, reserved, or in any way earmarked or intended for future use by any foreign country under this Act or such section.

ment of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this Act or the Arms Export Control Act, or any subsequent corresponding legislation, and the value of such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, "value" means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

(b)(1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization or in the implementation of agreements with Israel)[745] in stockpiles located in foreign countries may not exceed in any fiscal year an amount that[746] is specified in security assistance authorizing legislation for that fiscal year.

"(b) The cost of any such article or material set aside, reserved, or in any way earmarked or intended by the Department of Defense for future use by, for, or on behalf of the country referred to in section 401(a)(1) of Public Law 89–367 (80 Stat. 37) shall be charged against the limitation specified in such section or any subsequent corresponding legislation, for the fiscal year in which such article or material is set aside, reserved, or otherwise earmarked or intended; and the cost of any such article or material set aside, reserved or in any way earmarked or intended for future use by, for, or on behalf of any other foreign country shall be charged against funds authorized under this chapter or the fiscal year in which such article or material is set aside, reserved, or otherwise earmarked. No such article or material may be made available to or for use by any foreign country unless such article or material has been charged against the limitation specified in such section, or any subsequent corresponding legislation, or against funds authorized under this chapter, as appropriate.".

Sec. 1303(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1669) struck out subsec. (e) to this section. Subsec. (e) formerly read as follows:

"(e) The President shall promptly report to the Congress each new stockpile, or addition to an existing stockpile, described in this section of defense articles valued in excess of $10,000,000 in any fiscal year.".

Sec. 12001 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011) provided the following:

"SEC. 12001. (a)(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President may transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

"(2) The items referred to in paragraph (1) are armor, artillery, automatic weapons ammunition, missiles, and other munitions that—

"(A) are obsolete or surplus items;

"(B) are in the inventory of the Department of Defense;

"(C) are intended for use as reserve stocks for Israel; and

"(D) as of the date of enactment of this Act, are located in a stockpile in Israel.

"(b) The value of concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

"(c) Not later than 30 days before making a transfer under the authority of this section, the President shall transmit a notification of the proposed transfer to the Committees on Foreign Relations and Armed Services of the Senate and the Committees on International Relations and Armed Services of the House of Representatives. The notification shall identify the items to be transferred and the concessions to be received.

"(d) No transfer may be made under the authority of this section more than 2 years after the date of the enactment of this Act.".

See also sec. 112 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 850), in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[745] Sec. 531B(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 732), inserted "or in the implementation of agreements with Israel" after "North Atlantic Treaty Organization".

[746] Sec. 587(b)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1253), struck out "greater than" and inserted in lieu thereof "that" at this point.

(2)[747] (A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $100,000,000 for each of fiscal years 2004 and 2005.

(B)[748] Of the amount specified in subparagraph (A) for a fiscal year, not more than $100,000,000 may be made available for stockpiles in the State of Israel.

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[747] Sec. 12002(1) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011) struck out "for fiscal year 2003" and inserted in lieu thereof "for each of fiscal years 2004 and 2005".

Previously, sec. 1261 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) amended and restated para. (2). The paragraph previously had provided not to exceed $50 million for fiscal year 2001.

Previously, sec. 102(c)(1) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 845) amended and restated para. (2). The paragraph had provided not to exceed $60 million for fiscal year 2000 in subpara. (A), and not more than $40 million for stockpiles in the Republic of Korea and $20 million for stockpiles in Thailand in subpara. (B).

Previously, sec. 1231 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), amended and restated subsec. (b)(2), effectively striking out "$340,000,000 for fiscal year 1999 and" after "shall not exceed".

Sec. 584(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "$50,000,000 for each of the fiscal years 1996 and 1997, $60,000,000 for fiscal year 1998, and" after "shall not exceed" and inserted at the end of the sentence "and $60,000,000 for fiscal year 2000".

Previously, sec. 571(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (sec. 101(d) of Public Law 105–277; 112 Stat. 2681), struck out "and" after "1997", inserted in lieu thereof a comma, and added ", and $340,000,000 for fiscal year 1999" at the end of the sentence. Sec. 572(b) of that Act added at the end of subpara. (B) the following: "Of the amount specified in subparagraph (A) for fiscal year 1999, not more than $320,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand.".

Previously, sec. 575(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2433), added "and $60,000,000 for fiscal year 1998" at the end of para. (2); and sec. 575(b) of that Act added the fiscal year 1998 stockpile limits for Korea and Thailand in subpara. (B).

Previously, sec. 531B(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 732), amended and restated subsec. (b)(2) generally.

Previously, sec. 535 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1637), provided "a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995".

Previously, sec. 535 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87; 107 Stat. 955), decreased the stockpile for Israel to $200,000,000, and made available up to $72,000,000 for stockpiles in Korea, and up to $20,000,000 for stockpiles in Thailand.

Previously, sec. 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1681), increased the stockpile limit, included allocations for Israel, and added text pertaining to stockpile allocations for the Republic of Korea.

Previous to that, sec. 573(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2042), increased the stockpile limit and added text pertaining to allocations for Israel.

Figures for stockpile limits for recent years include the following: fiscal year 1976—$96,750,000; fiscal year 1977—$125,000,000; fiscal year 1978—$270,000,000; fiscal year 1979—$90,000,000; fiscal year 1980—$95,000,000; fiscal year 1981—$85,000,000; fiscal year 1982—$130,000,000; fiscal year 1983—$125,000,000; fiscal year 1984—$125,000,000; fiscal year 1985—$248,000,000; fiscal year 1986—$360,000,000; fiscal year 1987—$125,000,000; fiscal year 1988—$116,000,000; fiscal year 1989—$77,000,000; fiscal year 1990—$165,000,000; fiscal year 1991—$378,000,000; fiscal year 1992—$378,000,000; fiscal year 1993—$389,000,000; fiscal year 1994—$292,000,000; fiscal year 1995—$250,000,000; fiscal year 1996—$50,000,000; fiscal year 1997—$50,000,000; fiscal year 1998—$60,000,000; fiscal year 1999—$340,000,000; fiscal year 2000—$60,000,000; fiscal year 2001—$50,000,000; fiscal year 2003—$100,000,000.

[748] Sec. 12002(2) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011) struck out "for fiscal year 2003" and inserted in lieu thereof "for a fiscal year".

Sec. 1261 of the Security Assistance of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) amended and restated para. (2). Previously, subpara. (B) provided not more than $50 million for stockpiles in the Republic of Korea.

(c)[749] LOCATION OF STOCKPILES OF DEFENSE ARTICLES.—

(1) LIMITATION.—Except as provided in paragraph (2), no stockpile of defense articles may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to stockpiles of defense articles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the congressional committees specified in section 634A(a) in accordance with the procedures applicable to reprogramming notifications under that section.

(d) No defense article transferred from any stockpile which is made available to or for use by any foreign country may be considered an excess defense article for the purpose of determining the value thereof.

Sec. 515.[750] **Overseas Management of Assistance and Sales Programs.**—(a) In order to carry out his responsibilities for the management of international security assistance programs conducted under this chapter, chapter 5 of this part, and the Arms Export Control Act, the President may assign members of the Armed

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Previously, sec. 102(c)(1) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 845) amended and restated para. (2). It had provided not to exceed $60 million for fiscal year 2000 in subpara. (A), and not more than $40 million for stockpiles in the Republic of Korea and $20 million for stockpiles in Thailand in subpara. (B).

Previously, sec. 1231 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), amended and restated subsec. (b)(2), effectively striking out "Of the amount specified in subparagraph (A) for fiscal year 1999, not more than $320,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand." and the reference to fiscal year 2000 for the remaining text in subpara. (B).

Previously, sec. 584(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "Of the amount specified in subparagraph (A) for each of the fiscal years 1996 and 1997, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $10,000,000 may be made available for stockpiles in Thailand. Of the amount specified in subparagraph (A) for fiscal year 1998, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand." and inserted a sentence at the end of the subpara.

[749] Sec. 531B(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 732) amended and restated subsec. (c). It formerly read as follows:

"(c) Except for stockpiles in existence on the date of enactment of the International Security Assistance and Arms Export Control Act of 1976 and for stockpiles located in the Republic of Korea, Thailand, or countries which are members of the North Atlantic Treaty Organization, or major non-NATO allies, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.".

The reference to Thailand was first added by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–147). The reference to the Republic of Korea was first added by sec. 6(a)(2) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 703). Sec. 573(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2042), first added the reference to major non-NATO allies.

[750] 22 U.S.C. 2321i. Sec. 515, as amended by sec. 16 of FA Act of 1974 (Public Law 93–559), sec. 104 of Public Law 94–329, sec. 7(c) of Public Law 95–92, sec. 9 of Public Law 95–424, sec. 7 of Public Law 95–92, and sec. 114 of Public Law 96–533, was comprehensively amended and restated by sec. 112 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1527).

Forces of the United States to a foreign country to perform one or more of the following functions:

(1) equipment and services case management;

(2) training management;

(3) program monitoring;

(4) evaluation and planning of the host government's military capabilities and requirements;

(5) administrative support;

(6) promoting rationalization, standardization, interoperability, and other defense cooperation measures;[751] and

(7) liaison functions exclusive of advisory and training assistance.

(b) Advisory and training assistance conducted by military personnel assigned under this section shall be kept to an absolute minimum. It is the sense of the Congress that advising and training assistance in countries to which military personnel are assigned under this section shall be provided primarily by other personnel who are not assigned under this section and who are detailed for limited periods to perform specific tasks.

(c)(1) The number of members of the Armed Forces assigned to a foreign country under this section may not exceed six unless specifically authorized by the Congress. The President may waive this limitation if he determines and reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[726] of the House of Representatives, 30 days prior to the introduction of the additional military personnel, that United States national interests require that more than six members of the Armed Forces be assigned under this section to carry out international security assistance programs in a country not specified in this paragraph. Pakistan, Tunisia, El Salvador, Honduras, Colombia,[752] Indonesia, the Republic of Korea, the Philippines, Thailand, Egypt, Jordan, Morocco, Saudi Arabia, Greece, Portugal, Spain, and Turkey are authorized to have military personnel strengths larger than six under this section to carry out international security assistance programs.

(2) The total number of members of the Armed Forces assigned under this section to a foreign country in a fiscal year may not exceed the number justified to the Congress for that country in the congressional presentation materials for that fiscal year, unless the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[726] of the House of Representatives are notified 30 days in advance of the introduction of the additional military personnel.

(d) Effective October 1, 1989,[753] the entire costs (excluding[754] salaries of the United States military personnel other than the

[751] Sec. 143 of Public Law 104–164 (110 Stat. 1434) struck out "among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand" after "measures".

[752] Sec. 125 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205), struck out "For the fiscal year 1982 and the fiscal year 1983" and inserted in lieu thereof "Pakistan, Tunisia, El Salvador, Honduras".

Sec. 4305(a) of Public Law 100–690 (102 Stat. 4273) added "Colombia" after "Honduras".

[753] Sec. 9104(a) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) struck out "1982" and inserted in lieu thereof "1989".

Coast Guard)[754] of overseas management of international security assistance programs under this section shall be charged to or reimbursed from funds made available to carry out this chapter or the Arms Export Control Act,[755] other than any such costs which are either paid directly for such defense services under section 21(a) of the Arms Export Control Act or reimbursed from charges for services collected from foreign governments pursuant to section 21(e) and section 43(b) of that Act.

(e) Members of the Armed Forces assigned to a foreign country under this section shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission to that country.

(f) The President shall continue to instruct United States diplomatic and military personnel in the United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.

Sec. 516.[756] AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

(a) AUTHORIZATION.—The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

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[754] Sec. 9104 of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) struck out "including" and inserted in lieu thereof "excluding". Sec. 556(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1675), restated parentheses to make provision for the Coast Guard.

[755] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1213), added reference to the Arms Export Control Act at this point.

[756] 22 U.S.C. 2321j. Sec. 104(a) of Public Law 104–164 (110 Stat. 1424) amended and restated sec. 516.

The earlier form of sec. 516, relating to the modernization of defense capabilities of countries of NATO's southern flank, was added by sec. 1101 of Public Law 99–661 (100 Stat. 3960). Prior to that, sec. 516, added by sec. 105 of Public Law 94–329 and amended by sec. 7(b) of Public Law 95–384, sec. 5(c) of Public Law 96–92, and sec. 112(d) of Public Law 96–533, was repealed by sec. 110(d) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526). Sec. 516 had required the termination of authorities contained in this chapter (except for authorities in secs. 506, 514, and 515) as of September 30, 1982, except to the extent Congress might authorize military assistance in specified amounts for specified countries.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

"SEC. 524. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.".

(b) LIMITATIONS ON TRANSFERS.—(1) The President may transfer excess defense articles under this section only if—

(A) such articles are drawn from existing stocks of the Department of Defense;

(B) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

(C) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

(D) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

(E) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

(F) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 620C of this Act.

(2) Accordingly, for the four-year period beginning on October 1, 1996, and thereafter for the four-year period beginning on October 1, 2000,[757] the President shall ensure that excess defense articles offered to Greece and Turkey under this section will be made available consistent with the manner in which the President made available such excess defense articles during the four-year period that began on October 1, 1992, pursuant to section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.[758]

(c) TERMS OF TRANSFERS.—

(1) NO COST TO RECIPIENT COUNTRY.—Excess defense articles may be transferred under this section without cost to the recipient country.

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[757] Sec. 1211(b) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), inserted "and thereafter for the four-year period beginning on October 1, 2000," after "October 1, 1996,".

[758] Sec. 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; (103 Stat. 1246), read as follows:

"(e) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Cooperation Act of 1989, of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the three-year period beginning on October 1, 1989, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

"(i) the amount of foreign military financing provided for Turkey, to

"(ii) the amount of foreign military financing provided for Greece.

"(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).".

(2) PRIORITY.—Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO, to major non-NATO allies on such southern and southeastern flank, and to the Philippines[759] shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

(e)[760] TRANSPORTATION AND RELATED COSTS.—

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[759] Sec. 1234 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433), struck out "and to major non-NATO allies on such southern and southeastern flank" and inserted in lieu thereof ", to major non-NATO allies on such southern and southeastern flank, and to the Philippines".

[760] Sec. 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTH EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

"SEC. 571. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during fiscal year 2005, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavian Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.".

Sec. 1231 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1432) provided the following:

"SEC. 1231. EXCESS DEFENSE ARTICLES FOR CERTAIN COUNTRIES.

"(a) AUTHORITY.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during the fiscal year 2003 funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the authority provided under this section should be utilized only for those countries demonstrating a genuine commitment to democracy and human rights.".

See also sec. 1701 of that Act (116 Stat. 1463), authorizing the transfer of naval vessels to certain countries.

Sec. 105 of Public Law 104–164 (110 Stat. 1427), as amended, provided the following:

"SEC. 105. EXCESS DEFENSE ARTICLES FOR CERTAIN EUROPEAN COUNTRIES.

"Notwithstanding section 516(e) of the Foreign Assistance Act of 1961, as added by this Act, during each of the fiscal years 2002 and 2003, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to countries that are eligible to participate in the Partnership for Peace and that are eligible for assistance under the Support for East European Democracy (SEED) Act of 1989.".

Sec. 589 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2174), provided the following:

"EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTHERN EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

"SEC. 589. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during each of the fiscal years 2002 and 2003, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: *Provided*, That section 105 of Public Law 104–164 is amended by striking '2000 and 2001' and inserting '2002 and 2003'.".

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(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense may not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

(2) EXCEPTION.—The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

(A) it is determined that it is in the national interest of the United States to do so;

(B) the recipient is a developing country receiving less than $10,000,000 of assistance under chapter 5 of this part of this Act (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

(C) the total weight of the transfer does not exceed 50,000[761] pounds; and

(D) such transportation is accomplished on a space available basis.

(f)[760, 762] ADVANCE NOTIFICATION TO CONGRESS FOR TRANSFER OF CERTAIN EXCESS DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 30 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

(2) CONTENTS.—Such notification shall include—

(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

(B) an assessment of the impact of the transfer on the military readiness of the United States;

(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national tech-

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See also sec. 707 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 862), relating to excess defense articles for Mongolia, and sec. 1212(a) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), relating to Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Slovakia, Ukraine, and Uzbekistan, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[761] Sec. 122 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851) struck out "25,000" and inserted in lieu thereof "50,000".

[762] Sec. 1212(b) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), provided the following:

"(b) CONTENT OF CONGRESSIONAL NOTIFICATION.—Each notification required to be submitted under section 516(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)) with respect to a proposed transfer of a defense article described in subsection (a) shall include an estimate of the amount of funds to be expended under subsection (a) with respect to that transfer.".

nology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

(D) a statement describing the current value of such article and the value of such article at acquisition.

(g)[763] AGGREGATE ANNUAL LIMITATION.—

(1) IN GENERAL.—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed $425,000,000.[764]

(2) EFFECTIVE DATE.—The limitation contained in paragraph (1) shall apply only with respect to fiscal years beginning after fiscal year 1996.

(h) CONGRESSIONAL PRESENTATION DOCUMENTS.—Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

(i) EXCESS COAST GUARD PROPERTY.—For purposes of this section, the term "excess defense articles" shall be deemed to include excess property of the Coast Guard, and the term "Department of Defense" shall be deemed, with respect to such excess property, to include the Coast Guard.

Sec. 517.[765] * * * [Repealed—1996]

SEC. 517.[766] DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) NOTICE TO CONGRESS.—The President shall notify the Congress[767] in writing at least 30 days before—

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[763] Sec. 1271(a) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), provided the following:

"(a) INAPPLICABILITY OF AGGREGATE ANNUAL LIMITATION ON VALUE OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by section 1018(a) of the National Defense Authorization Act for Fiscal Year 2000 shall not be counted for the purposes of section 516(g) of the Foreign Assistance Act of 1961 in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.".

[764] Sec. 1213 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "$350,000,000" and inserted in lieu thereof "$425,000,000".

[765] Formerly at 22 U.S.C. 2321k. Sec. 104(b)(2)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 517, relating to the modernization of counternarcotics capabilities of certain countries. The section was originally added by sec. 5 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1957).

[766] 22 U.S.C. 2321k. Added by sec. 147(a)(1) of Public Law 104–164 (110 Stat. 1434).

[767] On November 12, 1996, the President notified Congress that he designated the Hashemite Kingdom of Jordan as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 97–4; 61 F.R. 59809).

On January 6, 1998, the President notified Congress that he designated the Republic of Argentina as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 98–9; 63 F.R. 3635).

On March 14, 2002, the President notified Congress that he designated the Kingdom of Bahrain as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2002–10; 67 F.R. 13247).

Continued

(1) designating a country as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.); or

(2) terminating such a designation.

(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.

Sec. 518.[768] * * * [Repealed—1996]

Sec. 519.[769] * * * [Repealed—1996]

Sec. 520.[770] * * * [Repealed—1996]

Chapter 3—Foreign Military Sales [771]

Sec. 521.[772] **Administration of Sales Programs Involving Defense Articles and Services.** * * * [Repealed—1968]

Sec. 522.[772] **Sales from Stock.** * * * [Repealed—1968]

Sec. 523.[772] **Procurement of Sales.** * * * [Repealed—1968]

Sec. 524.[773] **Reimbursements.**—(a)[774] Whenever funds made available for use under this part have been or[775] are used to furnish military assistance on cash or credit terms, United States dollar repayments, including dollar proceeds derived from the sale of foreign currency repayments to any agency or program of the United States Government, receipts received from the disposition of evidences of indebtedness and charges (including fees and premiums) or interest collected[776] shall be credited to a separate fund

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On October 6, 2003, the President notified Congress that he designated the Republic of the Philippines as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–02; 68 F.R. 59855).

On December 30, 2003, the President notified Congress that he designated the Kingdom of Thailand as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–16; 69 F.R. 2053).

On January 15, 2004, the President notified Congress that he designated the State of Kuwait as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–21; 69 F.R. 4843).

On June 3, 2004, the President notified Congress that he designated the Kingdom of Morocco as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–35; 69 F.R. 34049).

On June 16, 2004, the President notified Congress that he designated the Islamic Republic of Pakistan as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–37; 69 F.R. 38797).

[768] Formerly at 22 U.S.C. 2321*l*. Sec. 104(b)(2)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 518, relating to natural resources and wildlife management. The section was originally added by sec. 533(f) of Public Law 101–513 (104 Stat. 2015).

[769] Formerly at 22 U.S.C. 2321m. Sec. 104(b)(2)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 519, relating to modernization of military capabilities. The section was originally added by sec. 596 of Public Law 101–513 (104 Stat. 2061).

[770] Formerly at 22 U.S.C. 2321n. Sec. 104(b)92)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 520, relating to transfers of excess defense articles for international peacekeeping operations. The section was originally added by sec. 408 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 452).

[771] Sec. 201(o)(2) of the FA Act of 1967 (Public Law 90–137) added the chapter heading.

[772] Sec. 45(a) of the Foreign Military Sales Act (Public Law 90–629) repealed secs. 521, 522, and 523.

[773] 22 U.S.C. 2344. Former sec. 508 was redesignated sec. 524 by sec. 201(h)(1) of the FA Act of 1967 (Public Law 90–137).

[774] Sec. 201(h)(2) of the FA Act of 1967 (Public Law 90–137) added subsec. designation "(a)" and added subsec. (b).

[775] Sec. 201(e)(1) of the FA Act of 1965 (Public Law 89–171) inserted "have been or".

[776] Sec. 201(e)(2) of the FA Act of 1965 (Public Law 89–171) inserted "receipts received from the disposition of evidences of indebtedness and charges (including fees and premiums) or interest collected".

account[777] and, shall be available until expended solely for the purposes of financing sales and guaranties, including the overhead costs thereof,[778] and, notwithstanding any provision of law relating to receipts and credits accruing to the United States Government, repayment in foreign currency may be used to carry out this part. Such amounts of the appropriations made available under this part (including unliquidated balances of funds heretofore obligated for financing sales and guarantees) as may be determined by the President shall be transferred to, and merged with the separate fund account.[779]

(b)(1) The special fund account established under subsection (a) of this section shall terminate as of the end of June 30, 1968, or on such earlier date as may be selected by the President.

(2) Upon the termination of such fund account pursuant to paragraph (1), all of the assets of such fund account (including loans and other payments receivable) shall be transferred to a special account in the Treasury, which special account shall be available solely for the purpose of discharging outstanding liabilities and obligations of the United States arising out of credit sales agreements entered into, and guaranties issued, under this part, prior to June 30, 1968. Any moneys in such special account in excess of the aggregate United States dollar amount of such liabilities and obligations shall be transferred from time to time to the general fund of the Treasury.

(3)[780] [Repealed—1968]

Sec. 525.[780] **Guaranties.** [Repealed—1968]

[777] Sec. 201(e)(3) of the FA Act of 1965 (Public Law 89–171) struck out "the current applicable appropriation" and inserted in lieu thereof "a separate fund account".

[778] Sec. 201(e)(1) of the FA Act of 1965 (Public Law 89–171) struck out "furnishing further military assistance on cash or credit terms" and inserted in lieu thereof "financing sales and guaranties, including the overhead costs thereof".

[779] Sec. 201(c) of the FA Act of 1966 (Public Law 89–583) added this sentence.

[780] Sec. 45(a) of the Foreign Military Sales Act (Public Law 90–629) repealed sec. 524(b)(3), and sec. 525. The subject matter of para. (3), relating to arms sales credits, is now covered in sec. 23 of the Arms Export Control Act.

Chapter 4—Economic Support Fund [781]

NOTE.—Section 202 of the Foreign Assistance Act of 1971 transferred the former chapter 4 of part I governing supporting assistance to its present location as chapter 4 of part II of the Act. Section 202(b) of the Foreign Assistance Act of 1971 provides as follows:

"Chapter 4 of part I of the Foreign Assistance Act of 1961 is hereby repealed. References to such chapter or any sections thereof shall hereafter be deemed to be references to chapter 4 of part II of the Foreign Assistance Act of 1961, as added by subsection (a) of this section, or to appropriate sections thereof. All references to part I of the Foreign Assistance Act of 1961 shall hereafter be deemed to be references also to chapter 4 of part II, and all references to part II of such Act shall be deemed not to include chapter 4 of such part II."

In changing the title of chapter 4 from Security Supporting Assistance to Economic Support Fund, sec. 10(b)(6) of the International Security Assistance Act of 1978 (92 Stat. 735) stated that, after September 30, 1978, any reference to security supporting assistance shall be deemed to be a reference to assistance provided under chapter 4 of part II of this Act.

Sec. 531.[782] **Authority.**—(a) The Congress recognizes that, under special economic, political, or security conditions, the national interests of the United States may require economic support for countries in amounts which could not be justified solely under chapter 1 of part I or, in the case of countries in sub-Saharan Africa, chapter 10 of part I.[783] In such cases, the President is author-

[781] Chapter 4, as added by the FA Act of 1971 (Public Law 92–226), was titled "Security Supporting Assistance," was retitled "Economic Support Fund" and comprehensively amended and restated by sec. 10(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 733). Sec. 10(b)(6) of the same Act stated that, after September 30, 1978, any reference in any act to security supporting assistance shall be considered to be a reference to this chapter.

Sec. 201 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 210), replaced secs. 531 and 532, amended and redesignated sec. 535 as sec. 533, and repealed all other sections regarding earmarking of funds for specific regions or purposes. See Public Law 99–83 (99 Stat. 210), relating to ESF for the Middle East, Cyprus, Portugal, agricultural commodities under commodity import programs, tied aid credit program, and restriction on use of funds for nuclear facilities.

See also secs. 644–647 of the Export-Import Bank Act Amendments of 1983 (title VI of Public Law 98–166) that established a tied aid credit program in the U.S. Export-Import Bank in order to promote U.S. exports. This program is carried out in cooperation with AID and permits the AID Administrator to draw on ESF allocated for Commodity Import Programs to finance a tied aid credit activity. See *Legislation on Foreign Relations Through 2004*, vol. III.

See also sec. 206 of the International Security and Development Cooperation Act of 1985, which authorized not less than $50 million in fiscal year 1986 and not less than $100 million in fiscal year 1987 out of the commodity import program portion of the Economic Support Fund for use in a tied aid credit program.

[782] 22 U.S.C. 2346.

[783] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added a new chapter 10 to part I of this

ized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. To the maximum extent feasible, the President shall provide assistance under this chapter consistent with the policy directions, purposes, and programs of part I of this Act.

(b) The Secretary of State shall be responsible for policy decisions and justifications for economic support programs under this chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator of the agency primarily responsible for administering part I of this Act.[784]

(c) As part of the annual presentation materials for foreign assistance submitted to the Congress, the agency primarily responsible for administering this part shall provide a detailed justification for the uses and the purposes of the funds provided under this chapter. Such material shall include, but not be limited to, information concerning the amounts and kinds of cash grant transfers, the amounts and kinds of budgetary and balance-of-payments support provided, and the amounts and kinds of project assistance provided with funds made available under this chapter.

(d)[785] * * * [Repealed—1998]

Act, providing for long-term development in sub-Saharan Africa, and made a conforming amendment by inserting "or, in the case of countries in sub-Saharan Africa, chapter 10 of part I" here.

[784] This responsibility, as it related to the Administrator, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[785] Sec. 533(a)(5) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), repealed subsec. (d) and sec. 609 of this Act. Subsec. (d) had read as follows:

"(d) To the maximum extent feasible, funds made available pursuant to this chapter for commodity import programs or other program assistance shall be used to generate local currencies, not less than 50 percent of which shall be available to support activities consistent with the objectives of sections 103 through 106 of this Act, and administered by the agency primarily responsible for administering part I of this Act.".

Sec. 529 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"SEPARATE ACCOUNTS

"SEC. 529. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

"(A) require that local currencies be deposited in a separate account established by that government;

"(B) enter into an agreement with that government which sets forth—

"(i) the amount of the local currencies to be generated; and

"(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

"(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

"(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

"(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

"(i) project and sector assistance activities; or

"(ii) debt and deficit financing; or

"(B) for the administrative requirements of the United States Government.

Continued

(e) Amounts appropriated to carry out this chapter shall be available for economic programs and may not be used for military or paramilitary purposes.

Sec. 532.[786, 787] **Authorizations of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter—

"(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

"(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

"(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

"(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

"(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

"(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

"(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.".

[786] 22 U.S.C. 2346a.

[787] Title V, subtitle B of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 855), as amended by sec. 1221 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430), provided the following authorization for assistance:

"SEC. 513. ASSISTANCE FOR ISRAEL.

"(a) DEFINITIONS.—In this section:

"(1) ESF ASSISTANCE.—The term 'ESF assistance' means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), relating to the economic support fund.

"(2) FOREIGN MILITARY FINANCING PROGRAM.—The term 'Foreign Military Financing Program' means the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763).

"(b) ESF ASSISTANCE.—

"(1) IN GENERAL.—Of the amounts made available for each of the fiscal years 2002 and 2003 for ESF assistance, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available for Israel. Such funds are authorized to be made available on a grant basis as a cash transfer.

"(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

"(A) the amount made available for ESF assistance for Israel for the preceding fiscal year, minus

"(B) $120,000,000.

"(3) ADDITIONAL ESF ASSISTANCE FOR FISCAL YEAR 2003.—Only for fiscal year 2003, in addition to the amount computed under paragraph (2) for that fiscal year, an additional amount of $200,000,000 is authorized to be made available for ESF assistance for Israel, notwithstanding section 531(e) or 660(a) of the Foreign Assistance Act of 1961, for defensive, nonlethal, antiterrorism assistance, which amount shall be considered, for purposes of subsection (d), as an amount appropriated by an Act making supplemental appropriations.

"(c) FMF PROGRAM.—

"(1) IN GENERAL.—Of the amount made available for each of the fiscal years 2002 and 2003 for assistance under the Foreign Military Financing Program, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available on a grant basis for Israel.

"(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

"(A) the amount made available for assistance under the Foreign Military Financing Program for Israel for the preceding fiscal year, plus

"(B) $60,000,000.

"(3) DISBURSEMENT OF FUNDS.—Funds authorized to be available for Israel under subsection (b)(1) and paragraph (1) of this subsection for fiscal years 2002 and 2003 shall be disbursed not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or October 31 of the respective fiscal year, whichever is later.

"(4) AVAILABILITY OF FUNDS FOR ADVANCED WEAPONS SYSTEMS.—To the extent the Government of Israel requests that funds be used for such purposes, grants made available for Israel out of funds authorized to be available under paragraph (1) for Israel for fiscal years 2002 and 2003 shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $535,000,000 for fiscal year 2002 and not less than $550,000,000 for fiscal year 2003 shall be available for the procurement in Israel of defense articles and defense services, including research and development.

"(d) EXCLUSION OF RESCISSIONS AND SUPPLEMENTAL APPROPRIATIONS.—For purposes of this section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.

"SEC. 514. ASSISTANCE FOR EGYPT.

"(a) DEFINITIONS.—In this section:

"(1) ESF ASSISTANCE.—The term 'ESF assistance' means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), relating to the economic support fund.

"(2) FOREIGN MILITARY FINANCING PROGRAM.—The term 'Foreign Military Financing Program' means the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763).

"(b) ESF ASSISTANCE.—

"(1) IN GENERAL.—Of the amounts made available for each of the fiscal years 2002 and 2003 for ESF assistance, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available for Egypt.

"(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

"(A) the amount made available for ESF assistance for Egypt during the preceding fiscal year, minus

"(B) $40,000,000.

"(c) FMF PROGRAM.—Of the amount made available for each of the fiscal years 2002 and 2003 for assistance under the Foreign Military Financing Program, $1,300,000,000 is authorized to be made available on a grant basis for Egypt.

"(d) EXCLUSION OF RESCISSIONS AND SUPPLEMENTAL APPROPRIATIONS.—For purposes of this section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.

"(e) DISBURSEMENT OF FUNDS.—Funds estimated to be outlayed for Egypt under subsection (c) during fiscal years 2002 and 2003 shall be disbursed to an interest-bearing account for Egypt in the Federal Reserve Bank of New York not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or by October 31 of the respective fiscal year, whichever is later, provided that—

"(1) withdrawal of funds from such account shall be made only on authenticated instructions from the Defense Finance and Accounting Service of the Department of Defense;

"(2) in the event such account is closed, the balance of the account shall be transferred promptly to the appropriations account for the Foreign Military Financing Program.

"(3) none of the interest accrued by such account should be obligated unless the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives are notified.".

The Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1425) provides the following:

"SEC. 1222. SECURITY ASSISTANCE FOR GREECE AND TURKEY.

"(a) IN GENERAL.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

"(1) $1,120,000 for fiscal year 2003 is authorized to be available for Greece; and

"(2) $2,800,000 for fiscal year 2003 is authorized to be available for Turkey.

"(b) USE FOR PROFESSIONAL MILITARY EDUCATION.—Of the amounts available under paragraphs (1) and (2) of subsection (a) for fiscal year 2003, $500,000 of each such amount should be available for purposes of professional military education.

Continued

(1) $2,015,000,000 for the fiscal year 1986 and $2,015,000,000 for the fiscal year 1987 for the following countries signing the Camp David agreement: Israel and Egypt; and [788]

"(c) USE FOR JOINT TRAINING.—It is the sense of Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.

"(d) REPEAL.—Effective October 1, 2002, section 512 of the Security Assistance Act of 2000 (Public Law 106-280; 114 Stat. 856) is repealed.

"SEC. 1223. SECURITY ASSISTANCE FOR CERTAIN OTHER COUNTRIES.

"(a) FMF FOR CERTAIN OTHER COUNTRIES.—Of the total amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), the following amounts are authorized to be available on a grant basis for the following countries:

"(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $22,000,000.

"(2) BULGARIA.—For Bulgaria, $11,000,000.

"(3) THE CZECH REPUBLIC.—For the Czech Republic, $11,000,000.

"(4) GEORGIA.—For Georgia, $7,000,000.

"(5) HUNGARY.—For Hungary, $11,000,000.

"(6) JORDAN.—For Jordan, $198,000,000.

"(7) MALTA.—For Malta, $1,150,000.

"(8) THE PHILIPPINES.—For the Philippines, $25,000,000.

"(9) POLAND.—For Poland, $16,000,000.

"(10) ROMANIA.—For Romania, $12,000,000.

"(11) SLOVAKIA.—For Slovakia, $9,000,000.

"(12) SLOVENIA.—For Slovenia, $5,000,000.

"(b) IMET.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), the following amounts are authorized to be available for the following countries:

"(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $3,300,000.

"(2) BULGARIA.—For Bulgaria, $1,370,000.

"(3) THE CZECH REPUBLIC.—For the Czech Republic, $1,900,000.

"(4) GEORGIA.—For Georgia, $1,200,000.

"(5) HUNGARY.—For Hungary, $1,900,000.

"(6) JORDAN.—For Jordan, $4,000,000.

"(7) MALTA.—For Malta, $350,000.

"(8) THE PHILIPPINES.—For the Philippines, $2,000,000.

"(9) POLAND.—For Poland, $2,000,000.

"(10) ROMANIA.—For Romania, $1,500,000.

"(11) SLOVAKIA.—For Slovakia, $950,000.

"(12) SLOVENIA.—For Slovenia, $950,000.

"(c) REPEALS.—Sections 511 (a) and (b) and 515 of the Security Assistance Act of 2000 are repealed.

"SEC. 1224. ASSISTANCE TO LEBANON.

"(a) PROHIBITION.—Notwithstanding any other provision of law, $10,000,000 of the amounts made available for fiscal year 2003 or any subsequent fiscal year that are allocated for assistance to Lebanon under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund) may not be obligated unless and until the President certifies to the appropriate congressional committees that—

"(1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and

"(2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

"(b) REQUIREMENT RELATING TO FUNDS WITHHELD.—Notwithstanding any other provision of law, any funds withheld pursuant to subsection (a) may not be programmed in order to be used for a purpose other than for assistance to Lebanon until the last month of the fiscal year in which the authority to obligate such funds lapses.".

[788] The authorization under this chapter, incorporated into this law during recent years, included the following: fiscal year 1979—$1,902,000,000; fiscal year 1980—$1,935,000,000 (plus an $80,000,000 supplemental authorization for Central American Assistance); fiscal year 1981—$2,065,300,000; fiscal year 1982—$2,623,500,000; fiscal year 1983—$2,723,500,000; fiscal year 1984—$3,074,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization. See, however, recent Security Assistance Acts, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"ECONOMIC SUPPORT FUND

"(INCLUDING TRANSFER OF FUNDS)

"For necessary expenses to carry out the provisions of chapter 4 of part II, $2,482,500,000, to remain available until September 30, 2006: *Provided,* That of the funds appropriated under this heading, not less than $360,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That not less than $535,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which $200,000,000 should be provided as Commodity Import Program assistance: *Provided further,* That with respect to the provision of assistance for Egypt for democracy and governance activities, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the Government of Egypt: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: *Provided further,* That of the funds appropriated under this heading, not less than $250,000,000 should be made available only for assistance for Jordan: *Provided further,* That $13,500,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further,* That $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon, of which not less than $4,000,000 should be made available for scholarships and direct support of American educational institutions in Lebanon: *Provided further,* That funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That in the previous proviso, the term "assistance" includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, nonmilitary vehicles, tents, and shoes: *Provided further,* That not to exceed $200,000,000 of the funds appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: *Provided further,* That amounts that are made available under the previous proviso for the costs of modifying direct loans and guarantees shall not be considered 'assistance' for the purposes of provisions of law limiting assistance to a country: *Provided further,* That of the funds appropriated under this heading, not less than $22,000,000 shall be made available for assistance for the Democratic Republic of Timor-Leste, of which up to $1,000,000 may be available for administrative expenses of the United States Agency for International Development: *Provided further,* That of the funds available under this heading for assistance for Indonesia, $3,000,000 should be made available to promote freedom of the media in Indonesia: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries: *Provided further,* That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.".

See also in that Act, title II, para. relating to Eastern Europe and the Baltic states, and para. relating to the International Fund for Ireland; and title V, including: sec. 515—Notification Requirements; sec. 521—Definition of Program, Project, and Activity; sec. 523—Afghanistan; sec. 526—Democracy Programs; sec. 529—Separate Accounts; sec. 531—Burma; sec. 534—Special Authorities; sec. 536—Eligibility for Assistance; sec. 548—Prohibition of Payment of Certain Expenses; sec. 549—Haiti; sec. 550—Limitation on Assistance to the Palestinian Authority; sec. 554—Cambodia; sec. 559—West Bank and Gaza Program; sec. 564—Community-Based Police Assistance; sec. 568—Reconcilation Programs; sec. 570—Trade Capacity Building; sec. 574—Limitation on Economic Support Fund Assistance for Certain Foreign Governments That Are Parties to the International Criminal Court; sec. 579—Disability Programs; sec. 581—Tibet; sec. 585—War Crimes in Africa; and sec. 595—Joint Explanatory Statement.

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 574), provided the following:

"ECONOMIC SUPPORT FUND

"For an additional amount for 'Economic Support Fund', $2,422,000,000, of which:

"(1) not less than $700,000,000 shall be made available for assistance for Jordan;

Continued

(2) $1,785,000,000 for the fiscal year 1986 and $1,785,000,000 for the fiscal year 1987 for assistance under this chapter for recipients or purposes other than the countries referred to in paragraph (1).[788]

(b) Amounts appropriated to carry out this chapter are authorized to remain available until expended.

Sec. 533.[789] **Emergency Assistance.**—(a) Of the funds appropriated to carry out this chapter up to $75,000,000 for the fiscal

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"(2) $300,000,000, to remain available until September 30, 2005, shall be made available only for grants for Egypt: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made to Egypt, the principal amount, any part of which is to be guaranteed, shall not exceed $2,000,000,000: *Provided further,* That the Government of Egypt will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Egypt to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Egypt may be used by the Government of Egypt to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for full payment and performance of such obligations: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Egypt: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph;

"(3) not to exceed $1,000,000,000, to remain available until September 30, 2005, for grants for Turkey: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, direct loans or loan guarantees may be made to Turkey, the principal amount of direct loans or loans, any part of which is to be guaranteed, shall not exceed $8,500,000,000: *Provided further,* That the Government of Turkey will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loans or loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loans or loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Turkey to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Turkey may be used by the Government of Turkey to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That none of the funds made available by this paragraph may be made available for assistance for Turkey if the Secretary of State determines and reports to the Committees on Appropriations of the House and Senate, the Committee on Foreign Relations of the Senate and Committee on International Relations of the House that the Government of Turkey is not cooperating with the United States in Operation Iraqi Freedom, including the facilitation of humanitarian assistance to Iraq, or has unilaterally deployed troops into northern Iraq: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Turkey: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph: *Provided further,* That any balance of funds not made available to Turkey under this paragraph shall be transferred to, and merged with, funds appropriated for 'Iraq Relief and Reconstruction Fund';

"(4) not less than $30,000,000 for the Philippines to further prospects for peace in Mindanao, and not less than $167,000,000 for assistance for Afghanistan: *Provided,* That of the funds appropriated under this heading, $10,000,000 should be made available for investigations and research into allegations of war crimes, crimes against humanity, or genocide committed by Saddam Hussein or other Iraqis, and for a contribution to an international tribunal to bring these individuals to justice;

"(5) regional funds made available under this heading for assistance that are not specified in paragraphs (1) through (4) shall be subject to the regular notification procedures of the Committees on Appropriations; and

"(6) unless otherwise specified herein, funds appropriated under this heading shall remain available until September 30, 2004.".

[789] 22 U.S.C. 2346b. Sec. 202 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1529) added sec. 535. Sec. 201(b) of the International Secu-

year 1986 and up to $75,000,000 for the fiscal year 1987 may be made available for emergency use under this chapter when the national interests of the United States urgently require economic support to promote economic or political stability.

(b) Notwithstanding any provision of this chapter or of an appropriations act (including a joint resolution making continuing appropriations) which earmarks funds available to carry out this chapter for a specific country or purpose, up to 5 percent of each amount so earmarked may be used to carry out this section.

Sec. 534.[790] **Administration of Justice.**—(a) The President may furnish assistance under this chapter to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in countries in Latin America and the Caribbean.

(b) Assistance under this section may only include—

(1) support for specialized professional training, scholarships, and exchanges for continuing legal education;

(2) programs to enhance prosecutorial and judicial capabilities and protection for participants in judicial cases;

(3)[791] notwithstanding section 660 of this Act—

(A) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

(B) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

(C) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; and

(D) programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders;

(4) strengthening professional organizations in order to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform;

(5) increasing the availability of legal materials and publications;

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rity and Development Cooperation Act of 1985 replaced the years "1982" and "1983" with "1986" and "1987".

[790] 22 U.S.C. 2346c. Added by sec. 712 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 244).

[791] Sec. 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–181), amended and restated para. (3). It previously read as follows: "(3) notwithstanding section 660 of this Act, programs to enhance investigative capabilities, conducted under judicial or prosecutorial control".

Functions conferred upon the President in subparas. (A), (B), and (C) were delegated to the Assistant Administrator for Latin America and the Caribbean of the Agency for International Development in Department of State Delegation No. 189 of April 4, 1991 (56 F.R. 15127; April 15, 1991). The same delegation of authority further provided that activities covered by the subparagraphs "* * * shall be implemented in coordination with the International Criminal Investigative Training Assistance Program of the U.S. Department of Justice. Funds made available in any fiscal year for such assistance shall not exceed $500,000.". Department of State Delegation of Authority No. 145–17 of June 13, 2000 (65 F.R. 41745) amended the 1991 delegation of authority, stating this delegation anew but omitting the earlier sentence that limited funds.

(6) seminars, conferences, and training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and internationally recognized human rights; and

(7) revision and modernization of legal codes and procedures.

(c) Not more than $20,000,000 of the funds made available to carry out this chapter for any fiscal year shall be available to carry out this section, in addition to amounts otherwise available for such purposes.

(d) Funds may not be obligated for assistance under this section unless the Committee on Foreign Affairs[792] of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the amount and nature of the proposed assistance at least 15 days in advance in accordance with the procedures applicable to reprogrammings pursuant to section 634A of this Act.

(e)[793] Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section. Of the funds made available to carry out this section, not more than $10,000,000 may be made available in fiscal year 1991[794] to carry out the provisions of subsection (b)(3) of this section. The authority of this section shall expire on September 30, 1991.

Sec. 535.[795] **Economic Support for Disadvantaged South Africans.** * * * [Repealed—1993]

Chapter 5—International Military Education and Training[796]

Sec. 541.[797] **General Authority.**—The President is authorized to furnish, on such terms and conditions consistent with this Act as the President may determine (but whenever feasible on a reimbursable basis), military education and training to military and re-

[792] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[793] Subsec. (e) was substantively amended by sec. 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–181). Previously, it had an expiration date of September 30, 1987. The authority of this section was further extended from September 30, 1989, by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1206); and from September 30, 1990, by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1990). For fiscal year 1992, Public Law 102–145, as amended, waived the last sentence with certain provisos.

[794] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1990), struck out "fiscal year 1990" and inserted in lieu thereof "fiscal year 1991". Previously, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1206), struck out "each of fiscal years 1988 and 1989" and inserted in lieu thereof "fiscal year 1990". Public Law 101–513 also amended the third sentence to extend the authority of this section to 1991.

Sec. 2(b)(6) of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3351), raised authorization from $7,000,000 to $10,000,000, and extended authorization to 1991, which was already extended by Public Law 101–513.

[795] Formerly at 22 U.S.C. 2346d. Sec. 4(a)(3)(B) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505) repealed sec. 535. It originally was added by sec. 511 of Public Law 99–440 (100 Stat. 411). Sec. 535 provided up to $40,000,000 in each fiscal year for or assistance for activities supporting disadvantaged South Africans, including scholarships, participation in trade unions, private enterprise, and alternative education and community development programs.

[796] Sec. 106(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 732) added chapter 5.

[797] 22 U.S.C. 2347. See also the American Servicemembers' Protection Act (title II of Public Law 107–206; 116 Stat. 899; 22 U.S.C. 7421 *et seq.*).

lated civilian personnel of foreign countries. Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense, and may also include legislators[798] and individuals who are not members of the government,[799] if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, (iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv)[800] improve military justice systems and procedures in accordance with internationally recognized human rights.[801] Such training and education may be provided through—

(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

Sec. 542.[802] **Authorization.**—There are authorized to be appropriated to the President to carry out the purposes of this chapter $56,221,000 for the fiscal year 1986 and $56,221,000 for the fiscal year 1987.[803, 804]

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[798] Sec. 10(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) inserted ", and may also include legislators," after "ministries of defense".

[799] Sec. 112(a) of Public Law 104–164 (110 Stat. 1427) added "and individuals who are not members of the government" after "legislators".

[800] Sec. 10(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) redesignated clause (iii) as (iv) and inserted clause (iii).

[801] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1997), added this sentence.

[802] 22 U.S.C. 2347a.

[803] Sec. 104 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195) added authorization figures for fiscal year 1986 and 1987. Authorizations under sec. 542 during recent years included the following: fiscal year 1976—$27,000,000; fiscal year 1977—$30,200,000; fiscal year 1978—$31,000,000; fiscal year 1979—$31,800,000; fiscal year 1980—$31,800,000; fiscal year 1981—$34,000,000; fiscal year 1982—$42,000,000; fiscal year 1983—$42,000,000; fiscal year 1984—$56,452,000; fiscal year 1985—no authorization; fiscal years 1988 through 2000—no authorization; fiscal year 2001 (in Public Law 106–280)—$55,000,000; fiscal year 2002 (in Public Law 106–280)—$65,000,000; fiscal year 2003 (in Public Law 107–228)—$85,000,000; fiscal years 2004 and 2005—no authorization.

Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"INTERNATIONAL MILITARY EDUCATION AND TRAINING

"For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $89,730,000, of which up to $3,000,000 may remain available until expended: *Provided,* That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further,* That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training, and funds made available for Haiti, the Democratic Republic of the Congo, and Nigeria may only be provided through the regular notification procedures of the Committees on Appropriations.".

See also in that Act: sec. 505—Limitation on Representational Allowances; 515—Notification Requirements; sec. 548—Prohibition of Payment of Certain Expenses; and sec. 572—Indonesia.

[804] Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out the second sentence of sec. 542. This sentence had prohibited training under this section outside the United States after June 30, 1976, unless the President reported and justified such training to the Congress.

Sec. 543.[805] **Purposes.**—Education and training activities conducted under this chapter shall be designed—

(1) to encourage effective and mutually beneficial relations and increased understanding between the United States and foreign countries in furtherance of the goals of international peace and security;

(2) to improve the ability of participating foreign countries to utilize their resources, including defense articles and defense services obtained by them from the United States, with maximum effectiveness, thereby contributing to greater self-reliance by such countries; and

(3)[806] to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.

Sec. 544.[807] **Exchange Training.**—(a)[808] In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States[809] (other than service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

(b)[808] The President may provide for the attendance of foreign military and civilian defense personnel at flight training schools and programs (including test pilot schools) in the United States without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States flight training schools and programs (including test pilot schools) and comparable flight training schools and programs of foreign countries.

(c)[810] (1) The President is authorized to enter into cooperative arrangements providing for the participation of foreign and United States military and civilian defense personnel in post-undergraduate flying training and tactical leadership programs at training locations in Southwest Asia without charge to participating foreign countries, and without charge to funds available to carry out

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[805] 22 U.S.C. 2347b.

[806] Sec. 11(b)(3) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 736) added para. (3).

[807] 22 U.S.C. 2347c. Added by sec. 126 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205).

[808] Sec. 112(b) of Public Law 104–164 (110 Stat. 1427) added subsec. designation "(a)" and added subsec. (b).

[809] Sec. 935 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 provided the following:

"(a) AUTHORITY.—The United States Army Russian Institute in Garmisch-Partenkirchen, Federal Republic of Germany, shall be treated for purposes of section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) as if it were located in the United States.

"(b) EXPIRATION OF AUTHORITY.—Subsection (a) shall cease to be in effect upon the enactment in foreign assistance authorizing legislation of an amendment to section 544 of the Foreign Assistance Act of 1961 that provides the same authority as is provided by subsection (a).".

[810] Sec. 1213 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added subsec. (c).

this chapter (notwithstanding section 632(d) of this Act). Such training must satisfy common requirements with the United States for post-undergraduate flying and tactical leadership training.

(2) Cooperative arrangements under this subsection shall require an equitable contribution of support and services from each participating country. The President may waive the requirement for an equitable contribution of a participating foreign country if he determines that to do so is important to the national security interests of the United States.

(3) Costs incurred by the United States shall be charged to the current applicable appropriations accounts or funds of the participating United States Government agencies.

Sec. 545.[811] **Training in Maritime Skills.**—The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills.

SEC. 546.[812] **PROHIBITION ON GRANT ASSISTANCE FOR CERTAIN HIGH INCOME FOREIGN COUNTRIES.**

(a) IN GENERAL.—None of the funds made available for a fiscal year for assistance under this chapter may be made available for assistance on a grant basis for any of the high-income foreign countries described in subsection (b) for military education and training of military and related civilian personnel of such country.

(b) HIGH-INCOME FOREIGN COUNTRIES DESCRIBED.—The high-income foreign countries described in this subsection are Austria, Finland, the Republic of Korea, Singapore, and Spain.

SEC. 547.[813] **CONSULTATION REQUIREMENT.**

The selection of foreign personnel for training under this chapter shall be made in consultation with the United States defense attache to the relevant country.

SEC. 548.[814] **RECORDS REGARDING FOREIGN PARTICIPANTS.**

(a) DEVELOPMENT AND MAINTENANCE OF DATABASE.—In [815] order to contribute most effectively to the development of military professionalism in foreign countries, the Secretary of Defense shall develop and maintain a database containing records on each foreign military or defense ministry civilian participant in education and

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[811] 22 U.S.C. 2347d. Added by sec. 127(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205).

[812] 22 U.S.C. 2347c. Added by sec. 112(c)(1) of Public Law 104–164 (110 Stat. 1427).

[813] 22 U.S.C. 2347f. Added by sec. 202 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851).

[814] 22 USC 2347g. Added by sec. 202 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851).

Sec. 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 213), provided the following:

"TRAINING PROGRAM EVALUATION

"SEC. 581. Not later than June 30, 2003, the Secretary of State, in consultation with the Secretary of Defense, shall submit a report to the Committees on Appropriations describing in detail the steps that the Departments of State and Defense are making to improve performance evaluation procedures for the International Military Education and Training (IMET) program and the progress that the Departments of State and Defense are making in implementing section 548 of the Foreign Assistance Act of 1961.".

[815] Sec. 1212(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1429) struck out "In" and inserted in lieu thereof "(a) DEVELOPMENT AND MAINTENANCE OF DATABASE.—In".

training activities conducted under this chapter after December 31, 2000. This record shall include the type of instruction received, the dates of such instruction, whether such instruction was completed successfully, and, to the extent practicable, a record of the person's subsequent military or defense ministry career and current position and location.

(b)[816] ANNUAL LIST OF FOREIGN PERSONNEL.—For the purposes of preparing the report required pursuant to section 549 of this Act, the Secretary of State may annually request the Secretary of Defense to provide information contained in the database, with respect to a list submitted to the Secretary of Defense by the Secretary of State, that contains the names of foreign personnel or military units. To the extent practicable, the Secretary of Defense shall provide, and the Secretary of State may take into account, the information contained in the database, if any, relating to the Secretary of State's submission.

(c)[816] UPDATING OF DATABASE.—If the Secretary of State determines and reports to Congress under section 549 of this Act that a foreign person identified in the database maintained pursuant to this section was involved in a violation of internationally recognized human rights, the Secretary of Defense shall ensure that the database is updated to contain such fact and all relevant information.

SEC. 549.[817] HUMAN RIGHTS REPORT.

(a) IN GENERAL.—Not later than March 1 of each year, the Secretary of State shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing, to the extent practicable, any involvement of a foreign military or defense ministry civilian participant in education and training activities under this chapter in a violation of internationally recognized human rights reported under section 116(d) of this Act subsequent to such participation.

(b) FORM.—The report described in subsection (a) shall be in unclassified form, but may include a classified annex.

Chapter 6—Peacekeeping Operations[818]

Sec. 551.[819] General Authority.—The President is authorized to furnish assistance to friendly countries and international organizations, on such terms and conditions as he may determine, for peacekeeping operations and other programs carried out in furtherance of the national security interests of the United States. Such assistance may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945,[820] except that such reimbursements

[816] Sec. 1212(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1429) added subsecs. (b) and (c).

[817] 22 U.S.C. 2347h. Added by sec. 1212(a) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1428).

[818] Sec. 12(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 736) added chapter 6.

[819] 22 U.S.C. 2348.

[820] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. H.

may not exceed $5,000,000 in any fiscal year unless a greater amount is specifically authorized by this section.[821]

Sec. 552.[822] **Authorization of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $37,000,000 for the fiscal year 1986 and $37,000,000 for the fiscal year 1987.[823]

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c)[824] If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this chapter

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[821] Sec. 10(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705) added this sentence.

[822] 22 U.S.C. 2348a.

[823] The authorization figures for fiscal years 1986 and 1987 were added by sec. 105(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195). Authorizations under sec. 552 during recent years included the following: fiscal year 1979—$30,900,000; fiscal year 1980—$21,100,000; fiscal year 1981—$25,000,000; fiscal year 1982—$19,000,000; fiscal year 1983—$19,000,000; fiscal year 1984—$46,200,000; fiscal year 1985—no authorization; fiscal years 1988 through 1997—no authorization; fiscal year 1998 (in Public Law 105–277)—$77,500,000; fiscal year 1999 (in Public Law 105–277)—$83,000,000; fiscal year 2000 (in Public Law 106–113)—$500,000,000 ; fiscal year 2001 (in Public Law 106–113)—"such funds as may be necessary"; fiscal year 2002—no authorization; fiscal year 2003 (in Public Law 107–228)—$725,981,000; fiscal years 2004 and 2005—no authorization.

For fiscal year 2003, sec. 113 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1358), provided the following:

"SEC. 107. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

"(a) * * *

"(b) CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—There is authorized to be appropriated under the heading 'Contributions for International Peacekeeping Activities' $725,981,000 for the fiscal year 2003 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and title III of that Act (118 Stat. 2809) provided the following:

"PEACEKEEPING OPERATIONS

"For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $104,000,000: *Provided,* That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.".

See also in that Act: sec. 515—Notification Requirements; sec. 569—Sudan; sec. 585—War Crimes in Africa; and sec. 592—Compliance with the Algiers Agreement.

Sec. 4(b)(1) of Public Law 97–132 (95 Stat. 1694) authorized an additional $125,000,000 to carry out this chapter during fiscal year 1982 for use in paying the U.S. contribution to the budget of the Multinational Force and Observers in Sinai. See *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

[824] Sec. 10(c) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705) added subsec. (c).

Sec. 545 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"WAR CRIMES TRIBUNALS DRAWDOWN

"SEC. 545. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961 of up to $30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided,* That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further,* That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further,* That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court

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in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may (1) exercise the authority of section 610(a) of this Act to transfer funds available to carry out chapter 4 of this part for use under this chapter without regard to the 20–percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and[825] (2)[826] in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, direct the drawdown of commodities and services from the inventory and resources of any agency of the United States Government of an aggregate value not to exceed $25,000,000 in any fiscal year.

(d)[826] There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under subsection (c)(2).

Sec. 553.[827] **Middle East Special Requirements Fund.** * * * [Repealed—1980]

Sec. 553.[828] **Administrative Authorities.**—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.

SEC. 554.[829] **DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.**

(a) UNITED STATES COSTS.—The President shall annually provide to the Secretary General of the United Nations data regarding all costs incurred by the United States Department of Defense during the preceding year in support of all United Nations Security Council resolutions as reported to the Congress pursuant to section 8079 of the Department of Defense Appropriations Act, 1998.

(b) UNITED NATIONS MEMBER COSTS.—The President shall request that the United Nations compile and publish information

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for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.".

[825] Sec. 114(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1528) increased the amount which may be transferred in any fiscal year from $10,000,000 to $15,000,000 and deleted language prohibiting earmarked funds from being transferred.

[826] Sec. 105(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195) added subsec. (c)(2), and subsec. (d).

On October 22, 2004, the President determined that: "(1) as a result of an unforeseen emergency, the provision of assistance under Chapter 6 of Part II of the Act in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States; and (2) such unforeseen emergency requires the immediate provision of assistance under Chapter 6 of Part II of the Act. I therefore direct the drawdown of up to $2,500,000 in commodities and services from the Department of Defense to support the transportation of African Union forces to Darfur, Sudan." (Presidential Determination No. 2005–06; 69 F.R. 64475).

[827] The Middle East Special Requirements Fund was originally added as sec. 903 of this Act by the FA Act of 1974 and moved to sec. 553 by the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737). Sec. 553 was repealed by sec. 116(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140).

[828] 22 U.S.C. 2348c. Originally added as sec. 554 by sec. 12(a) of Public Law 95–384 (92 Stat. 737). Redesignated as sec. 553 by sec. 116(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140).

[829] 22 U.S.C. 2348d. Sec. 722 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added sec. 554.

concerning costs incurred by United Nations members in support of such resolutions.

Chapter 7—Air Base Construction in Israel[830]

Sec. 561.[831] **General Authority.**—The President is authorized—

(1) to construct such air bases in Israel for the Government of Israel as may be agreed upon between the Government of Israel and the Government of the United States to replace the Israeli airbases located at Etzion and Etam on the Sinai peninsula that are to be evacuated by the Government of Israel; and

(2) for purposes of such construction, to furnish as a grant to the Government of Israel, on such terms and conditions as the President may determine, defense articles and defense services, which he may acquire from any source, of a value not to exceed the amount appropriated pursuant to section 562(a).

Sec. 562.[832] **Authorization and Utilization of Funds.**—(a) There is authorized to be appropriated to the President to carry out this chapter not to exceed $800,000,000, which may be made available until expended.[833]

(b) Upon agreement by the Government of Israel to provide to the Government of the United States funds equal to the difference between the amount required to complete the agreed construction work and the amount appropriated pursuant to subsection (a) of this section, and to make those funds available, in advance of the time when payments are due, in such amounts and at such times as may be required by the Government of the United States to meet those additional costs of construction, the President may incur obligations and enter into contracts to the extent necessary to complete the agreed construction work, except that this authority shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Funds made available by the Government of Israel pursuant to subsection (b) of this section may be credited to the appropriation account established to carry out the purposes of this section for the payment of obligations incurred and for refund to the Government of Israel if they are unnecessary for that purpose, as determined by the President. Credits and the proceeds of guaranteed loans made available to the Government of Israel pursuant to the Arms Export Control Act, as well as any other source of financing available to it, may be used by Israel to carry out its undertaking to provide such additional funds.

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[830] Sec. 3 of the Special International Security Assistance Act of 1979 (Public Law 96–35; 93 Stat. 89) added chapter 7.

[831] 22 U.S.C. 2349.

[832] 22 U.S.C. 2349a.

[833] The Supplemental Appropriations Act, 1979 (Public Law 96–35; 93 Stat. 103), provided the following:

"For necessary expenses to carry out the provisions of chapter 7 of the Foreign Assistance Act of 1961, as amended, $800,000,000, to remain available until expended: *Provided,* That authority to enter into contracts may be exercised to the extent necessary to carry out the purposes of that chapter.".

Sec. 563.[834] **Waiver Authorities.**—(a) It is the sense of the Congress that the President should take all necessary measures consistent with law to insure the efficient and timely completion of the construction authorized by this chapter, including the exercise of authority vested in him by section 633(a) of this Act.

(b) The provisions of paragraph (3) of section 636(a) of this Act shall be applicable to the use of funds available to carry out this chapter, except that no more than sixty persons may be engaged at any one time under that paragraph for purposes of this chapter.

Chapter 8—Antiterrorism Assistance[835]

Sec. 571.[836] **General Authority.**—Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act),[837] the President is authorized to furnish, on such terms and conditions as the President may determine, assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

Sec. 572.[838] **Purposes.**—Activities conducted under this chapter shall be designed—

(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

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[834] 22 U.S.C. 2349b. See also sec. 6 of Executive Order 11223 which pertains to the administration of this chapter, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[835] The International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972) added chapter 8. Pursuant to Public Law 98–151, chapter 8 was enacted as contained in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983, except for sec. 575 (redesignated in 1996 as sec. 574), which was included in Public Law 98–151.

Sec. 122 of Public Law 104–164 (110 Stat. 1428) provided the following:

"SEC. 122. RESEARCH AND DEVELOPMENT EXPENSES.

"Funds made available for fiscal years 1996 and 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.; relating to antiterrorism assistance) may be made available to the Technical Support Working Group of the Department of State for research and development expenses related to contraband detection technologies or for field demonstrations of such technologies (whether such field demonstrations take place in the United States or outside the United States).".

[836] 22 U.S.C. 2349aa. Delegation of Authority No. 145 (February 4, 1984) delegated the functions conferred upon the President by chapter 8 to the Director of the Office for Combating Terrorism.

[837] Sec. 121(a) of Public Law 104–164 (110 Stat. 1428) struck out "Subject to the provisions of this chapter", and inserted in lieu thereof "Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act)".

[838] 22 U.S.C. 2349aa–1.

Sec. 573.[839] **Limitations.**—(a) Whenever the President determines it to be consistent with and in furtherance of the purposes of this chapter, and on such terms and conditions consistent with this Act as he may determine, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 644(m)) in United States dollars by the foreign country. Credits and the proceeds of guaranteed loans made available to such countries pursuant to the Arms Export Control Act shall not be used for such payments. Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

(b) The Assistant Secretary of State for Democracy, Human Rights, and Labor[840] shall be consulted in the[841] determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

(c)[842] (1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

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[839] 22 U.S.C. 2349aa–2. Sec. 121(b)(1) of Public Law 104–164 (110 Stat. 1428) struck out "SPECIFIC AUTHORITIES AND" from the section heading. Sec. 121(b)(2) of that Public Law struck out subsec. (a) of this section and redesignated subsecs. (b) through (f) as subsecs. (a) through (e), respectively. Subsec. (f), however, had been struck out previously by Public Law 104–132 (see note below). Subsec. (a) had read as follows:

"(a) Notwithstanding section 660 of this Act, services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 644(m)) pursuant to section 632 of this Act from funds available to carry out this chapter.".

[840] Sec. 163(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), amended the title designation by striking out "Human Rights and Humanitarian Affairs", and inserting in lieu thereof "Democracy, Human Rights, and Labor".

[841] Sec. 328(a)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257) struck out "development and implementation of the antiterrorism assistance program under this chapter, including" at this point.

[842] Subsec. (c), redesignated from subsec. (d) by sec. 121(b)(3) of Public Law 104–164 (110 Stat. 1428), was amended and restated by sec. 328(a)(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257). Portions were amended and restated earlier by sec. 213(b) of Public Law 101–604 (104 Stat. 3086), sec. 507 of Public Law 99–399 (100 Stat. 873).

In view of amendments to this subsection by Public Law 104–132, amendments contained in sec. 121(b)(4) of Public Law 104–164 (110 Stat. 1428) cannot be executed. Sec. 121(b)(4) of that Public Law required:

"(b) LIMITATIONS.—Section 573 of such Act (22 U.S.C. 2349aa–2) is amended—

* * * * * * *

"(4) in subsection (c) (as redesignated)—

"(A) by striking paragraphs (1) and (2);

"(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

"(C) by amending paragraph (2) (as redesignated) to read as follows:

"'(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

"'(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

"'(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.'".

(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.

(d) This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

(f)[843] [Repealed—1996]

Sec. 574.[844] * * * [Repealed—1996]

Sec. 574.[845] **Authorizations of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out this

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[843] Subsec. (f) was added by sec. 501(c) of Public Law 99–83 (99 Stat. 221), and struck out by sec. 328(a)(3) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257). It had read as follows:

"(f) Funds made available to carry out this chapter may not be used for personnel compensation or benefits.".

[844] Formerly at 22 U.S.C. 2349aa–3. Sec. 121(c) of Public Law 104–164 (110 Stat. 1428) repealed sec. 574, which had required reports to Congress on antiterrorism assistance.

[845] 22 U.S.C. 2349aa–4. Redesignated from sec. 575 to sec. 574 by sec. 121(d) of Public Law 104–164 (110 Stat. 1428). Sec. 1251 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added funding levels for fiscal year 2003. Previously, sec. 401 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 854) struck out funding levels of "$9,840,000 for the fiscal year 1986 and $14,680,000 for the fiscal year 1987" and inserted in lieu thereof "$72,000,000 for fiscal year 2001 and $73,000,000 for fiscal year 2002.". Authorization for fiscal year 1986 was enacted by sec. 501(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 219). The authorization for fiscal year 1987 of $14,680,000 was inserted in lieu of the amount of $9,840,000 (originally enacted by Public Law 99–83) by sec. 401 of Public Law 99–399 (100 Stat. 862). Previous authorizations include: fiscal year 1984—$5,000,000; fiscal year 1985—no authorization; fiscal year 1986—$9,840,000; fiscal year 1987—$14,680,000; fiscal years 1988 through 2000—no authorization; fiscal year 2001—$72,000,000; fiscal year 2002—$73,000,000; fiscal year 2003—$64,200,000; and fiscal years 2004 and 2005—no authorization.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $402,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That of this amount not to exceed $32,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That funds available during fiscal year 2005 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2005 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2006: *Provided further,* That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That funds appropriated under this heading that are available for 'Anti-terrorism Assistance' and 'Export Control and Border Security' shall remain available until September 30, 2006.".

See also in that Act: sec. 515—Notification Requirements; sec. 517—Independent States of the Former Soviet Union; and sec. 585—Joint Explanatory Statement.

Sec. 328(b) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257) provided the following:

chapter $72,000,000 for fiscal year 2001, $73,000,000 for fiscal year 2002, and $64,200,000 for fiscal year 2003.

(b) Amounts appropriated under this section are authorized to remain available until expended.

Sec. 575.[846] **Administrative Authorities.**—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.

Sec. 577.[847] * * * [Repealed—1985]

CHAPTER 9—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE[848]

SEC. 581.[849] **PURPOSES.**

The purposes of assistance under this chapter are to halt the proliferation of nuclear, chemical, and biological weapons, and conventional weaponry, through support of activities designed—

(1) to enhance the nonproliferation and export control capabilities of friendly countries by providing training and equipment to detect, deter, monitor, interdict, and counter proliferation;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of vital national security interest;

(3) to accomplish the activities and objectives set forth in sections 503 and 504 of the FREEDOM Support Act (22 U.S.C. 5853, 5854), without regard to the limitation of those sections to the independent states of the former Soviet Union; and

(4) to promote multilateral activities, including cooperation with international organizations, relating to nonproliferation.

"(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

"(A) to procure explosives detection devices and other counterterrorism technology; and

"(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

"(2) As used in this subsection, the term 'major non-NATO allies' means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

"(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

"(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

"(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.".

[846] 22 U.S.C. 2349aa–5. Redesignated from sec. 576 to sec. 575 by sec. 121(d) of Public Law 104–164 (110 Stat. 1428).

[847] Formerly at 22 U.S.C. 2349aa–6. Repealed by sec. 501(d) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 220). The authorities under this chapter would have expired on September 30, 1985.

[848] Sec. 301 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851) added chapter 9, secs. 581–585. Sec. 584 and 585 were subsequently redesignated as secs. 585 and 586, respectively, by sec. 1303 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436), which also added a new sec. 584.

[849] 22 U.S.C. 2349bb.

SEC. 582.[850] **AUTHORIZATION OF ASSISTANCE.**

Notwithstanding any other provision of law (other than section 502B or section 620A of this Act), the President is authorized to furnish, on such terms and conditions as the President may determine, assistance in order to carry out the purposes of this chapter. Such assistance may include training services and the provision of funds, equipment, and other commodities related to the detection, deterrence, monitoring, interdiction, and prevention or countering of proliferation, the establishment of effective nonproliferation laws and regulations, and the apprehension of those individuals involved in acts of proliferation of such weapons.

SEC. 583.[851] **TRANSIT INTERDICTION.**

(a) ALLOCATION OF FUNDS.—In providing assistance under this chapter, the President should ensure that not less than one-quarter of the total of such assistance is expended for the purpose of enhancing the capabilities of friendly countries to detect and interdict proliferation-related shipments of cargo that originate from, and are destined for, other countries.

(b) PRIORITY TO CERTAIN COUNTRIES.—Priority shall be given in the apportionment of the assistance described under subsection (a) to any friendly country that has been determined by the Secretary of State to be a country frequently transited by proliferation-related shipments of cargo.

SEC. 584.[852] **INTERNATIONAL NONPROLIFERATION EXPORT CONTROL TRAINING.**

(a) GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this chapter (but whenever feasible on a reimbursable basis), education and training to appropriate military and civilian personnel of foreign countries for the purpose of enhancing the nonproliferation and export control capabilities of such personnel through their attendance in special courses of instruction conducted by the United States.

(b) ADMINISTRATION OF COURSES.—The Secretary of State shall have overall responsibility for the development and conduct of international nonproliferation education and training programs under this section, and may utilize other departments and agencies of the United States, as appropriate, to recommend personnel for the education and training and to administer specific courses of instruction.

(c) PURPOSES.—Education and training activities conducted under this section shall be—

(1) of a technical nature, emphasizing techniques for detecting, deterring, monitoring, interdicting, and countering proliferation;

(2) designed to encourage effective and mutually beneficial relations and increased understanding between the United States and friendly countries; and

[850] 22 U.S.C. 2349bb–1.
[851] 22 U.S.C. 2349bb–2.
[852] 22 U.S.C. 2349bb–2a. Sec. 1303 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436) redesignated secs. 584 and 585 as secs. 585 and 586, respectively, and added a new sec. 584.

(3) designed to improve the ability of friendly countries to utilize their resources with maximum effectiveness, thereby contributing to greater self-reliance by such countries.

(d) PRIORITY TO CERTAIN COUNTRIES.—In selecting personnel for education and training pursuant to this section, priority should be given to personnel from countries determined by the Secretary of State to be countries frequently transited by proliferation-related shipments of cargo.

SEC. 585.[853] **LIMITATIONS.**

The limitations contained in section 573(a) and (d) of this Act shall apply to this chapter.

SEC. 586.[854] **AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out this chapter $162,000,000 for fiscal year 2003.[855]

(b) AVAILABILITY OF FUNDS.—Funds made available under subsection (a) may be used notwithstanding any other provision of law (other than section 502B or 620A) and shall remain available until expended.

(c)[856] TREATMENT OF APPROPRIATIONS.—Amounts made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002,[856] under "Nonproliferation, Antiterrorism, Demining, and Related Programs" and "Assistance for the Independent States of the Former Soviet Union" accounts for the activities described in subsection (d) shall be considered to be made available pursuant to this chapter.

(d) COVERED ACTIVITIES.—The activities referred to in subsection (c) are—

(1) assistance under the Nonproliferation and Disarmament Fund;

(2) assistance for science and technology centers in the independent states of the former Soviet Union;

(3) export control assistance; and

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[853] 22 U.S.C. 2349bb–3. Originally enacted as sec. 584; redesignated as sec. 585 by sec. 1303(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436).

[854] 22 U.S.C. 2349bb–4. Originally enacted as sec. 585; redesignated as sec. 586 by sec. 1303(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436).

Sec. 1301(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) provided the following:

"(b) SUBALLOCATIONS.—Of the amount authorized to be appropriated to the President for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb-4)—

"(1) $2,000,000 is authorized to be available for such fiscal year for the purpose of carrying out section 584 of the Foreign Assistance Act of 1961, as added by section 1303 of this Act; and

"(2) $65,000,000 for fiscal year 2003 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.".

See also secs. 303 and 304 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 853), in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[855] Sec. 1301(a)(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1435) struck out "$129,000,000 for fiscal year 2001 and $142,000,000 for fiscal year 2002." and inserted in lieu thereof "$162,000,000 for fiscal year 2003.".

[856] Sec. 1301(a)(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1435) struck out "FISCAL YEAR 2001" in the subsec. heading; and in the text struck out "2001" and inserted in lieu thereof "2002".

(4) export control and border assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) or the FREEDOM Support Act (22 U.S.C. 5801 et seq.).

PART III

Chapter 1—General Provisions

Sec. 601.[857] **Encouragement of Free Enterprise and Private Participation.**—(a) The Congress of the United States recognizes the vital role of free enterprise in achieving rising levels of production and standards of living essential to economic progress and development. Accordingly, it is declared to be the policy of the United States to encourage the efforts of other countries to increase the flow of international trade, to foster private initiative and competition, to encourage the development and use of cooperatives, credit unions, and savings and loan associations, to discourage monopolistic practices, to improve the technical efficiency of their industry, agriculture, and commerce, and to strengthen free labor unions; and to encourage the contribution of United States enterprise toward economic strength of less developed friendly countries, through private trade and investment abroad, private participation in programs carried out under this Act (including the use of private trade channels to the maximum extent practicable in carrying out such programs), and exchange of ideas and technical information on the matters covered by this subsection.

(b) In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this Act, the President shall—

(1) make arrangements to find, and draw the attention of private enterprise to opportunities for investment and development in less developed countries and areas;

(2) establish an effective system for obtaining adequate information with respect to the activities of, and opportunities for, nongovernmental participation in the development process, and for utilizing such information in the planning, direction, and execution of programs carried out under this Act, and in the coordination of such programs with the ever-increasing developmental activities of nongovernmental United States institutions;

(3)[858] accelerate a program of negotiating treaties for commerce and trade, including tax treaties, which shall include provisions to encourage and facilitate the flow of private investment to, and its equitable treatment in, friendly countries and areas participating in programs under this Act;

(4)[858] seek, consistent with the national interest, compliance by other countries or areas with all treaties for commerce and trade and taxes, and take all reasonable measures under this Act or other authority to secure compliance therewith and to assist United States citizens in obtaining just compensation for losses sustained by them or payments exacted from them as a

[857] 22 U.S.C. 2351.

[858] Sec. 301(a)(2) of the FA Act of 1966 redesignated paras. (2), (3), (4), (5), and (6) as paras. (3), (4), (5), (6), and (7), respectively, and added a new para. (2).

result of measures taken or imposed by any country or area thereof in violation of any such treaty;

(5)[858] to the maximum extent practicable[859] carry out programs of assistance through private channels and to the extent practicable in conjunction with local private or governmental participation, including loans under the authority of section 122[860] to any individual, corporation, or other body of persons;[859]

(6)[861] take appropriate steps to discourage nationalization, expropriation, confiscation, seizure of ownership or control of private investment and discriminatory or other actions, having the effect thereof, undertaken by countries receiving assistance under this Act, which divert available resources essential to create new wealth, employment, and productivity in those countries and otherwise impair the climate for new private investment essential to the stable economic growth and development of those countries;

(7)[861] utilize wherever practicable the services of United States private enterprise (including, but not limited to, the services of experts and consultants in technical fields such as engineering);

(8)[862] utilize wherever practicable the services of United States private enterprise on a cost-plus incentive fee contract basis to provide the necessary skills to develop and operate a specific project or program of assistance in a less developed friendly country or area in any case in which direct private investment is not readily encouraged, and provide where appropriate for the transfer of equity ownership in such project or program to private investors at the earliest feasible time.

(c)[863] (1) There is hereby established an International Private Investment Advisory Council on Foreign Aid to be composed of such

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[859] Sec. 301(a)(2) of the FA Act of 1963 (Public Law 88–205) struck out "wherever appropriate" and inserted in lieu thereof "to the maximum extent practicable", and inserted a semicolon for a period at the end of the paragraph.

[860] Sec. 102(g)(2)(B) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) struck out "201" and inserted in lieu thereof "122".

[861] Added by sec. 301(a)(3) of the FA Act of 1963 (Public Law 88–205) as paras. (5) and (6). Redesignated as paras. (6) and (7) by sec. 301(a)(2) of the FA Act of 1966 (Public Law 89–583).

[862] Sec. 301(a)(3) of the FA Act of 1966 (Public Law 89–583) added para. (8).

[863] Sec. 301(a)(4) of the FA Act of 1966 (Public Law 89–583) amended and restated subsec. (c). It formerly read as follows:

"(c)(1) There is hereby established an Advisory Committee on Private Enterprise in Foreign Aid. The Advisory Committee shall carry out studies and make recommendations for achieving the most effective utilization of the private enterprise provisions of this Act to the head of the Agency charged with administering the programs under part I of this Act, who shall appoint the Committee.

"(2) Members of the Advisory Committee shall represent the public interest and shall be selected from the business, labor and professional world, from the universities and foundations, and from among persons with extensive experience in government. The Advisory Committee shall consist of not more than nine members, and one of the members shall be designated as chairman.

"(3) Members of the Advisory Committee shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b2) for travel and other expenses incurred in attending meetings of the Advisory Committee.

"(4) The Advisory Committee shall, if possible, meet not less frequently than once each month, shall submit such interim reports as the Committee finds advisable, and shall submit a final report not later than June 30, 1965, whereupon the Committee shall cease to exist. Such reports shall be made available to the public and to the Congress.

"(5) The expenses of the Committee, which shall not exceed $50,000, shall be paid from funds otherwise available under this Act.".

number of leading American business specialists as may be selected, from time to time, by the Administrator of the Agency for International Development for the purpose of carrying out the provisions of this subsection.[864] The members of the Council shall serve at the pleasure of the Administrator, who shall designate one member to serve as Chairman.

(2) It shall be the duty of the Council, at the request of the Administrator, to make recommendations to the Administrator with respect to particular aspects of programs and activities under this Act where private enterprise can play a contributing role and to act as liaison for the Administrator to involve specific private enterprises in such programs and activities.[864]

(3) The members of the Advisory Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 of the United States Code[865] for travel and other expenses incurred by them in the performance of their functions under this subsection.

(4) The expenses of the Advisory Council shall be paid by the Administrator from funds otherwise available under this Act.

(d)[866] It is the sense of Congress that the Agency for International Development should continue to encourage, to the maximum extent consistent with the national interest, the utilization of engineering and professional services of United States firms (including, but not limited to, any corporation, company, partnership, or other association) or by an affiliate of such United States firms in connection with capital projects financed by funds authorized under this Act.[867]

(e)[868] (1) The Congress finds that significantly greater effort must be made in carrying out programs under part I of this Act to award contracts on the basis of competitive selection procedures. All such contracts should be let on the basis of competitive selection procedures except in those limited cases in which the procurement regulations governing the agency primarily responsible for administering part I of this Act allow noncompetitive procedures to be used.

(2)[869] * * * [Repealed—1981]

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[864] This function of the Administrator of AID was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[865] Sec. 301(a) of the FA Act of 1967 (Public Law 90–137) struck out "5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b2)" and inserted in lieu thereof "5703 of title 5 of the United States Code".

[866] Sec. 301(b) of the FA Act of 1964 (Public Law 88–633) added subsec. (d).

[867] This responsibility of the agency and its Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[868] Sec. 501 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 956) added subsec. (e).

[869] Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out para. (2), which had required certain information to be supplied to Congress within the congressional presentation materials for development assistance in fiscal years 1980 and 1981 concerning contracts entered into by AID without competitive selection procedures.

Sec. 602.[870] **Small Business.**—(a) Insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of this Act, the President shall assist American small business to participate equitably in the furnishing of commodities, defense articles, and services (including defense services) financed with funds made available under this Act—

(1) by causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with such funds;

(2) by causing to be made available to prospective purchasers in the countries and areas receiving assistance under this Act information as to such commodities, articles, and services produced by small independent enterprises in the United States; and

(3) by providing for additional services to give small business better opportunities to participate in the furnishing of such commodities, articles, and services financed with such funds.

(b) There shall be an Office of Small Business, headed by a Special Assistant for Small Business, in such agency of the United States Government as the President may direct, to assist in carrying out the provisions of subsection (a) of this section.

(c) The Secretary of Defense shall assure that there is made available to suppliers in the United States, and particularly to small independent enterprises, information with respect to purchases made by the Department of Defense pursuant to part II, such information to be furnished as far in advance as possible.

Sec. 603.[871] **Shipping on United States Vessels.**—The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954 as amended (7 U.S.C. 1691 et seq.), and transfers of fresh fruit and products thereof under this Act shall not be governed by the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241), or any other law relating to the ocean transportation of commodities on United States flag vessels.

Sec. 604.[872] **Procurement.**—(a)(1) LIMITATIONS ON PROCUREMENT OUTSIDE THE UNITED STATES.—Funds made available for assistance under this Act may be used by the President for procurement—

(A) only in the United States, the recipient country, or developing countries; or

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[870] 22 U.S.C. 2352.

[871] 22 U.S.C. 2353.

[872] 22 U.S.C. 2354. Sec. 597 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1694), restated sec. 604(a), which formerly read as follows:

"**Procurement.**—(a) Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States, and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.".

(B) in any other country but only if—

(i) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in subparagraph (A); or

(ii) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(I) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in subparagraph (A); or

(II) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(2) For purposes of this subsection, the term "developing countries" shall not include advanced developing countries.

(b) No funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(c)[873] In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954 as amended, for transfer by grant under this Act to any recipient country in accordance with its requirements, the President shall, insofar as practicable and when in furtherance of the purposes of this Act, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this Act.

(d) In providing assistance in the procurement of commodities in the United States, United States dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing prior to the outbreak of World War II: *Provided,* That in the event a participating country, by statute, decree, rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States, then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

(e)[874] No funds made available under this Act shall be used for the procurement of any agricultural commodity or product thereof outside the United States when the domestic price of such commodity is less than parity, unless the commodity to be financed could not reasonably be produced in the United States in fulfill-

[873] Sec. 301(b)(1) of the FA Act of 1966 (Public Law 89–583) struck out "surplus" before "agricultural" and inserted "or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended,". For text of the Agricultural Trade Development and Assistance Act, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[874] Sec. 301(b)(2) of the FA Act of 1966 (Public Law 89–583) added subsec. (e).

ment of the objectives of a particular assistance program under which such commodity procurement is to be financed.[875]

(f)[876] No funds authorized to be made available to carry out part I of this Act shall be used under any commodity import program to make any payment to a supplier unless the supplier has certified to the agency primarily responsible for administering such part I, such information as such agency shall by regulation prescribe, including but not limited to, a description of the commodity supplied by him and its condition, and on the basis of such information such agency shall have approved such commodity as eligible and suitable for financing under this Act.

(g)[877] (1) None of the funds authorized to be appropriated or made available for obligation or expenditure under this Act may be made available for the procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services.

(2)[878] Paragraph (1) does not apply with respect to an advanced developing country which—

(A) is receiving direct economic assistance under chapter 1 of part I or chapter 4 of part II of this Act, and

(B) if the country has its own foreign assistance programs which finance the procurement of construction or engineering services, permits United States firms to compete for those services.

Sec. 605.[879] **Retention and Use of Certain Items and Funds.**—(a) Any commodities and defense articles procured to carry out this Act shall be retained by, or upon reimbursement, transferred to, and for the use of, such agency of the United States Government as the President may determine in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby or whenever such retention is called for by concurrent resolution. Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve the usefulness thereof. Funds realized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

(b) Whenever commodities are transferred to the United States Government as repayment of assistance under this Act, such com-

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[875] Sec. 705(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–593; 94 Stat. 3157) inserted ", unless the commodity to be financed could not reasonably be produced in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed".

[876] Sec. 301(a) of the FA Act of 1968 (Public Law 90–554) added subsec. (f).

[877] Sec. 705(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3158) added subsec. (g).

[878] Sec. 1207 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 278) added para. (2).

[879] 22 U.S.C. 2355. Sec. 301(a)(1) of the FA Act of 1965 (Public Law 89–171) struck out "**Items**" and inserted in lieu thereof "**Certain Items and Funds**".

modities may be used in furtherance of the purposes and within the limitations of this Act.

(c)[880] Funds realized as a result of any failure of a transaction financed under authority of part I of this Act to conform to the requirements of this Act, or to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under authority of part I of this Act, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

(d)[880] Funds realized by the United States Government from the sale, transfer, or disposal of defense articles returned to the United States Government by a recipient country or international organization as no longer needed for the purpose for which furnished shall be credited to the respective appropriation, fund, or account used to procure such defense articles or to the appropriation, fund, or account currently available for the same general purpose.

Sec. 606.[881] **Patents and Technical Information.**—(a) Whenever, in connection with the furnishing of assistance under this Act—

(1) an invention or discovery covered by a patent issued by the United States Government is practiced within the United States without the authorization of the owner, or

(2) information, which is (A) protected by law, and (B) held by the United States Government subject to restrictions imposed by the owner, is disclosed by the United States Government or any of its officers, employees, or agents in violation of such restrictions,

the exclusive remedy of the owner, except as provided in subsection (b) of this section, is to sue the United States Government for reasonable and entire compensation for such practice or disclosure in the district court of the United States for the district in which such owner is a resident, or in the United States Court of Federal Claims[882] within six years after the cause of action arises. Any period during which the United States Government is in possession of a written claim under subsection (b) of this section before mailing a notice of denial of that claim does not count in computing the six years. In any such suit, the United States Government may plead any defense that may be pleaded by a private person in such an action. The last paragraph of section 1498(a) of title 28 of the United States Code shall apply to inventions and information covered by this section.

(b) Before suit against the United States Government has been instituted, the head of the agency of the United States Government concerned may settle and pay any claim arising under the circumstances described in subsection (a) of this section. No claim may be paid under this subsection unless the amount tendered is accepted by the claimant in full satisfaction.

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[880] Sec. 301(a)(2) of the FA Act of 1965 (Public Law 89–171) added subsecs. (c) and (d).

[881] 22 U.S.C. 2356.

[882] Sec. 160(a)(6) of the Federal Courts Improvement Act (Public Law 97–164; 96 Stat. 48) struck out "Court of Claims" and inserted in lieu thereof "United States Claims Court". Subsequently, sec. 902(b) of Public Law 102–572 (106 Stat. 4516) provided that any reference, in law or in Federal documents, to the United States Claims Court should be deemed to be a reference to the United States Court of Federal Claims.

(c) Funds appropriated pursuant to this Act shall not be expended by the United States Government for the acquisition of any drug product or pharmaceutical product manufactured outside the United States if the manufacture of such drug product or pharmaceutical product in the United States would involve the use of, or be covered by, an unexpired patent of the United States which has not previously been held invalid by an unappealed or unappealable judgment or decree of a court of competent jurisdiction, unless such manufacture is expressly authorized by the owner of such patent.

Sec. 607.[883] **Furnishing of Services and Commodities.**—(a) Whenever the President determines it to be consistent with and in furtherance of the purposes of part I and within the limitations of this Act, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Agency for International Development[884] (including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available).[885] Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

(1) Advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered.

(2) Advances or reimbursements received pursuant to agreements executed under this section in which reimbursement will not be completed within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered: *Provided,* That such agreements require the payment of interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526), and repayment of such principal and interest does not exceed a period of three years from the date of signing of the agreement to provide the service: *Provided further,* That funds available for this paragraph in any fiscal year shall not exceed $1,000,000 of the total funds authorized for use in such fiscal year by chapter 1 of part I of this Act, and shall be available only to the extent provided in appropriation Acts. Interest

[883] 22 U.S.C. 2357. Sec. 301(b) of the FA Act of 1968 (Public Law 90–554) added subsec. designation "(a)". Presidential authority in sec. 607 was delegated to the Secretary of State and to the Administrator of the Agency for International Development, respectively, for matters within their respective areas of responsibility, pursuant to a Presidential memorandum of February 16, 1995 (60 F.R. 10793).

[884] Sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366) struck out "Advisory Committee on Voluntary Foreign Aid" and inserted in lieu thereof "Agency for International Development".

[885] Sec. 122(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541) inserted the parenthetical phrase. Subsec. (b) of sec. 122 further instructed the President to issue regulations "governing registration with and approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit agencies.".

shall accrue as of the date of disbursement to the agency or organization providing such services.[886]

(b)[887] When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission.[888]

(c)[887] (1) Except as provided in subsection (d),[889] no Government-owned excess property shall be made available under this section, section 608, or otherwise in furtherance of the purposes of part I of this Act, unless, before the shipment of such property for use in a specified country (or transfer, if the property is already in such country), the agency administering such part I has approved such shipment (or transfer) and made a written determination—

(A)[889] that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(B)[889] as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(C)[889] that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

(d)[890] The Secretary of State, acting through the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, is authorized to transfer to any friendly country, international organization, the American Red Cross, or other voluntary nonprofit relief agency described in subsection (a), Government-owned excess property made available under this section or section 608 in order to support activities carried out under part I of this Act which are designed to enhance environmental protection in foreign countries if the Secretary of State makes a written determination—

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[886] Sec. 315 of Public Law 94–161 (89 Stat. 849) struck out "current" and inserted in lieu thereof "currently"; struck out "Such advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered, may be credited to the current applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used." and inserted in lieu thereof the last sentence in main body of subsec. (a), and paras. (1) and (2).

[887] Sec. 522 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959) redesignated subsec. (b) (as added by FA Act of 1968) as subsec. (c) and added a new subsec. (b).

[888] Sec. 102 of the Reorganization Plan No. 2 of 1978 (43 F.R. 36037; 92 Stat. 3783) transferred all functions vested by statute in the Civil Service Commission to the Director of the Office of Personnel Management.

[889] Sec. 129(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 419) inserted "except as provided in subsec. (d),". Sec. 129(1)(A) of the Act also redesignated paras. (1), (2) and (3) as (A), (B) and (C).

[890] Sec. 129(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 419) added subsec. (d).

(1) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(2) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(3) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

Sec. 608.[891] **Advance Acquisition of Property.**—(a) It is the sense of the Congress that in furnishing assistance under part I excess personal property, or (if a substantial savings would occur) other property already owned by an agency of the United States Government, should be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States-assisted projects and programs.[892] The President is authorized to maintain in a separate account, which shall, notwithstanding section 1210 of the General Appropriation Act, 1951 (64 Stat. 765), be free from fiscal year limitations, $5,000,000 of funds made available under chapter 1 of part I,[893] which may be used to pay costs (including personnel costs)[894] of acquisition, storage, renovation and rehabilitation, packing, crating, handling transportation, and related costs of property classified as domestic or foreign excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), any property available from an agency of the United States Government[895] or other property, in advance of known requirements therefor for use in furtherance of the purposes of part I: *Provided,* That the amount of property classified as domestic excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended, held at any one time pursuant to this section shall not

[891] 22 U.S.C. 2358. Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"DEPARTMENT OF STATE

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"INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $328,820,000, to remain available until September 30, 2007: *Provided,* That during fiscal year 2005, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: * * *".

[892] Sec. 301(b) of the FA Act of 1967 (Public Law 90–137) added this sentence. The phrases within the sentence of "or (if substantial savings would occur) other property already owned by an agency of the United States Government," and "or supplementary to" were added by sec. 701(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544).

[893] Sec. 102(g)(2)(C) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) struck out "section 212" and inserted in lieu thereof "chapter 1 of part I".

[894] Sec. 301(c) of the FA Act of 1966 (Public Law 89–583) inserted "(including personnel costs),".

[895] Sec. 701(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544) inserted "any property available from an agency of the United States Government,".

exceed $15,000,000 in total original acquisition cost. Property acquired pursuant to the preceding sentence may be furnished (1) pursuant to any provision of part I for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred, or (2) pursuant to section 607, in which case such separate account shall be repaid in accordance with the provisions of that section for all costs incurred.

(b) Property classified as domestic excess property under the Federal Property and Administrative Services Act of 1949, as amended, shall not be transferred to the agency primarily responsible for administering part I for use pursuant to the provisions of part I or section 607 unless (1) such property is transferred for use exclusively by an agency of the United States Government, or (2) it has been determined in the same manner as provided for surplus property in section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, that such property is not needed for donation pursuant to that subsection. The foregoing restrictions shall not apply to the transfer in any fiscal year for use pursuant to the provisions of part I of amounts of such property with a total original acquisition cost to the United States Government not exceeding $45,000,000.

Sec. 609.[896] * * * [Repealed—1998]

Sec. 610.[897] **Transfer Between Accounts.**—(a) Whenever the President determines it to be necessary for the purposes of this Act,

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[896] Formerly at 22 U.S.C. 2359. Sec. 533(a)(5) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681) repealed sec. 609, which had read as follows. See also footnote at sec. 531(d) of this Act.

"**Sec. 609. Special Account.**—(a) In cases where any commodity is to be furnished on a grant basis under chapter 4 of part I under arrangements which will result in the accrual of proceeds to the recipient country from the sale thereof, the President shall require the recipient country to establish a Special Account, and

"(1) deposit in the Special Account, under terms and conditions as may be agreed upon, currency of the recipient country in amounts equal to such proceeds;

"(2) make available to the United States Government such portion of the Special Account as may be determined by the President to be necessary for the requirements of the United States Government: *Provided,* That such portion shall not be less than 10 per centum in the case of any country to which such minimum requirement has been applicable under any Act repealed by this Act; and

"(3) utilize the remainder of the Special Account for programs agreed to by the United States Government to carry out the purposes for which new funds authorized by this Act would themselves be available: *Provided,* That whenever funds from such Special Account are used by a country to make loans, all funds received in repayment of such loans prior to termination of assistance to such country shall be reused only for such purposes as shall have been agreed to between the country and the United States Government.

"(b) Any unencumbered balances of funds which remain in the Account upon termination of assistance to such country under this Act shall be disposed of for such purposes as may, subject to approval by Act of the Congress, be agreed to between such country and the United States Government.".

[897] 22 U.S.C. 2360. Sec. 301(a) of the FA Act of 1962 added subsec. designation "(a)" and subsec. (b).

On September 30, 2004, the President determined "it necessary for the purposes of the act that $24,852,500 made available under Chapter 3 of Part I of the Act for Fiscal Year 2004 be transferred to, and consolidated with, funds made available under Chapter 4 of Part II of the Act, and such funds are hereby transferred and consolidated." (Presidential Determination No. 2004–54; 69 F.R. 60945).

Title V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"TRANSFERS

"SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the

not to exceed 10 per centum of the funds made available for any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I or for section 23 of the Arms Export Control Act)[898] may be transferred to, and consolidated with, the funds made available for any[898] provision of this Act, (except funds made available under chapter 2 of part II of this Act)[899] and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision.

(b)[897] The authority contained in this section and in sections 451, 506,[900] and 614 shall not be used to augment appropriations made available pursuant to sections 636(g)(1) and 637 or used otherwise to finance activities which normally would be financed from appropriations for administrative expenses.[901]

(c)[902] Any funds which the President has notified Congress pursuant to section 653 that he intends to provide in military assistance to any country may be transferred to, and consolidated with, any other funds he has notified Congress pursuant to such section that he intends to provide to that country for development assistance purposes.

Sec. 611.[903] **Completion of Plans and Cost Estimates.**—(a) No agreement or grant which constitutes an obligation of the

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United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

"(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

"(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than 5 days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

"(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided,* That funds transferred under such authority may be made available for the cost of such audits.".

[898] Sec. 301 of the FA Act of 1969 (Public Law 91–175) added the parenthetical phrase. Sec. 10(a) of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3356) inserted reference to sec. 23 of the Arms Export Control Act, but, in an enrolling error, this text was inserted inside the parenthesis. Should probably read "* * * for any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I) or for section 23 of the Arms Export Control Act may be transferred to * * *". Sec. 10 of that Act also struck out "other" at the place noted and provided that "(b) The amendments made by subsection (a) apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.".

[899] Sec. 19(a)(1) of the FA Act of 1974 (Public Law 93–559) added the parenthetical phrase.

[900] Sec. 301(c) of the FA Act of 1967 (Public Law 90–137) struck out "510" and inserted in lieu thereof "506".

[901] Sec. 10(b)(2) of the International Security Assistance Act of 1978 (Public Law 95–424; 92 Stat. 735) repealed the final sentence of subsec. (b). It formerly read, as amended by the FA Act of 1966, as follows:

"Not to exceed $9,000,000 of the funds appropriated under section 402 of this Act for any fiscal year may be transferred to and consolidated with appropriations made under section 637(a) of this Act for the same fiscal year, subject to the further limitation that funds so transferred shall be available solely for additional administrative expenses incurred in connection with programs in Vietnam.".

[902] Sec. 19(a)(2) of the FA Act of 1974 (Public Law 93–559) added subsec. (c).

[903] 22 U.S.C. 2361.

United States Government in excess of $500,000[904] under section 1501 of title 31, United States Code,[905] shall be made for any assistance authorized under chapter I of part I, title II of chapter 2 of part I, or chapter 4 of part II—[906]

(1) if such agreement or grant requires substantive technical or financial planning, until engineering, financial, and other plans necessary to carry out such assistance, and a reasonably firm estimate of the cost to the United States Government of providing such assistance, have been completed; and

(2) if such agreement or grant requires legislative action within the recipient country, unless such legislative action may reasonably be anticipated to be completed in time to permit the orderly accomplishment of the purposes of such agreement or grant.

(b) Plans required under subsection (a) of this section for any water or related land resource construction project or program shall include a computation of benefits and costs made insofar as practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act[907] (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto.

(c) To the maximum extent practicable, all contracts for construction outside the United States made in connection with any agreement or grant subject to subsection (a) of this section shall be made on a competitive basis.

(d) Subsection (a) of this section shall not apply to any assistance furnished for the sole purpose of preparation of engineering, financial, and other plans.

(e)[908] In addition to any other requirements of this section, no assistance authorized under chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II[909] shall be furnished with respect to any capital assistance project estimated to cost in excess of $1,000,000 until the head of the agency primarily responsible for administering part I of the Act has received and taken into consideration a certification from the principal officer of such agency in the country in which the project is located as to the capability of the country (both financial and human resources) to effectively maintain and utilize the project taking into account among other

[904] Sec. 1208 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 278), struck out "$100,000" and inserted in lieu thereof "$500,000".

[905] This reference to 31 U.S.C. 1501 replaced an earlier reference to 31 U.S.C. 200.

[906] Sec. 102(g)(2)(D) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943) struck out "titles I, II, and VI of chapter 2 and chapter 4 of part I" and inserted in lieu thereof "chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II".

[907] Sec. 1208(2) of Public Law 99–83 (99 Stat. 278) struck out "Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973" and inserted in lieu thereof "the Water Resources Planning Act". Previously, reference to the 1973 document was substituted in lieu of a reference of the "Memorandum of the President dated May 15, 1962" by sec. 117 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 365). Previously, sec. 301(c) of the FA Act of 1963 had substituted the reference to the 1962 memorandum in lieu of a reference to "circular A47 of the Bureau of the Budget.".

[908] Sec. 301(d) of the FA Act of 1967 (Public Law 90–137) added subsec. (e).

[909] Sec. 102(g)(2)(E) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943) struck out "titles I, II, or VI of chapter 2 or chapter 4 of part I" and inserted in lieu thereof "chapter 1 of part I, title 2 of chapter 2 of part I, or chapter 4 of part II".

things the maintenance and utilization of projects in such country previously financed or assisted by the United States.

Sec. 612.[910] **Use of Foreign Currencies.**—(a) Except as otherwise provided in this Act or other Acts, foreign currencies received either (1) as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby and unobligated on the date prior to the effective date of this Act, or (2) on or after the effective date of this Act, as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, or (3) as a result of the furnishing of assistance under part I, which are in excess of the amounts reserved under authority of section 105(d) of the Mutual Educational and Cultural Exchange Act of 1961 or any other Act relating to educational and cultural exchanges, may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States, and the United States dollars received as reimbursement shall be deposited into miscellaneous receipts of the Treasury. Foreign currencies so received which are in excess of the amounts so reserved and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President, shall be available for the authorized purposes of part I in such amounts as may be specified from time to time in appropriation Acts.

(b)[911] Any Act of Congress making appropriations to carry out programs under this or any other Act for United States operations abroad is hereby authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

[912] As used in this subsection, the term "excess foreign currencies" means foreign currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the President to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits and are not prohibited from use under this subsection by an agreement entered into with the foreign country concerned.

The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available pursuant to this Act shall not be expended for goods and services when United States-owned foreign currencies are available for such

[910] 22 U.S.C. 2362. sec. 301(d)(1) of the FA Act of 1963 (Public Law 88–205) inserted subsec. designation "(a)". See also sec. 529 of the Foreign Operations, Export Financing,and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809; 22 U.S.C. 2362 note), relating to separate accounts.

[911] Sec. 301(c) of the FA Act of 1963 (Public Law 88–205) added subsec. (b) as subsec. (c). Redesignated as subsec. (b) by Public Law 88–638. Former subsec. (b) was moved to Public Law 480 as sec. 104(t), and has subsequently been transferred in part to sec. 103(m) of Public Law 480.

[912] Sec. 301(b) of the FA Act of 1965 (Public Law 89–171) struck out "The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned excess foreign currencies are utilized in lieu of dollars." at this point.

purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.[913]

(c)[914] In addition to funds otherwise available, excess foreign currencies, as defined in subsection (b), may be made available to friendly foreign governments and to private, nonprofit United States organizations to carry out voluntary family planning programs in countries which request such assistance. No such program shall be assisted unless the President has received assurances that in the administration of such program the recipient will take reasonable precautions to insure that no person receives any family planning assistance or supplies unless he desires such services. The excess foreign currencies made available under this subsection shall not, in any one year, exceed 5 per centum of the aggregate of all excess foreign currencies. As used in this subsection, the term "voluntary family planning program" includes, but is not limited to, demographic studies, medical and psychological research, personnel training, the construction and staffing of clinics and rural health centers, specialized training of doctors and paramedical personnel, the manufacture of medical supplies, and the dissemination of family planning information, medical assistance, and supplies to individuals who desire such assistance.

(d)[915] In furnishing assistance under this Act to the government of any country in which the United States owns excess foreign currencies as defined in subsection (b) of this section, except those currencies generated under the Agricultural Trade Development and Assistance Act of 1954, as amended,[916] the President shall endeavor to obtain from the recipient country an agreement for the release, on such terms and conditions as the President shall determine, of an amount of such currencies up to the equivalent of the dollar value of assistance furnished by the United States for programs as may be mutually agreed upon by the recipient country and the United States to carry out the purposes for which new funds authorized by this Act would themselves be available.

Sec. 613.[917] **Accounting, Valuation, Reporting, and Administration of Foreign Currencies.**[918]—(a) Under the direction of the President, the Secretary of the Treasury shall have responsibility for valuation and central accounting with respect to foreign credits (including currencies) owed to or owned by the United States. In order to carry out such responsibility the Secretary shall issue regulations binding upon all agencies of the Government.

(b) The Secretary of the Treasury shall have sole authority to establish for all foreign currencies or credits the exchange rates at which such currencies are to be reported by all agencies of the Government.

(c)[919] * * * [Repealed—1981]

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[913] Sec. 301(b) of the FA Act of 1965 (Public Law 89–171) added this paragraph.
[914] Sec. 301(e) of the FA Act of 1966 (Public Law 89–583) added subsec. (c).
[915] Sec. 302 of the FA Act of 1969 (Public Law 91–175) added subsec. (d).
[916] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.
[917] 22 U.S.C. 2363.
[918] Sec. 301(c)(1) of the FA Act of 1965 (Public Law 89–171) struck out "**Accounting, Valuation, and Reporting of Foreign Currencies**" and inserted in lieu thereof "**Accounting, Valuation, Reporting, and Administration of Foreign Currencies**".
[919] Subsec. (c), as amended by sec. 46 of Public Law 94–273, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Subsec. (c) had required a semiannual report to the Congress on the amount of all

(d)[920] In cases where assistance is to be furnished to any recipient country in furtherance of the purposes of this or any other Act on a basis which will result in the accrual of foreign currency proceeds to the United States, the Secretary of the Treasury shall issue regulations requiring that agreements, in respect of such assistance, include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositories: *Provided,* That whenever the Secretary of State determines it not to be in the national interest to conclude arrangements for the receipt of interest income he may waive the requirement thereof: *Provided further,* That the Secretary of State, or his delegate, shall promptly make a complete report to the Congress on each such determination and the reasons therefor.

Sec. 614.[921] **Special Authorities.**—(a)[922] (1) The President may authorize the furnishing of assistance under this Act without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act, in furtherance of any of the purposes of this Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.

(2) The President may make sales, extend credit, and issue guarantees under the Arms Export Control Act, without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States.

(3) Before exercising the authority granted in this subsection, the President shall consult with, and shall provide a written policy jus-

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foreign currencies acquired without payment of dollars on hand for each foreign country. Such information is now required on an annual basis as part of the report required under sec. 634(a) of this Act.

[920] Sec. 301(c)(2) of the FA Act of 1965 (Public Law 89–171) added subsec. (d).

[921] 22 U.S.C. 2364.

[922] Subsec. (a), as amended by the FA Act of 1966 and the FA Act of 1967, was further amended and restated by sec. 117(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140), and by sec. 128 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 209). It formerly read as follows:

"(a) The President may authorize in each fiscal year the use of funds made available for use under this Act and the furnishing of assistance under section 506 in a total amount not to exceed $250,000,000 and the use of not to exceed $100,000,000 of foreign currencies accruing under this Act or any other law without regard to the requirements of this Act, any law relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.), in furtherance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year. The limitation contained in the preceding sentence shall not apply to any country which is a victim of active Communist or Communist-supported aggression. The authority of this section shall not be used to waive the limitations on transfers contained in section 610(a) of this Act.".

tification to, the Committee on Foreign Affairs[923] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(4)[924] (A) The authority of this subsection may not be used in any fiscal year to authorize—

(i) more than $750,000,000 in sales to be made under the Arms Export Control Act;

(ii) the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act; and

(iii) the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law.

(B) If the authority of this subsection is used both to authorize a sale under the Arms Export Control Act and to authorize funds to be used under the Arms Export Control Act or under this Act with respect to the financing of that sale, then the use of the funds shall be counted against the limitation in subparagraph (A)(ii) and the portion, if any, of the sale which is not so financed shall be counted against the limitation in subparagraph (A)(i).

(C) Not more than $50,000,000 of the $250,000,000 limitation provided in subparagraph (A)(ii) may be allocated to any one country in any fiscal year unless that country is a victim of active[925] aggression, and not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in subparagraphs (A)(i) and (A)(ii) may be allocated to any one country in any fiscal year.

(5) The authority of this section may not be used to waive the limitations on transfers contained in section 610(a) of this Act.

(b) Whenever the President determines it to be important to the national interest, he may use funds available for the purposes of chapter 4 of part I in order to meet the responsibilities or objectives of the United States in Germany, including West Berlin, and without regard to such provisions of law as he determines should be disregarded to achieve this purpose.

(c) The President is authorized to use amounts not to exceed $50,000,000 of the funds made available under this Act pursuant to his certification that it is inadvisable to specify the nature of the use of such funds, which certification shall be deemed to be a sufficient voucher for such amounts.[926] The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs[923] of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign

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[923] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[924] Sec. 128 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 206) amended and restated subsec. (a)(4). It formerly read as follows:

"(4) The authority of this subsection may not be used to authorize the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act, or the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law, in any fiscal year. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year, unless such country is a victim of active Communist or Communist-supported aggression.".

[925] Sec. 705(2) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Communist or Communist-supported" at this point.

[926] See also secs. 624(d)(7) [repealed—1978; see note] and 636(a)(8) of this Act.

Relations of the Senate of each use of funds under this subsection prior to the use of such funds.[927]

Sec. 615.[928] **Contract Authority.**—Provisions of this Act authorizing the appropriation of funds shall be construed to authorize the granting in any appropriation Act of authority to enter into contracts, within the amounts so authorized to be appropriated, creating obligations in advance of appropriations.

Sec. 616.[929] **Availability of Funds.**—Except as otherwise provided in this Act, funds shall be available to carry out the provisions of this Act as authorized and appropriated to the President each fiscal year.

SEC. 617.[930] **TERMINATION EXPENSES.**

(a) IN GENERAL.—Funds made available under this Act and the Arms Export Control Act, may remain available for obligation for a period not to exceed 8 months from the date of any termination of assistance under such Acts for the necessary expenses of winding up programs related to such termination and may remain available until expended. Funds obligated under the authority of such Acts prior to the effective date of the termination of assistance may remain available for expenditure for the necessary expenses of winding up programs related to such termination notwithstanding any provision of law restricting the expenditure of funds. In order to ensure the effectiveness of such assistance, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

(b) LIABILITY TO CONTRACTORS.—For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized to adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor that had been funded with assistance under such Acts prior to the termination of assistance.

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[927] Sec. 30(g) of the FA Act of 1966 added the last sentence, which was later amended and restated by sec. 8 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899). It formerly read as follows: "The President shall promptly and fully inform the Speaker of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection.".

[928] 22 U.S.C. 2365.

[929] 22 U.S.C. 2366.

[930] 22 U.S.C. 2367. Sec. 302 of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 760) amended and restated sec. 617. It previously read, as amended, as follows:

"**Sec. 617. Termination of Assistance.**—Assistance under any provision of this Act may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed eight months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto. In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated. Such expenses for orderly termination of programs under the Arms Export Control Act may include the obligation and expenditure of funds to complete the training or studies outside the countries of origin of students whose course of study or training program began before assistance was terminated, as long as the origin country's termination was not a result of activities beyond default of financial responsibilities.".

(c) TERMINATION EXPENSES.—Amounts certified as having been obligated for assistance subsequently terminated by the President, or pursuant to any provision of law, shall continue to remain available and may be reobligated to meet any necessary expenses arising from the termination of such assistance.

(d) GUARANTY PROGRAMS.—Provisions of this or any other Act requiring the termination of assistance under this or any other Act shall not be construed to require the termination of guarantee commitments that were entered into prior to the effective date of the termination of assistance.

(e) RELATION TO OTHER PROVISIONS.—Unless specifically made inapplicable by another provision of law, the provisions of this section shall be applicable to the termination of assistance pursuant to any provision of law.

Sec. 618.[931] **Use of Settlement Receipts.** [Repealed—1978]

Sec. 619.[931] **Assistance to Newly Independent Countries.** [Repealed—1978]

[931] Sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961) repealed secs. 618 and 619.

Sec. 620.[932] **Prohibitions Against Furnishing Assistance.**[933]—(a)(1)[934] No assistance shall be furnished under this Act to the present government of Cuba.[935] As an additional means of implementing and carrying into effect the policy of the preceding

[932] 22 U.S.C. 2370. Sec. 204 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 810; 22 U.S.C. 6064) provided the following:

"SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

"(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(1) that a transition government in Cuba is in power, the President, after consultation with the Congress, is authorized to take steps to suspend the economic embargo of Cuba and to suspend the right of action created in section 302 with respect to actions thereafter filed against the Cuban Government, to the extent that such steps contribute to a stable foundation for a democratically elected government in Cuba.

"(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

"(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

"(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with respect to the "Republic of Cuba";

"(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005);

"(4) section 902(c) of the Food Security Act of 1985; and

"(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

"(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba, including the restrictions under part 515 of title 31, Code of Federal Regulations.

"(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)(3)—

"(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

"(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

"(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005) are repealed; and

"(4) section 902(c) of the Food Security Act of 1985 is repealed.

"(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

"(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

"(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on _____.', with the blank space being filled with the appropriate date.

"(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

"(4) PROCEDURES.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6–month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6–month period thereafter.".

[933] Sec. 301(d)(1) of the FA Act of 1965 (Public Law 89–171) struck out "**Prohibitions Against Furnishing Assistance to Cuba and Certain Other Countries.—**" and inserted in lieu thereof "**Prohibitions Against Furnishing Assistance.—**".

[934] Sec. 301(e)(1)(A) of the FA Act of 1963 (Public Law 88–205) inserted "(1)" after subsec. (a).

[935] Sec. 123(a)(1) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541) struck out "; nor shall any such assistance be furnished to any country which furnishes assistance to the present government of Cuba unless the President determines that such assistance is in the national interest of the United States", at this point.

sentence, the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba.

(2)[936] Except as may be deemed necessary by the President in the interest of the United States, no assistance shall be furnished under this Act to any government of Cuba, nor shall Cuba be entitled to receive any quota authorizing the importation of Cuban sugar into the United States or to receive any other benefit under any law of the United States, until the President determines that such government has taken appropriate steps according to international law standards to return to United States citizens, and to entities not less than 50 per centum beneficially owned by United States citizens, or to provide equitable compensation to such citizens and entities for property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.

(b)[937] * * * [Repealed—1981]

(c)[938] No assistance shall be provided under this Act to the government of any country which is indebted to any United States citizen or person for goods or services furnished or ordered where (i) such citizen or person has exhausted available legal remedies, which shall include arbitration, or (ii) the debt is not denied or contested by such government, or (iii) such indebtedness arises under an unconditional guaranty of payment given by such government, or any predecessor government, directly or indirectly, through any controlled entity: *Provided,* That the President does not find such action contrary to the national security.

(d) No assistance shall be furnished on a loan basis under chapter 1 of part I[939] of this Act for construction or operation of any productive enterprise in any country where such enterprise will compete with United States enterprise unless such country has agreed that it will establish appropriate procedures to prevent the exportation for use or consumption in the United States of more than 20 per centum of the annual production of such facility during the life of the loan. In case of failure to implement such agreement by the other contracting party, the President is authorized to establish necessary import controls to effectuate the agreement. The restrictions imposed by or pursuant to this subsection may be waived by the President where he determines that such waiver is in the national security interest.

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[936] Sec. 301(e)(1)(B) of the FA Act of 1963 (Public Law 88–205) added paras. (2) and (3). Para. (3), restricting shipments to Cuba, was subsequently repealed by sec. 123(a)(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541).

[937] Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed subsec. (b). It previously read as follows:

"(B) No assistance shall be furnished under this Act to the government of any country unless the President determines that such country is not dominated or controlled by the international Communist movement.".

[938] Sec. 301(d)(2) of the FA Act of 1962 (Public Law 87–565) amended and restated subsec. (c). It formerly read as follows:

"(c) No assistance shall be provided under this Act to the government of any country which is indebted to any United States citizen for goods or services furnished, where such citizen has exhausted available legal remedies and the debt is not denied or contested by such government.".

[939] Sec. 102(g)(2)(F) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943) struck out "under section 201" and inserted in lieu thereof "on a loan basis under chapter 1 of part I".

(e)[940] (1)[941] The President shall suspend assistance to the government of any country to which assistance is provided under this or any other Act when the government of such country or any government agency or subdivision within such country on or after January 1, 1962—

(A)[942] has nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(B)[942] has taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(C)[942] has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned,

and such country, government agency, or government subdivision fails within a reasonable time (not more than six months after such action, or, in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity, including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be; and such suspension shall continue until the President is satisfied that appropriate steps are being taken, and the provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interests of the United States. Such certification shall be reported immediately to Congress.[943]

Upon request of the President (within seventy days after such action referred to in subparagraphs (A), (B), or (C) of paragraph (1)[944] of this section), the Foreign Claims Settlement Commission of the United States (established pursuant to Reorganization Plan

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[940] Sec. 301(d)(3) of the FA Act of 1962 (Public Law 87–565) added subsec. (e). Subsequently amended by sec. 301(e)(2) of the FA Act of 1963 (Public Law 88–205) and by secs. 301(d)(1) and (2) of the FA Act of 1964 (Public Law 88–633).

[941] Subsec. (e)(1) is popularly referred to as the Hickenlooper amendment. Sec. 301(d)(1) of the FA Act of 1964 (Public Law 88–633) added para. designation "(1)".

Sec. 5(b) of the Africa Famine Relief and Recovery Act of 1985 (Public Law 99–8; 99 Stat. 22) permitted assistance with funds appropriated by the Act without regard to sec. 620(e)(1). For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[942] Sec. 301(d)(2) of the FA Act of 1964 (Public Law 88–633) redesignated subparas. (1), (2), and (3) as subparas. (A), (B), and (C), respectively.

[943] Sec. 15 of the FA Act of 1973 (Public Law 93–189) struck out "no other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection" and inserted in lieu thereof "the provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interests of the United States. Such certification shall be reported immediately to Congress".

[944] Sec. 301(d)(3) of the FA Act of 1964 (Public Law 88–633) struck out "paragraphs (1), (2), or (3)" and inserted in lieu thereof "subparagraphs (A), (B), or (C) of paragraph (1)".

No. 1 of 1954, 68 Stat. 1279) is hereby authorized to evaluate expropriated property, determining the full value of any property nationalized, expropriated, or seized, or subject to discriminatory or other actions as aforesaid, for purposes of this subsection and to render an advisory report to the President within ninety days after such request. Unless authorized by the President, the Commission shall not publish its advisory report except to the citizen or entity owning such property. There is hereby authorized to be appropriated such amount, to remain available until expended, as may be necessary from time to time to enable the Commission to carry out expeditiously its functions under this subsection.

(2)[945] Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which claim of title or other right to property[946] is asserted by any party including a foreign state (or a party claiming through such state) based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law, including the principles of compensation and the other standards set out in this subsection: *Provided,* That this subparagraph shall not be applicable (1) in any case in which an act of a foreign state is not contrary to international law or with respect to a claim of title or other right to property acquired pursuant to an irrevocable letter of credit of not more than 180 days duration issued in good faith prior to the time of the confiscation or other taking, or (2) in any case with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to this effect is filed on his behalf in that case with the court.[947]

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[945] Sec. 301(d)(4) of the FA Act of 1964 (Public Law 88–633) added para. (2).

[946] Sec. 301(d)(2) of the FA Act of 1965 (Public Law 89–171) inserted "to property".

[947] Sec. 301(d)(2) of the FA Act of 1965 (Public Law 89–171) struck out ", or (3) in any case in which the proceedings are commenced after January 1, 1966" at this point.

Sec. 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 22 U.S.C. 2370a), however, provided the following:

"SEC. 527. EXPROPRIATION OF UNITED STATES PROPERTY.

"(a) PROHIBITION.—None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described if subsection (d))—

"(1) has on or after January 1, 1956—

"(A) nationalized or expropriated the property of any United States person,

"(B) repudiated or nullified any contract with any United States person, or

"(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

"(2) has not, within the period specified in subsection (c), either—

"(A) returned the property,

"(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law,

"(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law, or

"(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes or other mutually agreeable binding international arbitration procedure.

"(b) OTHER ACTIONS.—The President shall instruct the United States Executive Directors of each multilateral development bank and international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country

(f)[948] (1)[949] No assistance shall be furnished under this Act, as amended (except section 214(b)), to any Communist country. This restriction may not be waived pursuant to any authority contained in this Act unless the President finds and promptly reports to Congress that: (A) such assistance is vital to the security of the United States; (B) the recipient country is not controlled by the international Communist conspiracy; and (C) such assistance will further promote the independence of the recipient country from international communism. For the purposes of this subsection, the phrase "Communist country" includes specifically, but is not limited to, the following countries:[950]

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to which assistance is prohibited under subsection (a), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of that country.

"(c) PERIOD FOR SETTLEMENT OF CLAIMS.—The period of time described in subsection (a)(2) is the latest of the following—

"(1) 3 years after the date on which a claim was filed,

"(2) in the case of a country that has a totalitarian or authoritarian government at the time of the action described in subsection (a)(1), 3 years after the date of installation of a democratically elected government, or

"(3) 90 days after the date of enactment of this Act.

"(d) EXCEPTED COUNTRIES AND TERRITORIES.—This section shall not apply to any country established by international mandate through the United Nations or to any territory recognized by the United States Government to be in dispute.

"(e) RESUMPTION OF ASSISTANCE.—A prohibition or termination of assistance under subsection (a) and an instruction to vote against loans under subsection (b) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate that such government has taken one of the steps described in subsection (a)(2).

"(f) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act and at the beginning of each fiscal year thereafter, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, a report containing the following:

"(1) A list of every country in which the United States Government is aware that a United States person has an outstanding expropriation claim.

"(2) The total number of such outstanding expropriation claims made by United States persons against each such country.

"(3) The period of time in which each such claim has been outstanding.

"(4) The status of each case and efforts made by the United States Government and the government of the country in which such claim has been made, to take one or more of the steps described in subsection (a)(2).

"(5) Each project a United States Executive Director voted against as a result of the action described in subsection (b).

"(g) WAIVER.—The President may waive the prohibitions in subsections (a) and (b) for a country, on an annual basis, if the President determines and so notifies Congress that it is in the national interest to do so.

"(h) DEFINITIONS.—For the purpose of this section, the term "United States person" means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.".

[948] Sec. 301(d)(3) of the FA Act of 1962 (Public Law 87–565) added subsec. (f).

Sec. 516 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), amended sec. 307 of this Act to include a reference to sec. 620(f).

[949] Sec. 1202 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276) redesignated clauses (1), (2), and (3) as (A), (B), and (C); added the text of para. (2); and added the "(1)" designation immediately after subsec. (f).

The Secretary of State determined the following countries to be removed from the application of section 620(f)(2) pursuant to national interests of the United States: People's Republic of China and Tibet, removed December 11, 1985 (51 F.R. 1890; January 15, 1986); Yugoslavia, removed August 5, 1986 (51 F.R. 29662; August 19, 1986); Poland and Hungary, removed Sept. 7, 1989 (Department of State memoranda to Chairman, House Committee on Foreign Affairs, Sept. 7, 1989); Czech and Slovak Federal Republic, removed June 14, 1990 (55 F.R. 24335; June 15, 1990); German Democratic Republic, removed July 12, 1990 (55 F.R. 33996; August 20, 1990); Republic of Bulgaria, removed May 3, 1991 (56 F.R. 22747; May 16, 1991); Soviet Union, removed September 10, 1991 (56 F.R. 51734; October 15, 1991); Estonia, Latvia, and Lithuania, removed September 14, 1991 (56 F.R. 48600; September 25, 1991); Romania, removed August 15, 1991 (56 F.R. 63753; December 5, 1991); Laos, removed May 12, 1995 (60 F.R. 30148; June 7, 1995); Vietnam, removed sometime in 2000 (undated unpublished determination).

[950] Sec. 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1653), struck the Mongolian People's Republic from the list.

Continued

Democratic People's Republic of Korea.
People's Republic of China.
Republic of Cuba.
Socialist Republic of Vietnam.
Tibet.

(2)[949] Notwithstanding the provisions of paragraph (1) of this subsection, the President may remove a country, for such period as the President determines, from the application of this subsection, and other provisions which reference this subsection, if the President determines and reports to the Congress that such action is important to the national interest of the United States. It is the sense of the Congress that when consideration is given to authorizing assistance to a country removed from the application of this subsection, one of the factors to be weighed, among others, is whether the country in question is giving evidence of fostering the establishment of a genuinely democratic system, with respect for internationally recognized human rights.

(g)[951] Notwithstanding any other provision of law, no monetary assistance shall be made available under this Act to any government or political subdivision or agency of such government which will be used to compensate owners for expropriated or nationalized property and, upon finding by the President that such assistance has been used by any government for such purpose, no further assistance under this Act shall be furnished to such government until appropriate reimbursement is made to the United States for sums so diverted. This prohibition shall not apply to monetary assistance made available for use by a government (or a political subdivision or agency of a government) to compensate nationals of that country in accordance with a land reform program, if the President determines that monetary assistance for such land reform program will further the national interests of the United States.[952]

(h)[951] The President shall adopt regulations and establish procedures to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of any country that is a Communist country for purposes of subsection (f).[953]

(i)[954] * * * [Repealed—1981]

Previously, Sec. 901 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3355) struck the Czechoslovak Socialist Republic, Estonia, German Democratic Republic, Hungarian People's Republic, Latvia, Lithuania, People's Republic of Albania, People's Republic of Bulgaria, Polish People's Republic, Socialist Federal Republic of Yugoslavia, Socialist Republic of Romania, and Union of Soviet Socialist Republics (including its captive constituent republics) from the list.

Previously, sec. 707 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1546) made technical changes to this sentence in subsec. (f) and to the list of countries.

[951] Sec. 301(d)(3) of the FA Act of 1962 (Public Law 87–565) added subsecs. (g) and (h).

[952] Sec. 1203 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 277) added the last sentence.

[953] Sec. 705(3) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "the Communist-bloc countries", and inserted in lieu thereof "any country that is a Communist country for purposes of subsection (f)".

[954] Subsec. (i), as added by sec. 301(e)(3) of the FA Act of 1963 (Public Law 88–205) and amended by sec. 301(h)(1) of the FA Act of 1966 (Public Law 89–583), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Formerly, subsec. (i) had prohibited any foreign assistance or sales under Public Law 480 to countries engaging in or preparing for aggressive military efforts or participating in an international conference involving the planning of insurrection or subversion directed against the United States or other nations receiving American foreign aid or Public Law 480 sales.

(j)[955] The President shall consider terminating assistance under this or any other Act to any country which permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, and fails to take appropriate measures to prevent a recurrence thereof and to provide adequate compensation for such damage or destruction.

(k)[956] Without the express approval of Congress, no assistance shall be furnished under this Act to any country for construction of any productive enterprise with respect to which the aggregate value of assistance to be furnished by the United States will exceed $100,000,000, except that this sentence does not apply with respect to assistance for construction of any productive enterprise in Egypt which is described in the presentation materials to Congress.[957] Except as otherwise provided in section 506,[958] no military assistance to be furnished beginning July 1, 1966, by the United States will exceed $100,000,000 unless such program has been included in the presentation to the Congress during its consideration of authorizations for appropriations under this Act or of appropriations pursuant to authorizations contained in this Act. No provision of this or any other Act shall be construed to authorize the President to waive the provisions of this subsection.

(l)[959] The President shall consider denying assistance under this Act to the government of any less developed country which, after December 31, 1966, has failed to enter into an agreement with the President to institute the investment guaranty program under section 234(a)(1)[960] of this Act, providing protection against the specific risks of inconvertibility under subparagraph (A), and expro-

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[955] Subsec. (j), which was added by sec. 301(e)(3) of the FA Act of 1963 (Public Law 88–205), was amended and restated by sec. 301(f)(1) of the FA Act of 1967 (Public Law 90–137). It formerly read as follows: "No assistance under this Act shall be furnished to Indonesia unless the President determines that the furnishing of such assistance is essential to the national interest of the United States. The President shall keep the Foreign Relations Committee and the Appropriations Committee of the Senate and the Speaker of the House of Representatives fully and currently informed of any assistance furnished to Indonesia under this Act.".

[956] Subsec. (k), which was added by sec. 301(e)(3) of the FA Act of 1963 (Public Law 88–205), was amended by sec. 301(h)(2) of the FA Act of 1966 (Public Law 89–583). It formerly read as follows:

"(k) Until the enactment of the Foreign Assistance Act of the 1965 or other general legislation, during the calendar year 1965, authorizing additional appropriations to carry out programs of assistance under this Act, no assistance shall be furnished under this Act to any country for construction of any productive enterprise with respect to which the aggregate value of such assistance to be furnished by the United States will exceed $100,000,000. No other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection.".

[957] Sec. 606 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 757) inserted ", except that this sentence does not apply with respect to assistance for construction of any productive enterprise in Egypt which is described in the presentation materials to Congress". A reference to fiscal years 1977, 1980, and 1981, which previously appeared at the end of this sentence (the latter two were added by sec. 203 of Public Law 96–533 (94 Stat. 3145)), was deleted by sec. 702 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544).

[958] Sec. 301(f)(2) of the FA Act of 1967 (Public Law 90–137) struck out "510" and inserted in lieu thereof "506".

[959] Subsec. (l), which was added by sec. 301(e)(3) of the FA Act of 1963 (Public Law 88–205), was amended and restated by sec. 301(h)(3) of the FA Act of 1966 (Public Law 89–583). It formerly read, as amended, as follows:

"(l) No assistance shall be provided under this Act after December 31, 1966, to the government of any less developed country which has failed to enter into an agreement with the President to institute the investment guaranty program under section 221(b)(1) of this Act, providing protection against the specific risks of inconvertibility under subparagraph (A), and expropriation or confiscation under subparagraph (B), of such section 221(b)(1).".

[960] Sec. 115(k) of Public Law 95–424 (92 Stat. 952) struck out "221(b)(1)" and inserted in lieu thereof "234(a)(1)".

priation or confiscation under subparagraph (B), of such section 234(a)(1).[960]

(m)[961] * * * [Repealed—1981]

(n)[962] * * * [Repealed—1977]

(o)[963] In determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against, any United States fishing vessel on account of its fishing activities in international waters. The provisions of this subsection shall not be applicable in any case governed by international agreement to which the United States is a party.

(p)[964] * * * [Repealed—1974]

(q)[965] No assistance shall be furnished under this Act to any country which is in default, during a period in excess of six calendar months, in payment to the United States of principal or interest on any loan made to such country under this Act, unless such country meets its obligations under the loan or unless the President determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

(r)[965] No recipient of a loan made under the authority of this Act, any part of which is outstanding on or after the date of enactment of this subsection, shall be relieved of liability for the repayment of any part of the principal of or interest on such loan.

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[961] Subsec. (m), prohibiting assistance on a grant basis to any economically developed nation with certain condition, added by sec. 301(e)(3) of the FA Act of 1963 (Public Law 88–205), amended by sec. 301(g) of the FA Act of 1964 (Public Law 88–633), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[962] Subsec. (n), as added by sec. 301(d)(4) of the FA Act of 1965 (Public Law 89–171) and amended by the FA Acts of 1966, 1967, and 1974, was repealed by sec. 123(b) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541). It formerly read as follows:

"(n) No loans, credits, guaranties, or grants or other assistance shall be furnished under this or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which sells or furnishes to North Vietnam, or which permits ships or aircraft under its registry to transport to or from North Vietnam, any equipment, materials, or commodities, so long as the regime in North Vietnam gives support to hostilities in South Vietnam, unless the President determines that such loans, credits, guaranties, grants, other assistance, or sales are in the national interest of the United States.".

[963] Sec. 301(d)(4) of the FA Act of 1965 (Public Law 89–171) added subsec. (o).

[964] Subsec. (p), as added by sec. 301(h)(5) of the FA Act of 1966 (Public Law 89–583), and related to assistance to the United Arab Republic, was repealed by sec. 44 of the FA Act of 1974 (Public Law 93–559).

[965] Sec. 301(h)(5) of the FA Act of 1966 (Public Law 89–583) added subsecs. (q) and (r).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

"SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of 1 calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.".

On September 29, 2004, the Secretary of State determined "that assistance to Ethiopia is in the national interest of the United States and waive[d], with respect to that country, the application of section 620(q) of the FAA." (Department of State Public Notice 4861; 69 F.R. 61292).

On December 8, 2003, the President determined "that the furnishing of assistance to Liberia is in the national interest of the United States and waive[d], with respect to that country, the application of section 620(q) of the Foreign Assistance Act and section 512 of the FY 2002 and 2003 Foreign Operations, Export Financing, and Related Programs Appropriations Acts." (Presidential Determination No. 2004–11; 68 F.R. 74457).

(s)[966] (1) In order to restrain arms races and proliferation of sophisticated weapons, and to ensure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans or supporting assistance to any country under this Act, and before making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended:[967]

(A) the percentage of the recipient or purchasing country's budget which is devoted to military purposes; and

(B) the degree to which the recipient or purchasing country is using its foreign exchange or other[968] resources to acquire military equipment.

(2)[969] The President shall report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this provision.

(t)[970] No assistance shall be furnished under this or any other Act and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, in or to any country which has severed or hereafter severs diplomatic relations with the United States or with which the United States has severed or hereafter severs diplomatic relations, unless (1) diplomatic relations have been resumed with such country and (2) agreements for the furnishing of such assistance or the making of such sales, as the case may be, have been negotiated and entered into after the resumption of diplomatic relations with such country.

(u)[970] In any decision to provide or continue to provide any program of assistance to any country under the Foreign Assistance Act of 1961, as amended, there shall be taken into account the status of the country with respect to its dues, assessments, and other obligations to the United Nations; and where such country is delinquent with respect to any such obligations for the purposes of the first sentence of Article 19 of the United Nations Charter, the President shall furnish the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report setting forth the assurance given by the government of the country concerned of paying all of its arrearages and of placing its payments of such obligations on a current basis, or a full explanation of the unusual or exceptional circumstances which render it economically incapable of giving such assurance.

(v)[971] * * * [Repealed—1974]

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[966] Subsec. (s), added by sec. 301(f)(4) of the FA Act of 1967 (Public Law 90–137), was amended and restated by sec. 303(a) of the FA Act of 1969 (Public Law 91–175).

[967] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[968] Sec. 734(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) inserted "or other" in subpara. (B) and repealed subpara. (C), which had formerly read as follows:

"(C) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country.".

[969] Sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", and is applicable to this paragraph.

[970] Sec. 301(f)(4) of the FA Act of 1967 (Public Law 90–137) added subsecs. (t) and (u).

[971] Subsec. (v), relating to assistance to Greece, was added by sec. 301 of the FA Act of 1971 (Public Law 92–226) and repealed by sec. 24 of the FA Act of 1974 (Public Law 93–559).

(w)[972] * * * [Repealed—1978]

(x)[973] (1) All military assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Turkey, shall be suspended on the date of enactment of this subsection unless and until the President determines and certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act,[974] and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus: *Provided,* That for the fiscal year 1978[975] the President may suspend the provisions of this subsection and of section 3(c) of the Arms Export Control Act with respect to cash sales and extensions of credits and guaranties under such Act for the procurement of such defense articles and defense services as the President determines are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, except that during the fiscal year 1978[976] the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $175,000,000.[977] Any such suspension shall be effective only so long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or its civilian population on Cyprus, and does not transfer to Cyprus any United States supplied arms, ammunition, or implements of war. The determination required by the proviso in the first sentence of this paragraph shall be made, on a case-by-case basis, with respect to each cash sale, each approval for use of credits, and each approval for use of a guaranty for Turkey. Each such determination shall be reported to the Congress and shall be accompanied by a full and complete statement of the reasons supporting the President's determination and a statement containing the information specified in clauses (A) through (D) of section 2(c)(4) of the Act of October 6, 1975 (Public Law 94–104).[978] In any case involving the sale of significant combat equipment on

[972] Subsec. (w), relating to the suspension of aid to Pakistan, was added by the FA Act of 1971 (Public Law 92–226), and repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[973] Sec. 22 of the FA Act of 1974 (Public Law 93–559) added subsec. (x). Sec. 13(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737) specified that subsec. (x) would be of no further force and effect once the President had determined and certified to the Congress that resumption of aid to Turkey was in the national interest as well as in the interest of NATO and that Turkey was acting in good faith toward achieving a peaceful settlement of the Cyprus problem. The President made such a determination, dated September 26, 1978.

[974] Renamed the Arms Export Control Act.

[975] Sec. 22(d)(1) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 624) struck out the references to fiscal years 1976 and 1977 and added the references to fiscal year 1978.

[976] Sec. 22(d)(2) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 624) inserted "during the fiscal year 1978", and struck out the following that had previously appeared at this point:

"(A) during the fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $125,000,000, and (B) during the fiscal year 1977.".

[977] Sec. 22(d)(3) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 624) struck out "$125,000,000" and inserted in lieu thereof "$175,000,000".

[978] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

the United States Munitions List in which the congressional review provisions of section 36(b) of the Arms Export Control Act do not apply, the President may not issue the letter of offer or approve the use of the credits or guaranty, as the case may be, until the end of the thirty-day period beginning on the date on which the report required by the preceding sentence is submitted to the Congress.[979]

(2)[980] The President shall submit to the Congress within 60 days after the enactment of this paragraph and at the end of such succeeding sixty-day period, a report on progress made during such period toward the conclusion of a negotiated solution of the Cyprus conflict.

(y)[981] (1) Except as provided in paragraph (2), the President shall withhold from amounts made available under this Act or any other Act and allocated for a country for a fiscal year an amount equal to the aggregate value of nuclear fuel and related assistance and credits provided by that country, or any entity of that country, to Cuba during the preceding fiscal year.

(2) The requirement to withhold assistance for a country for a fiscal year under paragraph (1) shall not apply if Cuba—

(A) has ratified the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty of Tlatelelco, and Cuba is in compliance with the requirements of either such Treaty;

(B) has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

(C) incorporates and is in compliance with internationally accepted nuclear safety standards.

(3) The Secretary of State shall prepare and submit to the Congress each year a report containing a description of the amount of nuclear fuel and related assistance and credits provided by any country, or any entity of a country, to Cuba during the preceding year, including the terms of each transfer of such fuel, assistance, or credits.

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[979] Sec. 403 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 757) amended sec. 620(x)(1) beginning with the words "*Provided,* That for the fiscal year * * *". Sec. 620(x)(1) formerly read as follows: *Provided,* That the President is authorized to suspend the provisions of this section and such acts if he determines that such suspension will further negotiations for a peaceful solution of the Cyprus conflict. Any such suspension shall be effective only until February 5, 1975, and only if, during that time, Turkey shall observe the ceasefire and shall neither increase its forces in Cyprus nor transfer to Cyprus any U.S. supplied implements of war.".

[980] Sec. 2(a)(2) of Public Law 94–104 added para. (2). Para. (2) did not become effective until enactment of the International Security Assistance and Arms Export Control Act of 1976 on June 30, 1976. See sec. 2(c)(5) of Public Law 94–104, in *Legislation on Foreign Relations Through 2004,* vol. I–B, for explanation of the effective date of para. (2).

[981] Sec. 2810(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2861), added subsec. (y). Subsec. (b) of that section provided that the amendment "* * * shall apply with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act.".

Sec. 620A.[982, 983] Prohibition on Assistance to Governments Supporting International Terrorism.

[982] 22 U.S.C. 2371. Sec. 6(j) of the Export Administration Act (Public Law 96–72; 50 U.S.C. app. 2405(j)) similarly requires the Secretary of State to determine whenever a country is found to support acts of international terrorism. Most recently, in Department of State Public Notice 1878 of August 12, 1993, (58 F.R. 52523), the Secretary of State stated: "In accordance with section 6(j) of the Export Administration Act (50 U.S.C. App. 2405(j)), I hereby determine that Sudan is a country which has repeatedly provided support for acts of international terrorism. The list of 6(j) countries as of this time therefore includes Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.". Subsequently, Iraq was removed from the list of 6(j) countries, in Department of State Public Notice 4863, issued October 7, 2004 (69 F.R. 61702), and in Presidential Determination No. 2040–52 of September 24, 2004 (69 F.R. 58793), which stated, in part: "(1) There has been a fundamental change in the leadership and policies of the Government of Iraq; (2) Iraq's government is not supporting acts of international terrorism; and (3) Iraq's government has provided assurances that it will not support acts of international terrorism in the future...This certification shall also satisfy the provisions of section 620A(c)(1) of the Foreign Assistance Act of 1961, Public Law 87–195, as amended, and section 40(f)(1)(A) of the Arms Export Control Act, Public Law 90–629, as amended".

Sec. 40A of the Arms Export Control Act (Public Law 90–629; 22 U.S.C. 2781) requires the President to determine annually those countries not cooperating fully with United States antiterrorism efforts. Pursuant to that requirement, on May 12, 2004, the Secretary of State determined and certified, "that the following countries are not cooperating fully with United States antiterrorism efforts: Cuba; Iran; North Korea; Syria; Libya. I hereby notify that the decision to retain Libya on the list of countries not fully cooperating with U.S. antiterrorism efforts comes in the context of an on-going and comprehensive review of Libya's record of support for terrorism. While this process is not complete, Libya has taken significant steps to repudiate its past support for terrorism. When our review of Libya's overall record is complete, we will be pleased to consult with the Congress further." (Department of State Public Notice No. 4722; 69 F.R. 28185).

Previously, title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 579), as amended, provided the following:

"SEC. 1503. The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, including equipment as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.".

On May 7, 2003, the President issued Determination No. 2003–23 (68 F.R. 26459) to suspend the application of the Iraq Sanctions Act of 1990 (except sec. 586E), and sec. 620A of this Act with respect to Iraq.

[983] Sec. 620A was added by sec. 303 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 753). It was amended and restated by sec. 503(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 220). It was further amended and restated by sec. 5 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1897).

Sec. 10 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1900) provided the following in relation to the amendment of sec. 620A:

"SEC. 10. SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

"The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this Act.".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

(a)[984] PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State deter-

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"PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

"SEC. 527. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

"(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

"(2) otherwise supports international terrorism.

"(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

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"ELIGIBILITY FOR ASSISTANCE

"SEC. 536. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided,* That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

"(b) PUBLIC LAW 480.—During fiscal year 2005, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

"(c) EXCEPTION.—This section shall not apply—

"(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

"(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

* * * * * * *

"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 542. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.".

See also sec. 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2047), cited as the "Iraq Sanctions Act of 1990", in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[984] See also 18 U.S.C. 2332d, as added by sec. 321 of Public Law 104–132 (110 Stat. 1254), which provides that U.S. persons engaging in financial transactions with the government of a country designated as supporting international terrorism under sec. 6(j) of the Export Administration Act (50 U.S.C. App. 2405) shall be fined under title 18, imprisoned for not more than 10 years, or both.

mines that the government of that country has repeatedly provided support for acts of international terrorism.

(b) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(c) RESCISSION.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism;

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(d) WAIVER.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act of 1945; and

(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs[985] of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

(A) the name of the recipient country;

(B) a description of the national security interests or humanitarian reasons which require the waiver;

(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of 1961

[985] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

which is also prohibited by section 40 of the Arms Export Control Act.

Sec. 620B.[986] **Prohibition Against Assistance and Sales to Argentina.** * * * [Repealed—1981]

Sec. 620C.[987] **United States Policy Regarding the Eastern Mediterranean.**—(a) The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress further declares that any action of the United States with respect to section 620(x) of this Act shall not signify a lessening of the United States commitment to a just solution to the conflict on Cyprus but is authorized in the expectation that this action will be conducive to achievement of a Cyprus solution and a general improvement in relations among Greece, Turkey, and Cyprus and between those countries and the United States. The Congress finds that—

(1) a just settlement on Cyprus must involve the establishment of a free and independent government on Cyprus and must guarantee that the human rights of all of the people of Cyprus are fully protected;

(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

(3) the guidelines for inter-communal talks agreed to in Nicosia in February 1977 and the United Nations resolutions regarding Cyprus provide a sound basis for negotiation of a just settlement on Cyprus;

(4) serious negotiations, under United Nations auspices, will be necessary to achieve agreement in, and implementation of, constitutional and territorial terms within such guidelines; and

(5) the recent proposals by both Cypriot communities regarding the return of the refugees to the city of New Famagusta (Varosha) constitute a positive step and the United States should actively support the efforts of the Secretary General of the United Nations with respect to this issue.

(b) United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

(1) The United States shall actively support the resolution of differences through negotiations and internationally established peaceful procedures, shall encourage all parties to avoid

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[986] Sec. 620B, added by sec. 11 of Public Law 95–92 (91 Stat. 619) and amended by sec. 12(c)(1) of Public Law 95–384 (92 Stat. 737), was repealed by sec. 725(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1553). Sec. 620B had prohibited the furnishing of MAP, ESF, IMET, and Peacekeeping assistance under this Act, and the extension of credits, sales, or export licenses under the Arms Export Control Act for Argentina after September 30, 1978. Sec. 725(b) of Public Law 97–113, imposing conditions on U.S. assistance and sales to Argentina, was repealed in 1989.

[987] 22 U.S.C. 2373. Sec. 13(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737) added sec. 620C.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"ECONOMIC SUPPORT FUND

"* * * *Provided further,* That $13,500,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: * * *".

provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

(2) The United States will accord full support and high priority to efforts, particularly those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this Act, the Arms Export Control Act, and the agreements under which those defense articles were furnished.

(4) The United States will furnish security assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength among countries of the region, including between Greece and Turkey, is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

(5) The United States shall use its influence to ensure the continuation of the ceasefire on Cyprus until an equitable negotiated settlement is reached.

(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

(c)[988] Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly. To facilitate such a review the President shall, within 60 days after the date of enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

(d) In order to ensure that United States assistance is furnished consistent with the policies established in this section, the President shall, whenever requesting any funds for security assistance under this Act or the Arms Export Control Act for Greece and Turkey, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate

[988] Sec. 209(e)(7) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), stated that sec. 3003(a)(1) of Public Law 104–66 (109 Stat. 734) is not applicable to this subsection. Sec. 3003(a)(1) of that Act, as amended, provided that "* * * each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list * * * [prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress] shall cease to be effective, with respect to that requirement, May 15, 2000.".

The President delegated the reporting requirement function in subsec. (c) to the Secretary of State on July 31, 2002 (Executive Order 13313; 68 F.R. 46073).

his certification, with a full explanation thereof, that the furnishing of such assistance will be consistent with the principles set forth in subsection (b). The President shall also submit such a certification with any notification to the Congress, pursuant to section 36(b) of the Arms Export Control Act, of a proposed sale of defense articles or services to Greece or Turkey.

(e)[989] (1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this provision shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.

Sec. 620D.[990, 991] [Repealed—2004]

Sec. 620E.[992] **Assistance to Pakistan.**—(a) The Congress recognizes that Soviet Forces occupying Afghanistan pose a security threat to Pakistan. The Congress also recognizes that an independent and democratic Pakistan with continued friendly ties with the United States is in the interest of both nations. The Congress finds that United States assistance will help Pakistan maintain its independence. Assistance to Pakistan is intended to benefit the people of Pakistan by helping them meet the burdens imposed by the presence of Soviet forces in Afghanistan and by promoting economic development. In authorizing assistance to Pakistan, it is the intent of Congress to promote the expeditious restoration of full civil liberties and representative government in Pakistan. The Congress further recognizes that it is in the mutual interest of Pakistan and the United States to avoid the profoundly destabilizing effects of the proliferation of nuclear explosive devices or the capacity to manufacture or otherwise acquire nuclear devices.

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[989] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–171) added subsec. (e).

[990] Formerly at 22 U.S.C. 2374. Sec. 7104(l) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3788) repealed sec. 620D, which had prohibited assistance to Afghanistan until certain conditions were met. Sec. 620D was originally added by sec. 505 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 378).

[991] In a determination of October 7, 1992, directed to the Secretary of State, the President stated:

"By virtue of the authority vested in me by section 620D(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2374(b)), I hereby determine that furnishing assistance to Afghanistan with funds authorized to be appropriated under that Act is in the national interest of the United States because of substantially changed circumstances in Afghanistan.

"By virtue of the authority vested in me by section 2(b)(2)(C) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(2)(C)), I hereby determine that Afghanistan has ceased to be a Marxist-Leninist country within the definition of such term in subparagraph (B)(i) of section 2(b)(2) of that Act (12 U.S.C. 635(b)(2)(B)(i)).

"In accordance with section 118(c)(1) of Public Law 99–190 (99 Stat. 1319), I hereby provide notice of my intention to restore nondiscriminatory trade treatment to the products of Afghanistan no sooner than 30 days following receipt by the Congress of this memorandum." (Presidential Determination No. 93–3 of October 7, 1992; 57 F.R. 47557).

[992] 22 U.S.C. 2375. Sec. 620E was added by sec. 736 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1561). The President exercised his authority under subsec. (d) on Feb. 10, 1982 (Presidential Determination No. 82–7).

(b) The United States reaffirms the commitment made in its 1959 bilateral agreement with Pakistan relating to aggression from a Communist or Communist-dominated state.

(c) Security assistance for Pakistan shall be made available in order to assist Pakistan in dealing with the threat to its security posed by the Soviet presence in Afghanistan. The United States will take appropriate steps to ensure that defense articles provided by the United States to Pakistan are used for defensive purposes.

(d)[993] The President may waive the prohibitions of section 101 of the Arms Export Control Act with respect to any grounds for the prohibition of assistance under that section arising before the effective date of part B of the Nuclear Proliferation Prevention Act of 1994 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.

(e)[994] (1)[995] No military assistance[996] shall be furnished to Pakistan and no military equipment or technology shall be sold or

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[993] Sec. 822(b)(2) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 507 at 512), amended and restated subsec. (d). The subsec. formerly read, as previously amended, as follows:

"(d) The President may waive the prohibitions of section 669 of this Act at any time during the period beginning on the date of enactment of this section and ending on September 30, 1994, to provide assistance to Pakistan during that period if he determines that to do so is in the national interest of the United States.".

See the next note relating to Presidential determinations.

[994] Popularly referred to as the Pressler amendment. Subsec. (e) was added by sec. 902 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 268). Presidential Determinations No. 86–3 of November 25, 1985; No. 87–3 of October 27, 1986; No. 88–4 of December 17, 1987; 89–7 of November 18, 1988; and 90–1 of October 5, 1989, 54 F.R. 43797, certified that Pakistan does not have a nuclear explosive device and that U.S. assistance would reduce significantly the risk that Pakistan will possess a nuclear explosive device. The President did not certify for fiscal years 1991–1997.

On May 28 and 30, 1998, Pakistan tested nuclear explosive devices. On May 30, 1998, the President determined that such tests had transpired, and imposed a range of sanctions required pursuant to sec. 102(b) of the Arms Export Control Act and sec. 2(b)(4) of the Export-Import Bank Act of 1945 (Presidential Determination No. 98–25; 63 F.R. 31881).

The India-Pakistan Relief Act, enacted as title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(a) of Public Law 105–277; 112 Stat. 2681), however, authorized the President to waive the application of sanctions against India and Pakistan for one year. The President issued such a determination as referred to in sec. 902 of the India-Pakistan Relief Act on December 1, 1998, that provided: "I hereby waive until October 21, 1999, the sanctions and prohibitions contained in section 101 and 102 of the Arms Export Control Act, section 620E(e) of the Foreign Assistance Act of 1961, and section 2(b)(4) of the Export-Import Bank Act of 1945, insofar as such sanctions and prohibitions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency with respect to Pakistan and India; assistance to Pakistan and India under the 'International Military Education and Training' program; the making of any loan or financial or technical assistance to Pakistan by any international financial institution in support of the assistance program that Pakistan is negotiating with the International Monetary Fund." (Presidential Determination No. 99–7; *Weekly Compilation of Presidential Documents,*vol. 34, no. 49, December 7, 1998, p. 2402).

The President extended the waiver on September 30, 1999 (Presidential Determination No. 99–44; 64 F.R. 54503).

Title IX of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1283), repealed the India-Pakistan Relief Act, effective October 21, 1999. In its place, title IX of that Act, as amended, provided the following:

"TITLE IX

"WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

"SEC. 9001. (a) WAIVER AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the President may waive, with respect to India and Pakistan, the application of any sanction contained in section 101 or 102 of the Arms Export Control Act (22 U.S.C. 2799aa or 22 U.S.C. 2799aa–1), section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)), or section 620E(e) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2375(e)).

"(b) EXCEPTION.—The authority to waive the application of a sanction or prohibition (or portion thereof) under subsection (a) shall not apply with respect to a sanction or prohibition contained in subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, un-

transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which military assistance is to be fur-

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less the President determines, and so certifies to the Congress, that the application of the restriction would not be in the national security interests of the United States.

"(c) TERMINATION OF WAIVER.—The President may not exercise the authority of subsection (a), and any waiver previously issued under subsection (a) shall cease to apply, with respect to India or Pakistan, if that country detonates a nuclear explosive device after the date of the enactment of this Act or otherwise takes such action which would cause the President to report pursuant to section 102(b)(1) of the Arms Export Control Act.

"(d) TARGETED SANCTIONS.—

"(1) SENSE OF THE CONGRESS.—

"(A) it is the sense of the Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that this control list requires refinement; and

"(B) export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.

"(2) REPORTING REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit both a classified and unclassified report to the appropriate congressional committees listing those Indian and Pakistani entities whose activities contribute to missile programs or weapons of mass destruction programs.

"(e) CONGRESSIONAL NOTIFICATION.—The issuance of a license for export of a defense article, defense service, or technology under the authority of this section shall be subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), including the transmittal of information and the application of congressional review procedures. The application of these requirements shall be subject to the dollar amount thresholds specified in that section.

"(f) REPEAL.—The India-Pakistan Relief Act (title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, as contained in section 101(a) of Public Law 105–277) is repealed effective October 21, 1999.".

The President waived the application of sanctions under the new law on October 27, 1999 (Presidential Determination No. 2000–4; 64 F.R. 60649), to the following extent:

"(1) with respect to India, insofar as such sanctions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency; assistance under the 'International Military Education and Training' program; the making of any loan or the providing of any credit to the Government of India by any U.S. bank; assistance to the Asian elephant Conservation Fund, the Rhinoceros and Tiger conservation Fund, and the Indo-American Environmental Leadership program; and any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and

"(2) with respect to Pakistan, insofar as such sanctions would otherwise apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and the making of any loan or the providing of any credit to the Government of Pakistan by any U.S. bank." (Presidential Determination No. 2000–4; October 27, 1999; 64 F.R. 60649).

On September 22, 2001, the President lifted all nuclear test-related sanctions against India and Pakistan, under the authority granted him in the Defense Appropriations Act, FY 2000 (Presidential Determination No. 2001–28; 66 F.R. 50095).

On October 27, 2001, the President signed Public Law 107–57 (115 Stat. 403), authorizing the waiver of remaining sanctions imposed against Pakistan for debt arrearage and the military overthrow of its democratically elected government. On March 14, 2003, the President determined that a waiver of the coup-related sanctions imposed against Pakistan "would facilitate the transition to democratic rule in Pakistan; and is important to United States efforts to respond to, deter, or prevent acts of international terrorism" and thus waived the sanctions for FY 2003 (Presidential Determination No. 2003–16; 68 F.R. 13803). The President waived the sanctions for 2004 in Presidential Determination No. 2004–26 of March 24, 2004 (69 F.R. 21675). Sec. 7103(c) of Public Law 108–458 extended the applicability of Public Law 107–57 through Fiscal Year 2006.

See also sec. 102 of the Arms Export Control Act, as amended by the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627).

See also sec. 589 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2174), relating to the availability of excess defense articles for certain countries.

[995] Sec. 559(a)(1)(D) and (E) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), added para. designation "(1)", and added new paras. (2) through (4). These amendments are popularly collectively referred to as the "Brownback amendment."

[996] Popularly referred to as the Brown amendment. Sec. 559(a)(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), struck out "No assistance", and inserted in lieu thereof "No military assistance".

nished or military equipment or technology[997] is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States military assistance[998] program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

(2)[995] The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

(A) International narcotics control (including chapter 8 of part I of this Act) or any provision of law available for providing assistance for counternarcotics purposes.

(B) Facilitating military-to-military contact, training (including chapter 5 of part II of this Act) and humanitarian and civic assistance projects.

(C) Peacekeeping and other multilateral operations (including chapter 6 of part II of this Act relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment provided under this subparagraph shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided.

(D) Antiterrorism assistance (including chapter 8 of part II of this Act relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes.

(3)[995] The restrictions of this subsection shall continue to apply to contracts for the delivery of F–16 aircraft to Pakistan.

(4)[995] Notwithstanding the restrictions contained in this subsection, military equipment, technology, or defense services, other than F–16 aircraft, may be transferred to Pakistan pursuant to contracts or cases entered into before October 1, 1990.

(f)[999] STORAGE COSTS.—The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amount paid, on such terms and conditions as the President may prescribe: *Provided,* That such payments have no budgetary impact.

(g)[999] INAPPLICABILITY OF RESTRICTIONS TO PREVIOUSLY OWNED ITEMS.—Section 620E(e) does not apply to broken, worn or unupgraded items or their equivalent which Pakistan paid for and took possession of prior to October 1, 1990 and which the Government of Pakistan sent to the United States for repair or upgrade. Such equipment or its equivalent may be returned to the Government of Pakistan: *Provided,* That the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any

[997] Sec. 559(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), struck out "in which assistance is to be furnished or military equipment or technology" and inserted in lieu thereof "in which military assistance is to be furnished or military equipment or technology".

[998] Sec. 559(a)(1)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), struck out "the proposed United States assistance" and inserted in lieu thereof "the proposed United States military assistance".

[999] Sec. 559(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), added subsecs. (f), (g), and (h).

significant qualitative upgrade since being transferred to the United States and that its total value does not exceed $25,000,000.

(h)[999] BALLISTIC MISSILE SANCTIONS NOT AFFECTED.—Nothing contained herein shall affect sanctions for transfers of missile equipment or technology required under section 11B of the Export Administration Act of 1979 or section 73 of the Arms Export Control Act.

SEC. 620F.[1000] NUCLEAR NON-PROLIFERATION POLICY IN SOUTH ASIA.

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of weapons of mass destruction remains one of the most serious threats to international peace and stability;

(2) South Asia, in particular, is an area where the threat of a regional nuclear exchange remains high due to continued Indo-Pakistani tensions over issues such as Kashmir;

(3) to date, United States efforts to halt proliferation in South Asia have failed;

(4) although global disarmament is a desirable goal which should be vigorously pursued, both regional and sub-regional security arrangements can serve to decrease tensions and promote non-proliferation in certain areas;

(5) thus far, there has been some success on a regional basis, such as the South Pacific Nuclear Weapons Free Zone and the Treaty of Tlatelolco in Latin America;

(6) in particular, in Latin America, the Treaty of Tlatelolco has been signed by all the nuclear powers;

(7) a critical part of this treaty is Protocol II which prohibits nuclear attacks by nuclear weapons states on signatories to the treaty;

(8) in 1991, a proposal was made for a regional conference on non-proliferation in South Asia which would include Pakistan, India, the People's Republic of China, the Soviet Union, and the United States; and

(9) thus far, Pakistan, China, Russia, and the United States have expressed interest in attending such a conference, whereas India has refused to attend.

(b) POLICY.—It is the sense of the Congress that the President should pursue a policy which seeks a regional negotiated solution to the issue of nuclear non-proliferation in South Asia at the earliest possible time, including a protocol to be signed by all nuclear

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[1000] 22 U.S.C. 2376. Added by sec. 585(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1688).

Sec. 585(b) of that Act further provided:

"(b) REPORT ON SOUTH ASIAN NUCLEAR PROGRAMS.—Not later than six months after the enactment of this Act, the President shall submit a report with respect to the People's Republic of China, Pakistan, and India in writing to the Committees on Appropriations, the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, on those country's nuclear and ballistic missile programs, including, but not limited to—

"(1) a determination as to whether that country possesses a nuclear explosive device or whether it possesses all the components necessary for the assembly of such a device;

"(2) a complete report on the status of that country's missile development program, foreign assistance to that program, and foreign sales of missiles or missile components to that country and steps which the United States has taken in response to such sales; and

"(3) a report on whether that country has agreed to fully adhere, and is adhering, to all peaceful nuclear cooperation agreements with the United States and has formally agreed to place all United States-supplied nuclear materials under international safeguards in perpetuity.".

weapons states, prohibiting nuclear attacks by nuclear weapons states on countries in the region. Such a policy should have as its ultimate goal concurrent accession by Pakistan and India to the Nuclear Non-Proliferation Treaty, and should also include as needed a phased approach to that goal through a series of agreements among the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities.

(c)[1001] REPORT ON PROGRESS TOWARD REGIONAL NON-PROLIFERATION.—Not later than April 1 of each year,[1002] the President shall submit a report to the Committees on Appropriations, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate, on nuclear proliferation in South Asia, including efforts taken by the United States to achieve a regional agreement on nuclear non-proliferation, and including a comprehensive list of the obstacles to concluding such a regional agreement.

SEC. 620G.[1003] PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

(a) WITHHOLDING OF ASSISTANCE.—The President shall withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

(b) WAIVER.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

[1001] In a memorandum of March 30, 1994, the President delegated the functions in subsec. (c) to the Secretary of State; stipulating that preparation of the report is to be coordinated with other agencies, as appropriate and the Assistant to the President for National Security Affairs (59 F.R. 17229).

[1002] Sec. 2219 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of Division G of Public Law 105–277; 112 Stat. 2861), struck out "Not later than April 1, 1993, and every six months thereafter," and inserted in lieu thereof "Not later than April 1 of each year,".

[1003] 22 U.S.C. 2377. Added by sec. 325 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256).

Sec. 329 of that Act (110 Stat. 1258) defined assistance as follows:

"(1) the term 'assistance' means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

"(2) the term 'assistance' does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).".

Sec. 149 of Public Law 104–164 (110 Stat. 1436) also added a new sec. 620G, relating to depleted uranium ammunition.

SEC. 620G.[1004] **DEPLETED URANIUM AMMUNITION.**

(a) PROHIBITION.—Except as provided in subsection (b), none of the funds made available to carry out this Act or any other Act may be made available to facilitate in any way the sale of M–833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

(1) a country that is a member of the North Atlantic Treaty Organization;

(2) a country that has been designated as a major non-NATO ally (as defined in section 644(q)); or

(3) Taiwan.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.

SEC. 620H.[1005] **PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.**

(a) PROHIBITION.—

(1) IN GENERAL.—The President shall withhold assistance under this Act to the government of any country that provides

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[1004] 22 U.S.C. 2378a. Sec. 149 of Public Law 104–164 (110 Stat. 1436) added this new sec. 620G. Sec. 325 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256) also added a new sec. 620G, prohibiting assistance to countries that aid terrorist states.

[1005] 22 U.S.C. 2378. Sec. 326 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256) added sec. 620H.

Sec. 542 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 542. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.".

On April 21, 1999, the State Department issued Public Notice 3039 that "[t]he United States Government has determined that the Government of Russia transferred lethal military equipment to a country determined by the Secretary of State to be a state sponsor of terrorism. The United States Government determined that, despite the transfers, furnishing assistance to the Government of Russia, other than assistance furnished to the three Russian entities specifically involved in the transfer of lethal military equipment, is important to the national interests of the United States. Further it is the policy of the United States Government to deny U.S. Government assistance to these three entities." (64 F.R. 23148). Restrictions against two entities were lifted on March 26, 2004 (Department of State Public Notice 4675; 69 F.R. 17263).

Similar determinations were made involving entities in Russia (Department of State Public Notice 3059; 64 F.R. 31029; June 9, 1999) (partially lifted on March 26, 2004 (Department of State Public Notice 4675; 69 F.R. 17263)); the Government of Kazakhstan and named entities (Department of State Public Notice 3175; 64 F.R. 70103; December 9, 1999); the Government of Russia and named entities (Department of State Public Notice 4120; 67 F.R. 57865; September 6, 2002); and the Government of Russia and named entities (Department of State Public Notice 4491; 68 F.R. 54259; September 10, 2003).

On September 27, 1999, the State Department issued a determination pursuant to sec. 620H but concluded "that publication of the determination would be harmful to the national security of the United States" and thus did not disclose the country at issue (Department of State Public

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lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.[1006]

(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

SEC. 620I.[1007, 1008] PROHIBITION ON ASSISTANCE TO COUNTRIES THAT RESTRICT UNITED STATES HUMANITARIAN ASSISTANCE.—

(a) IN GENERAL.—No assistance shall be furnished under this Act or the Arms Export Control Act to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) EXCEPTION.—Assistance may be furnished without regard to the restriction in subsection (a) if the President determines that to do so is in the national security interest of the United States.

(c) NOTICE.—Prior to making any determination under subsection (b), the President shall notify the Committee on International Relations, the Committee on Foreign Relations, and the Committees on Appropriations of the Senate and House of Representatives of his intention to make such a determination, the effective date of the determination, and the reasons for making the determination.

Notice 3129; 64 F.R. 53434). Similar determinations, in which the country was not disclosed, were made on June 14, 2000 (Department of State Public Notice 3340; 65 F.R. 39219); March 5, 2003 (Department of State Public Notice 4298; 68 F.R. 11606); October 14, 2004 (Department of State Public Notice 4879; 69 F.R. 62112); and on October 28, 2004 (Department of State Public Notice 4886; 69 F.R. 64803).

[1006] "[D]ate of enactment of this Act" probably refers to enactment of the amendment, April 24, 1996.

[1007] 22 U.S.C. 2379. Added by sec. 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of Public Law 104–208; 110 Stat. 3009). Originally enacted as freestanding language in sec. 562 of Public Law 104–107 (110 Stat. 745).

[1008] In a memorandum of May 23, 1997, for the Secretary of State, the President determined "that it is in the national security interest of the United States that assistance be furnished to Turkey without regard to the restriction in subsection (a) of section 620I." (Presidential Determination No. 97–24; 62 F.R. 30737).

Chapter 2—Administrative Provisions

Sec. 621.[1009] **Exercise of Functions.**[1010]—(a) The President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions to any of his subordinates. In providing technical assistance under this Act, the head of any such agency or such officer shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. In such fields as education, health, housing, or agriculture, the facilities and resources of other Federal agencies shall be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with

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[1009] 22 U.S.C. 2381.

Sec. 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–54), provided the following:

"AGENCY FOR INTERNATIONAL DEVELOPMENT BUDGET JUSTIFICATION

"SEC. 576. The Agency for International Development shall submit to the Committees on Appropriations a detailed budget justification that is consistent with the requirements of section 515, for each fiscal year. The Agency shall submit to the Committees on Appropriations a proposed budget justification format no later than November 15, 2000, or 30 days after the enactment of this Act, whichever occurs later. The proposed format shall include how the Agency's budget justification will address: (1) estimated levels of obligations for the current fiscal year and actual levels for the 2 previous fiscal years; (2) the President's request for new budget authority and estimated carryover obligational authority for the budget year; (3) the disaggregation of budget data and staff levels by program and activity for each bureau, field mission, and central office; and (4) the need for a user-friendly, transparent budget narrative.".

Sec. 587 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681; 22 U.S.C. 2381 note), as amended by sec. 5002(b) of Public Law 106–31 (113 Stat. 109), provided the following:

"AID OFFICE OF SECURITY

"SEC. 587. (a) ESTABLISHMENT OF OFFICE.—There shall be established within the Office of the Administrator of the Agency for International Development, an Office of Security. Such Office of Security shall, notwithstanding any other provision of law except section 207 of the Foreign Service Act of 1980 and section 103 of Public Law 99–399, have the responsibility for the supervision, direction, and control of all security activities relating to the programs and operations of that Agency.

"(b) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—There are transferred to the Office of Security all security functions exercised by the Office of Inspector General of the Agency for International Development exercised before the date of enactment of this Act. The Administrator shall transfer from the Office of the Inspector General of such Agency to the Office of Security established by subsection (a), the personnel (including the Senior Executive Service position designated for the Assistant Inspector General for Security), assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, and other funds held, used, available to, or to be made available in connection with such functions. Unexpended balances of appropriations, and other funds made available or to be made available in connection with such functions, shall be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the Agency for International Development'.

"(c) TRANSFER OF EMPLOYEES.—Any employee in the career service who is transferred pursuant to this section shall be placed in a position in the Office of Security established by subsection (a) which is comparable to the position the employee held in the Office of the Inspector General of the Agency for International Development.".

Sec. 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1698), provided the following:

"The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Agency for International Development.".

[1010] Sec. 302(a) of the FA Act of 1962 (Public Law 87–565) struck out subsec. designation "(a)" and repealed subsecs. (b), (c), (d), and (e). Subsequently, sec. 302(a) of the FA Act of 1968 (Public Law 90–554) inserted new subsec. designation "(a)" and added subsec. (b).

private enterprise, and can be made available without interfering unduly with domestic programs.[1011]

(b)[1010] The President shall issue and enforce regulations determining the eligibility of any person to receive funds made available under this Act. A person may be suspended under such regulations for a temporary period pending the completion of an investigation and any resulting judicial or debarment proceedings, upon cause for belief that such person or an affiliate thereof probably has undertaken conduct which constitutes a cause for debarment; and, after an opportunity has been afforded to such person for a hearing, he may be debarred for an additional period, not to exceed three years. Among the causes for debarment shall be (1) offering or accepting a bribe or other illegal payment or credit in connection with any transaction financed with funds made available under this Act; or (2) committing a fraud in the procurement or performance of any contract financed with funds made available under this Act; or (3) acting in any other manner which shows a lack of integrity or honesty in connection with any transaction financed with funds made available under this Act. Reinstatement of eligibility in each particular case shall be subject to such conditions as the President shall direct. Each person whose eligibility is denied or suspended under this subsection shall, upon request, be entitled to a review of his eligibility not less often than once every two years.

Sec. 621A.[1012] **Strengthened Management Practices.**—(a) The Congress believes that United States foreign aid funds could be utilized more effectively by the application of advanced management decisionmaking, information and analysis techniques such as systems analysis, automatic data processing, benefit-cost studies, and information retrieval.

(b) To meet this need, the President shall establish a management system that includes: the definition of objectives and programs for United States foreign assistance; the development of quantitative indicators of progress toward these objectives; the orderly consideration of alternative means for accomplishing such objectives; and the adoption of methods for comparing actual results of programs and projects with those anticipated when they were undertaken. The system should provide information to the agency and to Congress that relates agency resources, expenditures, and budget projections to such objectives and results in order to assist in the evaluation of program performance, the review of budgetary requests, and the setting of program priorities.

(c)[1013] * * * [Repealed—1978]

Sec. 622.[1014] **Coordination With Foreign Policy.**—(a) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(b) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Gov-

[1011] Sec. 302(a) of the FA Act of 1963 (Public Law 88–205) inserted the last two sentences in lieu of a sentence that provided for the use of the technical expertise of Federal agencies with primary responsibilities in domestic programs.

[1012] 22 U.S.C. 2381a. Sec. 302(b) of the FA Act of 1968 (Public Law 90–554) added sec. 621A.

[1013] Sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959) repealed subsec. (c), which had called for an annual report from the President regarding the implementation of this section.

[1014] 22 U.S.C. 2382.

ernment in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the Diplomatic Mission shall make sure that recommendations of such representatives pertaining to military assistance (including civic action) and military education and training programs[1015] are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

(c)[1016] Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

Sec. 623.[1017] **The Secretary of Defense.**—(a) In the case of assistance under part II of this Act, the Secretary of Defense shall have primary responsibility for—

(1) the determination of military end-item requirements;

(2) the procurement of military equipment in a manner which permits its integration with service programs;

(3) the supervision of end-item use by the recipient countries;

(4) the supervision of the training of foreign military and related civilian[1018] personnel;

(5) the movement and delivery of military end-items; and

(6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance, education and training.[1019]

(b) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall be determined by the Secretary of Defense.

Sec. 624.[1020] **Statutory Officers.**—(a) The President may appoint, by and with the advice and consent of the Senate, twelve officers[1021] in the agency primarily responsible for administering part I, * * * [Repealed—1964]

(1) * * * [Repealed—1964]

(2) * * * [Repealed—1964]

[1015] Sec. 302(a)(1) of the FA Act of 1966 (Public Law 89–583) struck out "(including any civil action and sales program)" and inserted in lieu thereof "(including civic action) or sales programs". Sec. 45(b)(1) of the Foreign Military Sales Act (Public Law 90–629) struck out "or sales" which appeared before the word "programs". Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 inserted "and military education and training".

[1016] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) amended and restated subsec. (c).

The responsibility of the Secretary of State under this subsection, insofar as it relates to development assistance, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[1017] 22 U.S.C. 2383.

[1018] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) inserted "and related civilian".

[1019] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) inserted ", education and training".

[1020] 22 U.S.C. 2384.

[1021] Sec. 7 of Reorganization Plan No. 2 of 1979 stated:

"One of the positions that the President may appoint under section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a), 5 U.S.C. 5315(5)) is hereby abolished.".

(3) * * * [Repealed—1964][1022] and in the selection of one of such persons due consideration shall be given to persons qualified as professional engineers.

(b) Within the limitations established by subsection (a) of this section, the President may fix the rate of compensation, and may designate the title of, any officer appointed pursuant to the authority contained in that subsection. The President may also fix the order of succession among the officers provided for in[1023] subsection (a) of this section in the event of the absence, death, resignation, or disability of one or more of said officers.

(c) Any person who was appointed by and with the advice and consent of the Senate, to any statutory position authorized by any provision of law repealed by section 642(a) and who is serving in one of such positions at the time of transfer of functions pursuant to subsections (c) and (d) of section 621, may be appointed by the President to a comparable position authorized by subsection (a) of this section on the date of the establishment of the agency primarily responsible for administering part I, without further action by the Senate.

(d)[1024] * * * [Repealed—1978]

(e)[1025] In addition to the officers otherwise provided for in this section, the President shall appoint, by and with the advice and consent of the Senate, one officer for the purpose of coordinating security assistance programs.

(f)[1026] * * * [Repealed—1994]

(g)[1027] * * * [Repealed—1981]

Sec. 625.[1028] **Employment of Personnel.**—(a) Any agency or officer of the United States Government carrying out functions under this Act is authorized to employ such personnel as the Presi-

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[1022] That part of sec. 624(a) to this point, beginning with the words "of whom—" was repealed by sec. 305(42) of the Government Employees Salary Reform Act of 1964 (Public Law 88–426). The repealed part provided for one Under Secretary, one Deputy Under Secretary, and ten Assistant Secretaries.

[1023] Sec. 302(b)(1) of the FA Act of 1965 (Public Law 89–171) struck out "paragraph (3) of" at this point, and also struck out "of the officers provided for in paragraphs (1) and (2) of that subsection" and inserted in lieu thereof "or one or more of said officers" at the end of the sentence.

[1024] Sec. 124(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541), effective July 1, 1978, repealed subsec. (d), which concerned the office of Inspector General, Foreign Assistance.

[1025] Sec. 302 of the FA Act of 1971 (Public law 92–226) added subsec. (e).

[1026] Sec. 162(e)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405) struck out subsec. (f), which had established the Assistant Secretary of State for Human Rights and Humanitarian Affairs in the Department of State. The newly designated Assistant Secretary of State for Democracy, Human Rights, and Labor and the responsibilities assigned to that title may be found at section 1(c)(2) of the State Department Basic Authorities Act of 1956, as amended by sec. 161 of Public Law 103–236 (22 U.S.C. 2651a(1)(c)(2)).

Subsec. (f), as added originally by sec. 301(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 750), provided for the establishment of a Coordinator for Human Rights and Humanitarian Affairs. This title designation was upgraded to Assistant Secretary of State for Human Rights and Humanitarian Affairs by sec. 109(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105; 91 Stat. 846).

[1027] Subsec. (g), added by sec. 504 of Public Law 95–424 (92 Stat. 959) and amended by sec. 706 of Public Law 96–536 (94 Stat. 3158), was repealed by sec. 705(b)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1545). Former subsec. (g) concerned the responsibilities and duties of the Inspector General of AID. Similar language can now be found at sec. 8A of the Inspector General Act of 1978. See *Legislation on Foreign Relations Through 2004*, vol. IV, sec. N. for text.

[1028] 22 U.S.C. 2385.

dent deems necessary to carry out the provisions and purposes of this Act.

(b) Of the personnel employed in the United States to carry out part I or coordinate part I and part II, not to exceed one hundred and ten [1029] may be appointed, compensated or removed without regard to the provisions of any law, of whom not to exceed fifty-one may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5 of the United States Code,[1030] but not in excess of the highest rate of grade 18 of such general schedule: [1031] *Provided,* That, under such regulations as the President shall prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5 of the United States Code.[1032]

(c) Of the personnel employed in the United States to carry out part II, or any Act superseding part II in whole or in part,[1033] not to exceed eight may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5 of the United States Code, but not in excess of the highest rate of grade 18 of such general schedule.[1034] Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5 of the United States Code.[1035]

(d) [1036] For the purpose of performing functions under this Act outside the United States, the President may employ or assign individuals, or may authorize the employment or assignment of officers or employees by agencies of the United States Government

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[1029] Sec. 301(c)(1) of the FA Act of 1962 (Public law 87–565) struck out "seventy-six" and inserted in lieu thereof "one hundred and ten".

[1030] Sec. 302(b)(1) of the FA Act of 1967 (Public Law 90–137) struck out "the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.)" and inserted in lieu thereof "section 5332 of title 5 of the United States Code" in lieu of .

[1031] Sec. 1001(k)(1) of the Postal Service and Federal Employees Salary Act of 1962 (Public Law 87–793) struck out "and of these, not to exceed eight may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year" and inserted in lieu thereof "but not in excess of the highest rate of grade 18 of such general schedule".

[1032] Sec. 302(b)(2) of the FA Act of 1967 (Public Law 90–137) struck out "505 of the Classification Act of 1949, as amended" and inserted in lieu thereof "5108 of title 5 of the United States Code".

[1033] Sec. 302(c) of the FA Act of 1968 (Public Law 90–554) inserted "or any Act superseding part II in whole or in part,".

[1034] Sec. 302(c)(1) of the FA Act of 1967 (Public Law 90–137) struck out "the Classification Act of 1949, as amended" and inserted in lieu thereof "section 5332 of title 5 of the United States Code".

Sec. 1001(k)(2) of the Postal Service and Federal Employees Salary Act of 1962 (Public Law 87–793) struck out "and if these, not to exceed three may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year" and inserted in lieu thereof "but not in excess of the highest rate of grade 18 of such general schedule".

[1035] Sec. 302(c)(2) of the FA Act of 1967 (Public Law 90–137) struck out "505 of the Classification Act of 1949, as amended" and inserted in lieu thereof "5108 of title 5 of the United States Code".

[1036] Sec. 2203(a) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158) amended and restated subsec. (d). Subsec. (d) had previously been amended by the FA Act of 1962 (Public law 87–565), the FA Act of 1964 (Public Law 88–633), the FA Act of 1967 (Public Law 90–137), and by the International Development and Food Assistance Act of 1977 (Public Law 95–88).

which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, or under chapter 53 of title 5, United States Code, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980.[1037] Individuals so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service.

(e)[1038] * * * [Repealed—1981]

(f)[1039] Funds provided for in agreements with foreign countries for the furnishing of services under this Act with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agencies primarily responsible for administering part I or part II of this Act) as well as personnel not employed by the United States Government.

(g)[1040] * * * [Repealed—1981]

(h) Notwithstanding any other provision of law, officers and employees of the United States Government performing functions under this Act shall not accept from any foreign country any compensation or other benefits. Arrangements may be made by the President with such countries for reimbursement to the United States Government or other sharing of the cost of performing such functions.

(i) To the maximum extent practicable officers and employees performing functions under this Act abroad shall be assigned to countries and positions for which they have special competence, such as appropriate language and practical experience.

(j)[1041] * * * [Repealed—1981]

(k)[1042] * * * [Repealed—1980]

Sec. 626.[1043] **Experts, Consultants, and Retired Officers.**—(a) Experts and consultants or organizations thereof may, as authorized by section 3109 of title 5 of the United States Code,[1044]

[1037] Sec. 703 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544)inserted the references to chapter 53 of title 5, U.S. Code, and "any other rate authorized by law".

[1038] Sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160) repealed subsec. (e), which had authorized the President to prescribe standards for maintaining adequate performance levels of specified personnel.

[1039] Sec. 302(c)(3) of the FA Act of 1962 (Public Law 87–565) amended and restated sec. 625(f).

[1040] Sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160) repealed subsec. (g), which concerned foreign language competence of personnel carrying out functions under this Act.

[1041] Subsec. (j), added by the FA Act of 1964 (Public Law 88–633) and which had concerned the Presidential appointment of U.S. representatives to the Inter-American Committee on the Alliance for Progress, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160).

[1042] Subsec. (k), added by the FA Act of 1973 and which designated certain categories of personnel serving in the agency as being eligible to participate in the Foreign Service Retirement and Disability System, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160). While nearly all provisions of the Foreign Service Act of 1980 were not effective until Feb. 15, 1981, sec. 2203(d)(1) of such Act specified that the repeal of sec. 625(k) would be effective on the date of enactment of the Act (Oct. 17, 1980).

[1043] 22 U.S.C. 2386.

[1044] Sec. 302(e)(1) of the FA Act of 1967 (Public Law 90–137) struck out "15 of the Act of August 22, 1946, as amended (5 U.S.C. 55a)" and inserted in lieu thereof "3109 of title 5 of the United States Code".

be employed for the performance of functions under this Act, and individuals so employed may be compensated at rates not in excess of the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, United States Code,[1045] and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended from time to time. Contracts for such employment with such organizations, employment of personnel as experts and consultants, not to exceed ten in number, contracts for such employment of retired military personnel with specialized research and development experience, not to exceed ten in number, and contracts for such employment of retired military personnel with specialized experience of a broad politico-military nature, not to exceed five in number, may be renewed annually.

(b)[1046] Service of an individual as an expert or consultant under subsection (a) of this section shall not[1047] be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a)[1048] of title 5 of the United States Code.

(c)[1049] Persons of outstanding experience and ability may be employed without compensation by any agency of the United States Government for the performance of functions under this Act in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160(b)), and regulations issued thereunder.

Sec. 627.[1050] **Detail of Personnel to Foreign Governments.**—Whenever the President determines it to be in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail or assign any officer or employee of his agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government or the acceptance of compensation or other benefits from any foreign country by such officer or employee.

Sec. 628.[1051] **Detail of Personnel to International Organizations.**—Whenever the President determines it to be consistent with and in furtherance of the purposes of this Act, the head of any

[1045] Sec. 603 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 766) struck out "$100 per diem" and inserted in lieu thereof "the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, United States Code,".

[1046] Sec. 302(c)(1) of the FA Act of 1963 (Public Law 88–205) struck out the first sentence of this section, relating to employment compensation, since the subject matter was superseded by Public Law 87–849, approved Oct. 23, 1962.

[1047] Sec. 302(c)(2) of the FA Act of 1963 (Public Law 88–205) struck out "Nor shall such service" and inserted in lieu thereof "Service of an individual as an expert or consultant under subsection (a) of this section shall not".

[1048] Sec. 126 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 542) struck out reference to secs. 3323(a) and 8344 of 5 USC, and sec. 872 of the Foreign Service Act of 1946, and inserted in lieu thereof "section 3323(a)".

[1049] Sec. 302(d) of the FA Act of 1965 (Public Law 89–171) redesignated subsec. (d) as subsec. (c). Former subsec. (c), relating to employment of retired officers, was repealed by the Dual Compensation Act (Public Law 88–448).

[1050] 22 U.S.C. 2387.

[1051] 22 U.S.C. 2388.

agency of the United States Government is authorized to detail, assign, or otherwise make available to any international organization any officer or employee of his agency to serve with, or as a member of, the international staff of such organization, or to render any technical, scientific, or professional advice or service to, or in cooperation with, such organization.

Sec. 629.[1052] **Status of Personnel Detailed.**—(a) Any officer or employee, while assigned or detailed under section 627 or 628 of this Act, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this Act.

(b) Any officer or employee assigned, detailed, or appointed under section 627, 628, 631, or 624(d)[1053] of this Act is authorized to receive under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.[1054] The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5 of the United States Code.[1055]

Sec. 630.[1056] **Terms of Detail or Assignment.**—Details or assignments may be made under section 627 or 628 of this Act or section 408 of the Mutual Security Act of 1954, as amended—[1057]

(1) without reimbursement to the United States Government by the foreign government or international organization;

(2) upon agreement by the foreign government or international organization, to reimburse the United States Government for compensation, travel expenses, benefits,[1058] and allowances, or any part thereof, payable to the officer or employee concerned during the period of assignment or detail; and such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits,[1058] or allowances, or to the appropriation, fund, or account currently available for such purposes;

(3) upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act; and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be avail-

[1052] 22 U.S.C. 2389.

[1053] Sec. 302(d) of the FA Act of 1962 (Public Law 87–565) struck out "624(e)" and inserted in lieu thereof "624(d)".

[1054] Sec. 2203(b) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158) struck out "section 901 of the Foreign Service Act of 1946" and inserted in lieu thereof "section 905 of the Foreign Service Act of 1980".

[1055] Sec. 302(f) of the FA Act of 1967 (Public Law 90–137) struck out "1765 of the Revised Statutes (5 U.S.C. 70)" and inserted in lieu thereof "5536 of title 5 of the United States Code".

[1056] 22 U.S.C. 2390.

[1057] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[1058] Sec. 302(e) of the FA Act of 1965 (Public Law 89–171) inserted "benefits".

able for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization; or

(4) subject to the receipt by the United States Government of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed or assigned, such credit to be based upon the compensations, travel expenses, benefits [1058] and allowances, or any part thereof, payable to such officer or employee during the period of detail or assignment in accordance with section 629.

Sec. 631.[1059] **Missions and Staffs Abroad.**—(a) The President may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out the purposes of this Act. Each such special mission or staff shall be under the direction of a chief.

(b) The chief and his deputy of each special mission or staff carrying out the purposes of part I shall be appointed by the President, and may, notwithstanding any other law, be removed by the President at his discretion. Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate.[1060]

(c) [1061] The President may appoint any United States citizen who is not an employee of the United States Government or may assign any United States citizen who is a United States Government employee to serve as Chairman of the Development Assistance Committee or any successor committee thereto of the Organization for Economic Cooperation and Development upon election thereto by members of said Committee, and, in his discretion, may terminate such appointment or assignment, notwithstanding any other provision of law. Such person may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate. Such person (if not a United States Government employee who is assigned to serve as Chairman) shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 87, and 89 of title 5, United States Code.[1062] Such person may also, in the President's discretion, receive any other benefits and perquisites available under this Act to chiefs of special missions or staffs outside the United States established under this section.

[1059] 22 U.S.C. 2391.

[1060] Sec. 2203(c) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158) amended and restated this sentence. The former text made reference to the Foreign Service Act of 1946, which was repealed by the 1980 Act.

[1061] Sec. 302(d) of the FA Act of 1963 (Public Law 88–205) added subsec. (c).

[1062] Sec. 2203(d) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158) amended and restated this sentence. The former text made reference to the Foreign Service Act of 1946, which was repealed by the 1980 Act.

(d)[1063] Wherever practicable, especially in the case of the smaller programs, assistance under part I of this Act[1064] shall be administered under the direction of the Chief of the United States Diplomatic Mission by the principal economic officer of the mission.[1065]

Sec. 632.[1066] **Allocation and Reimbursement Among Agencies.**—(a) The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act, including any advance to the United States Government by any country or international organization for the procurement of commodities, defense articles, military education and training,[1067] or services (including defense services). Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(b) Any officer of the United States Government carrying out functions under this Act may utilize the services (including defense services) and facilities of, or procure commodities, defense articles, or military education and training[1068] from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursu-

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[1063] Sec. 302(f) of the FA Act of 1965 (Public Law 89–171) added subsec. (d).

[1064] Sec. 7(b)(1) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 617) inserted "part I of".

[1065] Sec. 7(b)(2) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 617) struck out "in the case of assistance under part I, and by the senior military officer of the mission in the case of assistance under part II" at this point.

[1066] 22 U.S.C. 2392. In a memorandum issued December 5, 2003, the President directed that "the funds appropriated to the President under the heading Operating Expenses of the Coalition Provisional Authority in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan (Public Law 108–106), or in any subsequent appropriation under this heading, are transferred to the Secretary of Defense, for an account designated Operating Expenses of the Coalition Provisional Authority, International Reconstruction and Other Assistance, Army." (69 F.R. 1645).

Sec. 509 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"TRANSFERS

"SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

"(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

"(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than 5 days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

"(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided,* That funds transferred under such authority may be made available for the cost of such audits.".

[1067] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) inserted ", military education and training".

[1068] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) struck out "and defense articles" and inserted in lieu thereof ", defense articles, or military education and training".

ant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(c) In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out part I, reimbursement or repayment shall be made to such agency from funds available to carry out such part. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or, in the case of services procured from the Department of Defense to carry out chapter 8 of part I, the amount of the additional costs incurred by the Department of Defense in providing such services,[1069] or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be deposited into the Treasury as miscellaneous receipts.

(d) Except as otherwise provided in section 506,[1070] reimbursement shall be made to any United States Government agency, from funds available for use under part II, for any assistance furnished under part II from, by, or through such agency. Such reimbursement shall be in an amount equal to the value (as defined in section 644(m)) of the defense articles or of the defense services (other than salaries of members of the Armed Forces of the United States), or other assistance furnished, plus expenses arising from or incident to operations under part II (other than salaries of the Armed Forces of the United States and unfunded estimated costs of civilian retirement and other benefits).[1071] The amount of such reimbursement shall be credited to the current applicable appropriations, funds, or accounts of such agency.

(e) In furnishing assistance under this Act, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States, (1) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the Assignment of Claims Act of 1940, as amended (second and third paragraphs of 31 U.S.C. 203 and 41 U.S.C. 15), and (2) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations, or persons upon presentation of contracts, invoices, or other appropriate documentation. Expenditure of funds which have been made available through accounts so established shall be accounted for on standard documentation required for expenditure of

[1069] Sec. 4506 of Public Law 100–690 (102 Stat. 4286) inserted "or, in the case of services procured from the Department of Defense to carry out chapter 8 of part I, the amount of the additional costs incurred by the Department of Defense in providing such services,".

[1070] Sec. 45(b)(3) of the Foreign Military Sales Act (Public Law 90–629) struck out "sections 506, 522, and 523" and inserted in lieu thereof "section 506".

[1071] Sec. 9104(b)(2) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), inserted parenthetical language at end of sentence.

funds of the United States Government: *Provided,* That such expenditures for commodities, defense articles, military education and training services (including defense services), or facilities procured outside the United States may be accounted for exclusively on such certification as may be prescribed in regulations approved by the Comptroller General of the United States.

(f) Credits made by the Export-Import Bank of Washington with funds allocated thereto under subsection (a) of this section or under section 522(a) of the Mutual Security Act of 1954, as amended, shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 7 of the Export-Import Bank Act of 1945,[1072] as amended (12 U.S.C. 635e).

(g) Any appropriation or account available to carry out provisions of part I may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are available in other appropriations or accounts under part I: *Provided,* That as of the end of such fiscal year such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes: *Provided further,* That such final charge to applicable appropriations or accounts shall not be required in the case of expenses (other than those provided for under section 637(a)) incurred in furnishing assistance by the agency primarily responsible for administering part I where it is determined that the accounting costs of identifying the applicable appropriation or account to which such expenses should be charged would be disproportionate to the advantage to be gained.

Sec. 633.[1073] **Waivers of Certain Laws.**—(a) Whenever the President determines it to be in furtherance of the purposes of this Act,[1074] the functions authorized under this Act may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.)), regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.[1075]

(b) The functions authorized under part II may be performed without regard to such provisions as the President may specify of the joint resolution of November 4, 1939 (54 Stat. 4), as amended.

(c) Notwithstanding the provisions of sections 3544(b) and 8544(b) of title 10 of the United States Code, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this Act. [Referenced sections repealed by Public Law 90–235. See 10 U.S.C. 973(b).]

[1072] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[1073] 22 U.S.C. 2393.

[1074] Sec. 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1675) amended subchapter IV of chapter 15 of title 31, U.S.C., to limit the availability of funds beyond the year in which such funds were appropriated, unless otherwise expressly stated, and canceled unobligated funds and pending obligated funds (see 31 U.S.C. 1551–1557, and related notes).

[1075] See Executive Order 11223 (30 F.R. 6635, signed May 12, 1965); amended by Executive Order 12163 (44 F.R. 56673, signed September 29, 1979); amended by Executive Order 12178 (44 F.R. 71807, signed December 10, 1979), amended by Executive Order 13118 (64 F.R. 16595, signed March 31, 1999), in *Legislation on Foreign Relations Through 2004*, vol. I–B.

Sec. 633A.[1076] **Furnishing Information.**—None of the funds made available pursuant to the provisions of this Act shall be used to carry out any provision of this Act in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the Government Accountability Office[1077] or any committee of the Congress charged with considering legislation, appropriations or expenditures under this Act, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the General Accounting Office,[1077] or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or (2) a certification by the President that has forbidden the furnishing thereof pursuant to request and his reason for so doing.

Sec. 634.[1078] **Annual Report.**—(a) In order that the Congress and the American people may be better and more currently informed regarding American foreign policy and the effectiveness of assistance provided by the United States Government to other countries and to international organizations, the Chairman of the Development Coordination Committee shall prepare and transmit to the Congress, no later than February 1 of each year, as a part of the annual presentation materials for foreign assistance, a report as described in this subsection. This report shall include—[1079]

(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

(B) an assessment of the impact of such policies and programs on the well-being of the poor majority in developing countries in accordance with the policy objectives of chapter 1 of part I, including[1080] increasing life expectancy and literacy,

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[1076] 22 U.S.C. 2393a. Added by sec. 502(a)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 957).

[1077] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[1078] 22 U.S.C. 2394. Amended and restated by sec. 502(a)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 957). Sec. 305(b) of Public Law 99–83 (99 Stat. 215) (concerning the promotion of immunization and oral rehydration) provided as follows:

"Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act.".

[1079] Sec. 733(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559) amended and restated subsec. (a) to this point.

[1080] Sec. 733(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559) struck out "the progressive developing countries are making toward

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lowering infant mortality and birth rates, and increasing food production and employment, such assessment to include an evaluation of the extent to which programs under chapter 1 of part I directly benefit the poor majority; and [1081]

(C) an assessment of the impact of such policies and programs on economic conditions in the United States, including but not limited to employment, wages, and working conditions;

(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

(B) as presented to Congress for the immediate preceding fiscal year;

(C) as obligated during the immediately preceding fiscal year;

(D) as planned for the fiscal year in which the report is presented;

(E) as proposed for the fiscal year following the year in which the report is presented; and

(F) [1082] of any contract in excess of $100,000 administered by the Agency for International Development which was entered into in the preceding fiscal year without competitive selection procedures, and the reasons for doing so;

(3) a summary of repayments, by country, to the United States from previous foreign assistance loans;

(4) [1083] the status of each sale of agricultural commodities on credit terms theretofore made under the Agricultural Trade Development and Assistance Act of 1954 with respect to which there remains outstanding any unpaid obligation; and the status of each transaction with respect to which a loan, contract or guarantee of insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945 with respect to which there remains outstanding any unpaid obligation or potential liability; except that such report shall include individually only any loan, contract, sale, extension of credit, or other transactions listed in this paragraph which is in excess of $1,000,000;

(5)(A) the status of the debt servicing capacity of each country receiving assistance under this Act;

(B) all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of

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achieving those objectives which are indicative of improved well-being of the poor majority, which objectives shall include but not be limited to" at this point.

[1081] Sec. 312(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 216) inserted "such assessment to include an evaluation of the extent to which programs under chapter 1 of part I directly benefit".

[1082] Sec. 733(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559) added subpara. (F).

[1083] Sec. 733(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559) amended and restated para. (4). Previously, para. (4) also required information on loans and contracts concerning security assistance under this Act and credits for the procurement of defense articles under the Arms Export Control Act. This information is now required by sec. 25(a)(11) of the Arms Export Control Act.

the specific debt relief granted with respect to each such country and the purpose for which it was granted; and

(C) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States;

(6)[1084] the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotic control assistance provided by each government of a country which is a member of the Organization for Economic Cooperation and Development or of the Organization of Petroleum Exporting Countries;

(7)[1084] the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6), and (B) the budget of the government of such country, as well as the per capita contribution for each country for each type of assistance described in paragraph (6);

(8)[1084] the amount of all foreign currencies acquired without payment of dollars on hand of each foreign country as of September 30 of the preceding fiscal year;

(9)[1084] the Development Coordination Committee's operations pursuant to section 640B(f) of this Act;

(10)[1084] the aggregate dollar value and quantity of grant military assistance, military education and training, and any other defense articles and services furnished under this Act by the United States to each foreign country and international organization for the preceding fiscal year;

(11)[1084] information concerning the activities of the Minority Resource Center during the preceding fiscal year; and

(12)[1084] other information appropriate to the conduct of the foreign assistance program of the United States Government.

(b) For purposes of this section—

(1) "foreign assistance" means any tangible or intangible item provided by the United States Government to a foreign country or international organization under this or any other Act, including but not limited to any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government; and

(2) "provided by the United States Government" includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty.

[1084] Sec. 707 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3159) redesignated existing para. (6) as para. (8) and added new paras. (6) and (7). Sec. 733(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559) struck out para. (8) (as redesignated) and inserted new paras. (8) through (12). Similar information required in each of the new paras. (8) through (12) had been previously required under other provisions as follows: para. (8)—sec. 613(c) of this Act (semiannually); para. (9)—sec. 640B(g) of this Act; para. (10)—sec. 657 of this Act; para. (11)—sec. 133(c)(6) of Public Law 95–88; and para. (12)—former para. (8) of this subsection.

Sec. 634A.[1085] **Notification of Program Changes.**—(a)[1086] None of the funds appropriated to carry out the purposes of this Act (except for programs under title III or title IV of chapter 2 of part I, chapter 5 of part I, and programs of disaster relief and rehabilitation) or the Arms Export Control Act[1087] may be obligated for any activities, programs, projects, types of material assistance, countries, or other operations not justified, or in excess of the amount justified, to the Congress for obligation under this Act or the Arms Export Control Act[1087] for any fiscal year unless the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs[1088] of the House of Representatives, and the Committee on Appropriations of each House of the Congress are notified fifteen days in advance of such obligation. Whenever a proposed reprogramming exceeds $1,000,000 and the total amount proposed for obligation for a country under this Act in a fiscal year exceeds by more than $5,000,000 the amount specified for that country in the report required by section 653(a) of this Act, notifications of such proposed reprogrammings shall specify—

(1) the nature and purpose of such proposed obligation, and

(2) to the extent possible at the time of the proposed obligation, the country for which such funds would otherwise have been obligated.[1089]

(b)[1086] The notification requirement of this section does not apply to the reprogramming—

(1) of funds to be used for an activity, program, or project under chapter 1 of part I if the amounts to be obligated for that activity, program, or project for that fiscal year do not exceed by more than 10 percent the amount justified to the Congress for that activity, program, or project for that fiscal year; or

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[1085] 22 U.S.C. 2394–1. Added originally as sec. 671 by the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 543); redesignated as sec. 634A by sec. 502(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

Sec. 595 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"JOINT EXPLANATORY STATEMENT

"SEC. 595. (a) Funds provided in this Act for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the joint explanatory statement of managers accompanying this Act:

"'Economic Support Fund'.

"'Assistance for Eastern Europe and the Baltic States'.

"'Assistance for the Independent States of the Former Soviet Union'.

"'Andean Counterdrug Initiative'.

"'Nonproliferation, Anti-Terrorism, Demining and Related Programs'.

"'Foreign Military Financing Program'.

"'International Organizations and Programs'.

"(b) Any proposed increases or decreases to the amounts contained in such tables in the joint explanatory statement of managers shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.".

[1086] Sec. 1209(a)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat 278) added subsecs. (b) and (c). Sec. 1209(a)(1) of that Act also inserted the designation for subsec. (a).

[1087] Sec. 1209(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 278) added references to the Arms Export Control Act.

[1088] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Previously, sec. 9(a)(6) of Public Law 103–437 (108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

[1089] Sec. 704 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544) added this sentence.

(2) of less than $25,000 to be used under chapter 8 of part I, or under chapter 5 of part II, for a country for which a program under that chapter for that fiscal year was justified to the Congress.

(c)[1086] The President shall notify the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs[1090] of the House of Representatives concerning any reprogramming of funds in the International Affairs Budget Function, the authorizations of appropriations for which are in their respective jurisdictions, to the same degree and with the same conditions as the President notifies the Committees on Appropriations. The requirements of this subsection are in addition to, and not in lieu of, other notification requirements.

Sec. 634B.[1091] **Classification of Reports.**—All information contained in any report transmitted under this Act shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time the report is transmitted.

Sec. 635.[1092] **General Authorities.**—(a) Except as otherwise specifically provided in this Act, assistance under this Act may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement

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[1090] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[1091] 22 U.S.C. 23941a. Sec. 502(c) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959) added sec. 634B.

[1092] 22 U.S.C. 2395. Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"DEVELOPMENT CREDIT AUTHORITY

"(INCLUDING TRANSFER OF FUNDS)

"For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided*, That such funds shall not exceed $21,000,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading.

"In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided*, That funds made available under this heading shall remain available until September 30, 2007.".

For text of sec. 306 of H.R. 1486, as reported by the House Committee on International Relations on May 9, 1997, see notes at sec. 108 of this Act.

of the purposes of this Act, and shall emphasize loans rather than grants wherever possible.

(b) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, friendly government or government agency, whether within or without the United States and international organizations in furtherance of the purposes and within the limitations of this Act.

(c) It is the sense of Congress that the President, in furthering the purposes of this Act, shall use to the maximum extent practicable the services and facilities of voluntary, nonprofit organizations registered with, and approved by, the Agency for International Development.[1093]

(d) The President may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

(e)(1)[1094] Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing technical information and assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

(2)[1094] Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their places of employment abroad for purposes of training or other official duties.

(f) Alien participants in any program of furnishing technical information and assistance under this Act may be admitted to the United States if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)), for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

(g) In making loans[1095] under this Act, the President—

(1) may issue letters of credit and letters of commitment;

(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and, as he may determine, refer any such obligations or rights to the Attorney General for suit or collection;

(3) may acquire and dispose of, upon such terms and conditions as he may determine, any property, including any instrument evidencing indebtedness or ownership (provided that equity securities may not be directly purchased although such securities may be acquired by other means such as by exercise

[1093] Sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366) struck out "Advisory Committee on Voluntary Foreign Aid" and inserted in lieu thereof "Agency for International Development".

[1094] Sec. 302(i)(1) of the FA Act of 1967 (Public Law 90–137) added para. designation "(1)" and para. (2).

[1095] The words "and sales", which appeared at this point, were added by sec. 302(g) of the FA Act of 1965 (Public Law 89–171); then deleted by sec. 302(i)(2) of the FA Act of 1967 (Public Law 90–137), effective June 30, 1968.

of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness), and guarantee payment against any such instrument;

(4) may determine the character of, and necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

(5) shall cause to be maintained an integral set of accounts which shall be audited by the General Accounting Office[1096] in accordance with principles and procedures applicable to commercial corporate transactions as provided by the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.).

(h) A contract or agreement which entails commitments for the expenditure of funds[1097] available under chapter 1[1098] (except development loans)[1099] and title II of chapter 2 of part I and under part II may, subject to any future action of the Congress, extend at any time for not more than five years.

(i) Claims arising as a result of investment guaranty operations may be settled, and disputes arising as the result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) The provisions of section 955 of title 18 of the United States Code shall not apply to prevent any person, including any individual, partnership, corporation, or association, from acting for, or participating in, any operation or transaction arising under this Act, or from acquiring any obligation issued in connection with any operation or transaction arising under this Act.

(k)[1100] Any cost-type contract or agreement (including grants) entered into with a university, college, or other educational institution for the purpose of carrying out programs authorized by part I may provide for the payment of the reimbursable indirect costs of said university, college, or other educational institution on the basis of predetermined fixed-percentage rates applied to the total or an element thereof, of the reimbursable direct costs incurred.

(l)[1101] The Administrator of the agency primarily responsible for administering part I may use funds made available under that part to provide program and management oversight for activities that are funded under that part and that are conducted in countries in which the agency does not have a field mission or office.

[1096] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[1097] Sec. 302(g) of the FA Act of 1962 (Public Law 87–565) struck out "made" after "funds".

[1098] Sec. 102(g)(2)(G) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943) struck out "titles V and VI" and inserted in lieu thereof "chapter 1".

[1099] Sec. 302(d) of the FA Act of 1966 (Public Law 89–583) inserted "(except development loans)".

[1100] Sec. 302(e) of the FA Act of 1963 (Public Law 88–205) added subsec. (k).

[1101] Sec. 301 of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 760) added subsec. (l).

(m)[1102] (1) There is established a working capital fund (in this subsection referred to as the "fund") for the United States Agency for International Development (in this subsection referred to as the "Agency") which shall be available without fiscal year limitation for the expenses of personal and nonpersonal services, equipment, and supplies for—

(A) International Cooperative Administrative Support Services; and

(B) rebates from the use of United States Government credit cards.

(2) The capital of the fund shall consist of—

(A) the fair and reasonable value of such supplies, equipment, and other assets pertaining to the functions of the fund as the Administrator determines,

(B) rebates from the use of United States Government credit cards, and

(C) any appropriations made available for the purpose of providing capital,

minus related liabilities.

(3) The fund shall be reimbursed or credited with advance payments for services, equipment, or supplies provided from the fund from applicable appropriations and funds of the Agency, other Federal agencies and other sources authorized by section 607 at rates that will recover total expenses of operation, including accrual of annual leave and depreciation. Receipts from the disposal of, or payments for the loss or damage to, property held in the fund, rebates, reimbursements, refunds and other credits applicable to the operation of the fund may be deposited in the fund.

(4) At the close of each fiscal year the Administrator of the Agency shall transfer out of the fund to the miscellaneous receipts account of the Treasury of the United States such amounts as the Administrator determines to be in excess of the needs of the fund.

(5) The fund may be charged with the current value of supplies and equipment returned to the working capital of the fund by a post, activity, or agency, and the proceeds shall he credited to current applicable appropriations.

Sec. 636.[1103] **Provisions on Uses of Funds.**—(a) Appropriations for the purposes of or pursuant to this Act (except for Part II), allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this Act, and funds made available for other purposes to the agency primarily responsible for administering part I, shall be available for:

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvements of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of such appropriations of this Act, including (notwithstanding the provisions of section 9 of Public Law 60328 (31 U.S.C. 673)) expenses in connection with meetings and persons whose employment is authorized by section 626;

[1102] Added by sec. 404 of the Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 (Public Law 106–309; 114 Stat. 1098).

[1103] 22 U.S.C. 2396.

(3) contracting with individuals for personal service abroad: *Provided,* That such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission;

(4) purchase, maintenance, operation, and hire of aircraft: *Provided,* That aircraft for administrative purposes may be purchased only as specifically provided for in an appropriation or other Act;

(5) purchase and hire of passenger motor vehicles: *Provided,* That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles and the cost, including exchange allowance, of each such replacement shall not exceed the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price) [1104] in the case of an automobile for the chief of any special mission or staff outside the United States established under section 631: *Provided further,* That passenger motor vehicles other than one for the official use [1105] of the head of the agency primarily responsible for administering part I, may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(6) entertainment (not to exceed $25,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act);

(7) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543) and loss by exchange;

(8) expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act) of a confidential character other than entertainment: *Provided,* That a certificate of the amount of such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the head of the agency primarily responsible for administering part I or such person as he may designate, and every such certificate shall be deemed a sufficient voucher for the amount therein specified; [1106]

(9) insurance of official motor vehicles or aircraft acquired for use in foreign countries;

(10) rent or lease outside the United States for not to exceed ten years of offices, buildings, grounds, and quarters, including

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[1104] Sec. 505 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 960) struck out "$3,500" and inserted in lieu thereof "the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price)".

[1105] Public Law 99–550 (100 Stat. 3067) struck out "(without regard to the limitations contained in section 5 of Public Law 63127, as amended (31 U.S.C. 638a(c)(2)), and section 201 of Public Law 85468 (31 U.S.C. 638(c))".

Similar provisions were struck out from sec. 48 of the Arms Control and Disarmament Act. See *Legislation on Foreign Relations Through 2004*, vol. II, sec. F, notes.

[1106] See also sec. 614(c) of this Act.

living quarters to house personnel, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States; and costs of fuel, water, and utilities for such properties;

(11) expenses of preparing and transporting to their former homes, or, with respect to foreign participants engaged in any program under part I, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities carried out with funds covered by this subsection;

(12) purchase of uniforms;

(13) payment of per diem in lieu of subsistence to foreign participants engaged in any program under part I while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations, notwithstanding any other provision of law;

(14) use in accordance with authorities of the Foreign Service Act of 1980 [1107] (22 U.S.C. 3901 et seq.) not otherwise provided for;

(15) ice and drinking water for use outside the United States;

(16) services of commissioned officers of the Environmental Science Services Administration and for the purposes of providing such services to the Environmental Science Services Administration [1108] may appoint not to exceed twenty commissioned officers in addition to those otherwise authorized;

(17) [1109] * * * [Repealed—2002]

(b) Funds made available for the purposes of this Act may be used for compensation, allowances, and travel of personnel including Foreign Service personnel whose services are utilized primarily for the purposes of this Act, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government as may be necessary to accomplish the purposes of this Act.

[1107] Sec. 1211(b)(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) inserted reference to the 1980 Act, updating a reference to the 1946 Act.

[1108] Sec. 302(k) of the FA Act of 1967 (Public Law 90–137) struck out "Coast and Geodetic Survey" and inserted in lieu thereof "Environmental Science Service Administration".

[1109] Sec. 271(7) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (title II of Public Law 107–372; 116 Stat. 3094) repealed para. (17), which had provided as follows:

"(17) expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage.".

(c)[1110] Notwithstanding any other law, not to exceed $6,000,000[1111] of the funds available for assistance under this Act[1112] may be used in any fiscal year (in addition to funds available for such use under other authorities in this Act) to construct or otherwise acquire outside the United States (1) essential living quarters, office space, and necessary supporting facilities for use of personnel carrying out activities authorized by this Act, and (2) schools (including dormitories and boarding facilities) and hospitals for use of personnel carrying out activities authorized by this Act, United States Government personnel, and their dependents. In addition, funds made available for assistance under this Act[1112] may be used, notwithstanding any other law, to equip, staff, operate, and maintain such schools and hospitals.

(d) Not to exceed $2,500,000[1113] of funds available for assistance under this Act[1112] may be used in any fiscal year to provide assistance, on such terms and conditions as are deemed appropriate, to schools established, or to be established, outside the United States whenever it is determined that such action would be more economical or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this Act and dependents of United States Government personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

(e) Funds available under this Act[1112] may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 625(d)(2) (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm; and the provisions of Public Law 84-918 (7 U.S.C. 1881 et seq.) may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in that Act. Such training shall not be considered employment or holding of office under section 5533 of title 5 of the United States Code,[1114] and any payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training,

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[1110] Sec. 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2047), provided the following:

"SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.

"(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.".

[1111] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329), struck out "$3,000,000" and inserted in lieu thereof "$6,000,000".

[1112] Sec. 102(g)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943) struck out "(other than title I of chapter 2 of part I)" at this point.

[1113] Sec. 302(1) of the FA Act of 1967 (Public Law 90–137) struck out "$1,500,000" and inserted in lieu thereof "$2,500,000".

[1114] Sec. 302(m) of the FA Act of 1967 (Public Law 90–137) struck out "301 of the Dual Compensation Act (5 U.S.C. 3105)" and inserted in lieu thereof "5533 of title 5 of the United States Code".

be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however,* That any such payments to any employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

(f) Funds made available under chapter 1 of part I[1115] may be used for expenses (other than those provided for under section 637(a)) to assist in carrying out functions under chapter 1 of part I,[1116] under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691 et seq.), and under the Latin American Development Act, as amended[1117] (22 U.S.C. 1942 et seq.), performed by the agency primarily responsible for administering part I or by the Corporation established under title IV of chapter 2 of part I with respect to loan activities which it carries out under the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended.[1118]

(g) Funds made available for the purposes of part II or the Arms Export Control Act[1119] shall be available for—

(1) administrative, extraordinary (not to exceed $300,000 in any fiscal year), and operating expenses incurred in furnishing defense articles, military education and training[1120] and defense services on a grant or sales basis by the agency primarily responsible for administering part II;[1121]

(2) reimbursement of actual expenses of military officers detailed or assigned as tour directors in connection with orientation visits of foreign military and related civilian personnel,[1122] in accordance with the provisions of section 5702(c) of title 5 of the United States Code,[1123] applicable to civilian officers and employees; and

(3) maintenance, repair, alteration, and furnishing of United States-owned facilities in the District of Columbia or elsewhere

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[1115] Sec. 102(g)(2)(J) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943) struck out "section 212" and inserted in lieu thereof "chapter 1 of part I".

[1116] Sec. 102(g)(2)(J) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943) struck out "title I of chapter 2" and inserted in lieu thereof "chapter 1 of part I".

[1117] Sec. 302(h)(2) of the FA Act of 1965 (Public Law 89–171) struck out "Act to provide for assistance in the development of Latin America and in the reconstruction of Chile, and for other purposes" and inserted in lieu thereof "Latin American Development Act, as amended". For text of the Latin American Development Act, as amended, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[1118] Sec. 306 of the FA Act of 1969 (Public Law 91–175) inserted "or by the Corporation established under title IV of chapter 2 of part I with respect to loan activities which it carries out under the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended". For text of the Agricultural Trade Development and Assistance Act of 1954, as amended, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[1119] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1214), added this reference to the Arms Export Control Act.

[1120] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) inserted ", military education and training".

[1121] Sec. 302(d) of the FA Act of 1968 (Public Law 90–554) inserted "incurred in furnishing defense articles and defense services on a grant or sales basis by the agency primarily responsible for administering part II" (see above footnote).

[1122] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) struck out "personnel" and inserted in lieu thereof "and related civilian personnel".

[1123] Sec. 302(n) of the FA Act of 1967 (Public Law 90–137) struck out "3 of the Travel Expense Act of 1949, as amended (5 U.S.C. 836)," and inserted in lieu thereof "5702(c) of title 5 of the United States Code".

for the training of foreign military and related civilian personnel[1122] without regard to the provisions of section 3733 of the Revised Statutes (41 U.S.C. 12) or other provision of law requiring a specific authorization or specific appropriation for such public contracts.

(h)[1124] In carrying out programs under this Act, the President shall take all appropriate steps to assure that, to the maximum extent possible, (1) countries receiving assistance under this Act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such programs, and (2) foreign currencies owned by the United States are utilized to meet the costs of such contractual and other services.

(i)[1125] Notwithstanding section 640 or any other provision of this Act, none of the funds made available to carry out this Act shall be used to finance the purchase, sale, long-term lease, exchange, or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States. *Provided,* That where special circumstances exist the President is authorized to waive the provisions of this section in order to carry out the purposes of this Act.

Sec. 637.[1126] **Administrative Expenses.**—(a)[1127] * * * [Repealed—1978]

(b) There is hereby authorized to be appropriated[1128] such amounts as may be necessary from time to time for administrative expenses which are incurred for functions of the Department of State under this Act and unrepealed provisions of the Mutual Security Act of 1954, as amended, or for normal functions of the Department of State which relate to such functions.[1129]

Sec. 638.[1130] **Exclusions.**[1131]—(a) No provision of this Act shall be construed to prohibit assistance to any country pursuant to the Peace Corps Act, as amended; the Mutual Educational and Cultural Exchange Act of 1961, as amended; or the Export-Import Bank Act of 1945, as amended.[1132]

(b)[1133] No provision of this Act or any other provision of law shall be construed to prohibit assistance for any training activity which is funded under this Act for Brazil or Argentina as long as such country continues to have a democratically elected government and the assistance is otherwise consistent with sections 116, 502B, 620(f), 620A, and 660 of this Act.

[1124] Sec. 302(f) of the FA Act of 1963 (Public Law 88–205) added subsec. (h).

[1125] Sec. 302(o) of the FA Act of 1967 (Public Law 90–137) added subsec. (i).

[1126] 22 U.S.C. 2397.

[1127] Sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961) repealed subsec. (a).

[1128] Sec. 302(h)(2) of the FA Act of 1962 (Public Law 87–565) struck out "to the Secretary of State" at this point.

[1129] The FA Appropriation Act, 1975, appropriated $4,800,000, as authorized by this section.

[1130] 22 U.S.C. 2398. Sec. 302(h) of the FA Act of 1963 (Public Law 88–205) added sec. 638.

[1131] Sec. 19 of the FA Act of 1973 (Public Law 93–189) struck out "**Peace Corps Assistance**" and inserted in lieu thereof "**Exclusions**".

[1132] 12 U.S.C. 635. Sec. 202(j) of the FA Act of 1965 (Public Law 89–171) struck out ": or famine or disaster relief, including such relief through voluntary agencies, under title II of the Agricultural Trade Development and Assistance Act of 1954, as amended" at this point.

[1133] Sec. 588 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329) added subsec. (b). Sec. 588 also provided that subsec. (b) not apply with respect to funds appropriated prior to the enactment of Public Law 100–202.

Sec. 639.[1134] **Famine or Disaster Relief.** * * * [Repealed—1975]

Sec. 639A.[1135] **Disaster Relief Assistance.** * * * [Redesignated—1975]

Sec. 639B.[1136] **African Development Program.** * * * [Redesignated—1975]

Sec. 640.[1137] **Military Sales.** * * * [Repealed—1968]

Sec. 640A.[1138] **False Claims and Ineligible Commodities.**—(a) Any person who makes or causes to be made or presents or causes to be presented to any bank or other financial institution or to any officer, agent, or employee of any agency of the United States Government a claim for payment from funds made available under this Act for the purposes of furnishing assistance and who knows the claim to be false, fraudulent, or fictitious or to cover a commodity or commodity-related service determined by the President to be ineligible for payment from funds made available under this Act, or who uses to support his claim any certification, statement, or entry on any contract, bill of lading, Government or commercial invoice, or Government form, which he knows, or in the exercise of prudent business management should know, to contain false, fraudulent, or fictitious information, or who uses or engages in any other fraudulent trick, scheme, or device for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit or payment from funds so made available under this Act in connection with the negotiation, procurement, award, or performance of a contract financed with funds so made available under this Act, and any person who enters into an agreement, combination or conspiracy to do so, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any payment, compensation, loan, commission, or advance received as a result thereof, and (3) shall, in addition, pay to the United States for each such act (A) the sum of $2,000 and double the amount of any damage which the United States may have sustained by reason thereof, or (B) an amount equal to 50 per centum of any such payment, compensation, loan, commission, or advance so received, whichever is the greater, together with the costs of suit.

(b) In order to secure recovery under this section, the President may, as he deems appropriate, (1) institute suit in the United States district court for any judicial district in which the person alleged to have performed or participated in an act described by this section may reside or may be found, and (2) upon posting by registered mail to such person a notice of claim describing the basis therefor and identifying the funds to be withheld, withhold from funds owed by any agency of the United States Government to such person an amount equal to the refund, damages, liquidated dam-

[1134] Repealed by sec. 101(6) of Public Law 94–161 (89 Stat. 849).

[1135] Sec. 639A, as added by the FA Act of 1973, was redesignated as sec. 494A of this Act by sec. 101(5) of Public Law 94–161 (89 Stat. 849). It was subsequently repealed in 1978.

[1136] Sec. 639B, added by sec. 20 of the FA Act of 1973 (Public Law 93–189), was redesignated as sec. 494B by sec. 101(5) of Public Law 94–161 (89 Stat. 849). Subsequently, it is redesignated as sec. 120 of this Act.

[1137] Sec. 45(a) of the Foreign Military Sales Act (Public Law 90–629) repealed sec. 640.

[1138] 22 U.S.C. 2399. Sec. 302(f) of the FA Act of 1968 (Public Law 90–554) added sec. 640A.

ages, and exemplary damages claimed by the United States under this section. Any such withholding of funds from any person shall constitute a final determination of the rights and liabilities of such person under this section with respect to the amount so withheld, unless within one year of receiving the notice of claim such person brings suit for recovery, which is hereby authorized, against the United States in any United States district court.

(c) For purposes of this section, the term "person" includes any individual, corporation, partnership, association, or other legal entity.

Sec. 640B.[1139] **Coordination.**—(a) The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the head of the agency primarily responsible for administering part I, Chairman, and representatives of the Departments of State, Treasury, Commerce, Agriculture, Energy, and Labor, the Executive Office of the President and other executive departments and agencies, as the President shall designate.[1140] The Committee shall advise the President concerning

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[1139] 22 U.S.C. 2399. Sec. 21 of the FA Act of 1973 (Public Law 93–189) added sec. 640B. Sec. 1523 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–794; 22 U.S.C. 6593) provided the following:

"SEC. 1523. ASSISTANCE PROGRAMS COORDINATION AND OVERSIGHT.

"(a) AUTHORITY OF THE SECRETARY OF STATE.—

"(1) IN GENERAL.—Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

"(2) EXPORT PROMOTION ACTIVITIES.—Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

"(3) INTERNATIONAL ECONOMIC ACTIVITIES.—Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

"(4) AUTHORITIES AND POWERS OF THE SECRETARY OF STATE.—The powers and authorities of the Secretary provided in this chapter are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

"(b) COORDINATION ACTIVITIES.—Coordination activities of the Secretary of State under subsection (a) shall include—

"(1) approving an overall assistance and economic cooperation strategy;

"(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961, the Arms Export Control Act, and other relevant assistance Acts;

"(3) pursuing coordination with other countries and international organizations; and

"(4) resolving policy, program, and funding disputes among United States Government agencies.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

"(d) AUTHORITY TO PROVIDE PERSONNEL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development is authorized to detail to the Department of State on a nonreimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.".

[1140] Sec. 118 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 365) added Representatives from the Department of Energy to this list of Committee members. The function of the head of the agency primarily responsible for administering part

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the degree to which bilateral and multilateral development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.[1141]

(b) The President shall prescribe appropriate procedures to assure coordination among—

(1) the various departments and agencies of the United States Government having representatives in diplomatic missions abroad; and

(2) representatives of the United States Government in each country, under the direction of the Chief of the United States Diplomatic Mission.

The President shall keep the Congress advised of his actions under this subsection.

(c) Programs authorized by this Act shall be undertaken with the foreign policy guidance of the Secretary of State.

(d)[1142] * * * [Repealed—1978]

(e)[1143] The head of any of the departments or agencies referred to in subsection (a) may temporarily assign, upon the request of the Chairman, any employee from such department or agency to the staff of the Committee.

(f)[1143] To carry out the purposes of subsection (a), the Committee shall—

(1) prepare studies on various development problems;

(2) devise implementation strategies on developmental problems appropriate to each such department or agency;

(3) monitor and evaluate the results of the development activities of each such department or agency; and

(4) arrange for the exchange of information and studies between such agencies and departments.

(g)[1144] * * * [Repealed—1981]

Sec. 640C.[1145] **Shipping Differential.**—For the purposes of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), funds made available for the purposes of chapter 1 of part I or for purposes of chapter 4 of part II[1146] may be used to make grants to recipients to pay all or any

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I, as mentioned in this sentence, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[1141] Sec. 127(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 542) added this sentence.

[1142] Sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959) repealed subsec. (d), which had required an annual report from the President regarding U.S. actions affecting the development of less developed countries. A similar report is now required under sec. 634.

[1143] Sec. 127(c) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 543) added subsecs. (e) and (f) .

[1144] Subsec. (g), added by sec. 127(c) of Public Law 95–88 (91 Stat. 543) and amended by sec. 502(d)(2) of Public Law 95–424 (92 Stat. 959), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Formerly, subsec. (g) required an annual report to Congress on the Committee's operations. Such information is now required under sec. 634(a)(9).

[1145] 22 U.S.C. 2399d. Added by sec. 21 of the FA Act of 1973 (Public Law 93–189).

[1146] The reference to chapter 4 of part II was inserted in lieu of a reference to part V by sec. 708 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3159).

portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

Chapter 3—Miscellaneous Provisions

Sec. 641.[1147] **Effective Date and Identification of Programs.**—This Act shall take effect on the date of its enactment. Programs under this Act shall be identified appropriately overseas as "American Aid".

Sec. 642. Statutes Repealed.—(a) There are hereby repealed—

(1) Reorganization Plan Numbered 7 of 1953;

(2) the Mutual Security Act of 1954, as amended (except sections[1148] 402, 408, 417, 502(a), 502(b), 514, 523(d) and 536;[1149, 1150]

(3) section 12 of the Mutual Security Act of 1955;

(4) sections 12, 13, and 14 of the Mutual Security Act of 1956;

(5) section 503 of the Mutual Security Act of 1958;

(6) section 108 of the Mutual Security Appropriation Act, 1959;

(7) section 501(a), chapter VI, and sections 702 and 703 of the Mutual Security Act of 1959, as amended; and

(8) section 604 and chapter VIII of the Mutual Security Act of 1960.

(b) References in law to the Acts, or provisions of such Acts, repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act.

(c) The repeal of the Acts listed in subsection (a) of this section shall not be deemed to affect amendments contained in such Acts to Acts not named in that subsection.

Sec. 643.[1151] **Saving Provisions.**—(a) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 642(a) and the Foreign Assistance Act of 1969[1152] shall continue in full force and effect until modified by appropriate authority.

[1147] 22 U.S.C. 2401.

[1148] Sec. 303(a) of the FA Act of 1965 (Public Law 89–171) struck out reference to sec. 143 of the Mutual Security Act of 1954, as amended.

[1149] For retained provisions of the Mutual Security Act of 1954, see *Legislation on Foreign Relations Through 2004*, vol. I–B. Subsecs. (a), (c), and (d) of sec. 405 of the Mutual Security Act of 1954, as amended, and subsec. (c) of sec. 451, which were retained by the Foreign Assistance Act of 1961, were repealed by sec. 6 of the Migration and Refugee Assistance Act of 1962 (Public Law 87–510). Sec. 414 of the Mutual Security Act of 1954, as amended, was repealed by sec. 212(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329).

[1150] Sec. 303(a) of the FA Act of 1965 (Public Law 89–171) struck out ": *Provided,* That until the enactment of legislation authorizing and appropriating funds for activities heretofore carried on pursuant to sections 405(a), 405(c), 405(d), and 451(c) of the Mutual Security Act of 1954, as amended, such activities may be continued with funds made available under section 451(a) of this Act" at this point.

[1151] 22 U.S.C. 2402.

[1152] Sec. 308 of the FA Act of 1969 (Public Law 91–175) inserted "and the Foreign Assistance Act of 1969".

(b) Wherever provisions of this Act establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this Act, compliance with, or satisfaction of, substantially similar conditions under Acts listed in section 642(a) and the Foreign Assistance Act of 1969 or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this Act.

(c) Funds made available pursuant to provisions of law repealed by section 642(a)(2) and the Foreign Assistance Act of 1969 shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

(d)[1153] * * * [Repealed—1962]

Sec. 644.[1154] **Definitions.**—As used in this Act—

(a) "Agency of the United States Government" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

(b) "Armed Forces" of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) "Commodity" includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance.

(d) "Defense article" includes—

(1) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

(2) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

(3) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing storage, construction, transportation, operation, or use of any article listed in this subsection; or

(4) any component or part of any article listed in this subsection; but

shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity),[1155] byproduct material, special nuclear material, production facilities,[1156] utilization facilities, or atomic weapons or articles involving Restricted Data.[1156]

(e) "Defense information" includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include Restricted Data as defined by

[1153] Sec. 303(a) of the FA Act of 1962 (Public Law 87–565) repealed subsec. (d).

[1154] 22 U.S.C. 2403.

[1155] Sec. 22 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 710) added the parenthetical phrase.

[1156] Sec. 303(a)(1) of the FA Act of 1967 (Public Law 90–137) inserted "production facilities, utilization facilities," and "or articles involving Restricted Data.".

the Atomic Energy Act of 1954, as amended, and data removed from the Restricted Data category under section 142d of that Act.[1157]

(f)[1158] "Defense service" includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but does not include military educational and training activities under chapter 5 of part II.

(g)[1159] "Excess defense articles" means the quantity of defense articles (other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)[1160] owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.

(h) "Function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(i)[1161] * * * [Repealed—1973]

(j) "Officer or employee" means civilian personnel and members of the Armed Forces of the United States Government.

(k) "Services" include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance.

(l) "Surplus agricultural commodity" means any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States either publicly or privately owned, which is in excess of domestic requirements, adequate carryover, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture.

(m)[1162] "Value" means—

[1157] Sec. 303(a)(2) of the FA Act of 1967 (Public Law 90–137) struck out "and formerly Restricted Data", which appeared after "Restricted Data," and added ", and data removed from the Restricted Data category under section 142d of that Act".

[1158] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) amended and restated subsec. (f). It formerly read as follows:

"'Defense service' includes any service, test, inspection, repair, training, publication, or technical or other assistance, or defense information used for the purposes of furnishing military assistance. 'Training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces.".

[1159] Sec. 22(1) of the FA Act of 1973 (Public Law 93–189) amended and restated subsec. (g), which formerly read as follows:

"(g) 'Excess defense articles' means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the mobilization reserve at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.".

[1160] Sec. 9(b) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) inserted "(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)" after "articles".

[1161] Sec. 22(2) of the FA Act of 1973 (Public Law 93–189) repealed subsec. (i), which related to mobilization reserve.

[1162] Sec. 22(3) of the FA Act of 1973 (Public Law 93–189) amended subsec. (m), which formerly read as follows:

Continued

(1) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 632(d) such actual value shall not be taken into account;

(2) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

(3) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this Act, the contract or production costs of such article;

(4) with respect to a defense service, the cost to the United States Government of such service; and

(5)[1163] with respect to military education and training or services provided under chapter 8 of part II of this Act, the additional costs that are incurred by the United States Government in furnishing such assistance.

(n)[1164] "Military education and training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

(o)[1165] "Agriculture" includes aquaculture and fisheries.

(p)[1165] "Farmers" includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

"(m) 'Value' means, other than in section 657 of this Act—

"(1) with respect to excess defense articles, the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such articles;

"(2) with respect to nonexcess defense articles delivered from inventory to countries or international organizations under this Act, the standard price in effect at the time such articles are dropped from inventory by the supplying agency. Such standard price shall be the same price (including authorized reduced prices) used for transfers or sales of such articles in or between the Armed Forces of the United States Government, or, where such articles are not transferred or sold in or between the Armed Forces of the United States, the gross cost to the United States Government adjusted as appropriate for condition and market value; and

"(3) with respect to nonexcess defense articles delivered from new procurement to countries or international organizations under this Act, the contract or production costs of such articles.

"Military assistance programs and orders shall be based upon the best estimates of stock status and prevailing prices: reimbursements to the supplying agency shall be made on the basis of the stock status and prices determined pursuant to this section. Notwithstanding the foregoing provisions of this section, the Secretary of Defense may prescribe regulations authorizing reimbursements to the supplying agency based on negotiated prices for aircraft, vessels, plant equipment and such other major items as he may specify: *Provided,* That such articles are not excess at the time such prices are negotiated: *Provided further,* That such prices are negotiated at the time firm orders are placed with the supplying agency.".

[1163] Sec. 115(b)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140) added para. (5). The International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972) added the reference to chapter 8 of part II. Pursuant to Public Law 98–151, this amendment was enacted as contained in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983.

[1164] Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733) added subsec. (n).

[1165] Sec. 103(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 945) added subsecs. (o) and (p).

(q)[1166] "Major non-NATO ally" means a country which is designated in accordance with section 517 as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

Sec. 645.[1167] **Unexpended Balances.**—Unexpended balances of funds made available pursuant to this Act, the Mutual Security Act of 1954, as amended, or the Latin American Development Act, as amended[1168] are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.

Sec. 646.[1169] **Construction.**—If any provision of this Act, or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the applicability of such provision to other circumstances or persons shall not be affected thereby.

Sec. 647.[1170] **Dependable Fuel Supply.**—It is of paramount importance that long-range economic plans take cognizance of the need for a dependable supply of fuels, which is necessary to orderly and stable development and growth, and that dependence not be placed upon sources which are inherently hostile to free countries and the ultimate well-being of economically underdeveloped countries and which might exploit such dependence for ultimate political domination. The agencies of government in the United States are directed to work with other countries in developing plans for basing development programs on the use of the large and stable supply of relatively low cost fuels available in the free world.

Sec. 648.[1171] **Special Authorization for Use of Foreign Currencies.**—Subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953,[1172] the President is authorized, as a demonstration of good will on the part of the people of the United States for the Polish and Italian people, to use foreign currencies accruing to the United States Government under this or any other Act, for assistance on such terms and conditions as he may specify, in the repair, rehabilitation, improvement, and maintenance of cemeteries in Italy serving as the burial place of members of the armed forces of Poland who died in combat in Italy during World War II.

Sec. 649.[1173] **Limitation on Aggregate Authorization for Use in Fiscal Year 1966.** * * * [Repealed—1978]

[1166] Sec. 147(a)(2) of Public Law 104–164 (110 Stat. 1435) added subsec. (q).

[1167] 22 U.S.C. 2404. Sec. 304 of the FA Act of 1963 (Public Law 88–205) amended sec. 645, which formerly read as follows: "Unexpended balances of funds made available pursuant to this Act or the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.".

[1168] Sec. 303(c) of the FA Act of 1965 (Public Law 89–171) struck out "Public Law 86–735" and inserted in lieu thereof "the Latin American Development Act, as amended".

[1169] 22 U.S.C. 2405.

[1170] 22 U.S.C. 2406.

[1171] 22 U.S.C. 2407. Added by sec. 303 of the FA Act of 1964 (Public Law 88–633).

[1172] See 31 U.S.C. 1306.

[1173] Sec. 649, added by the FA Act of 1965 (Public law 89–171), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

Sec. 650.[1174] **Use of United States Armed Forces.**—The furnishing of economic, military, or other assistance under this Act shall not be construed as creating a new commitment or as affecting any existing commitment to use Armed Forces of the United States for the defense of any foreign country.

Sec. 651.[1175] **Sale of Supersonic Planes to Israel.** * * * [Repealed—1978]

Sec. 652.[1176] **Limitation Upon Exercise of Special Authorities.**—The President shall not exercise any special authority granted to him under section 506(a), 552(c)(2),[1177] or 610(a)[1178] of this Act unless the President, before[1179] he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.

Sec. 653.[1180] **Change in Allocation of Foreign Assistance.**—(a)[1181] Not later than thirty days after the enactment of any law appropriating funds to carry out any provision of this Act (other than section 451 or 637) or the Arms Export Control Act,[1182] the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of

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[1174] 22 U.S.C. 2409. Added by sec. 302(b) of the FA Act of 1967 (Public Law 90–137).

[1175] Sec. 651, added by the FA Act of 1968 (Public Law 90–554), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1176] 22 U.S.C. 2411. Added by sec. 8 of the Special Foreign Assistance Act of 1971 (Public Law 91–652); amended by sec. 304(a)(1) of the FA Act of 1971 (Public Law 92–226). Sec. 652 formerly read as follows:

"Sec. 652. Limitation Upon Additional Assistance to Cambodia.—The President shall not exercise any special authority granted to him under sections 506(a) and 614(a) of this Act for the purpose of providing additional assistance to Cambodia, unless the President, at least thirty days prior to the date he intends to exercise any such authority on behalf of Cambodia (or ten days prior to such date if the President certifies in writing that an emergency exists requiring immediate assistance to Cambodia), notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.".

[1177] Sec. 105(b)(2) of Public Law 99–83 (99 Stat. 196) inserted "552(c)(2)".

[1178] Sec. 117(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3141) struck out "or 614(a)" at this point.

[1179] Sec. 103(c) of Public Law 104–164 (110 Stat. 1424) struck out "prior to the date" and inserted in lieu thereof "before".

[1180] 22 U.S.C. 2413. Added by sec. 304(b) of the FA Act of 1971 (Public Law 92–226).

[1181] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

"SEC. 521. For the purpose of this Act 'program, project, and activity' shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program 'program, project, and activity' shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development 'program, project, and activity' shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.".

[1182] Sec. 1209(b)(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) added "or the Arms Export Control Act".

the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each.[1183]

(b)[1184] The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

Sec. 654.[1185] **Presidential Findings and Determinations.**—(a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

(b) No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Foreign Military Sales Act, or the

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[1183] Sec. 21(1) of the FA Act of 1974 (Public Law 93–559) struck out "Notwithstanding any other provision of law the United States Government shall not provide to any foreign country or international organization any funds under that law which exceeds by 10 per centum the amount of military grant assistance or security supporting assistance, as the case may be, which the President notified the Congress that the United States Government intended to provide that country or organization under that law, unless the President (1) determines that it is in the security interests of the United States that such country or organization receive funds in excess of the amount included in such notification for that country or organization, and (2) reports to Congress at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of that per centum which are to be provided, and the justification for providing the additional assistance.".

[1184] Sec. 1209(b)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) redesignated this former subsec. (c) as subsec. (b), and struck out the former subsec. (b), which read as follows:

"(b) Notwithstanding any other provision of law, no military grant assistance, assistance under chapter 4 of part II of this Act, assistance under chapter 1 of part I of this Act, or assistance under chapter 6 of part II of this Act, may be furnished to any country or international organization in any fiscal year, if such assistance exceeds by 10 percent or more the amount of such military grant assistance, under chapter 4 of part II of this Act, assistance under chapter 1 of part I of this Act, or assistance under chapter 6 of part II of this Act, as the case may be, set forth in the report required by subsection (a) of this section, unless—

"(1) the President reports to the Congress, at least ten days prior to the date on which such excess funds are provided, the country or organization to be provided the excess funds, the amount and category of the excess funds, and the justification for providing the excess funds; and

"(2) in the case of military grant assistance or assistance under chapter 4 of part II of this Act or assistance under chapter 6 of part II, the President includes in the report under paragraph (1) his determination that it is in the security interest of the United States to provide the excess funds.

This subsection shall not apply if the excess funds provided in any fiscal year to any country or international organization for any category of assistance are less than $1,000,000.".

[1185] 22 U.S.C. 2414. Sec. 304(b) of the FA Act of 1971 (Public Law 92–226) added sec. 654.

Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

SEC. 655.[1186] **ANNUAL MILITARY ASSISTANCE REPORT.**

(a) REPORT REQUIRED.—Not later than February 1 of each year, the President shall transmit to the Congress an annual report for the fiscal year ending the previous September 30.

(b)[1187] INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles), defense services, and international military education and training activities authorized by the United States and of such articles, services, and activities provided by the United States, excluding any activity that is reportable under title V of the National Security Act of 1947, to each foreign country and international organization. The report shall specify, by category, whether such defense articles—

(1) were furnished by grant under chapter 2 or chapter 5 of part II of this Act or under any other authority of law or by sale under chapter 2 of the Arms Export Control Act;

(2) were furnished with the financial assistance of the United States Government, including through loans and guarantees; or

(3) were licensed for export under section 38 of the Arms Export Control Act and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report,[1188] including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States

[1186] 22 U.S.C. 2415. Sec. 1324(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 481) added a new sec. 655, requiring an annual report on military assistance, military exports, and military imports for each of 1996 and 1997. Sec. 148 of Public Law 104–164 (110 Stat. 1435) amended and restated sec. 655, requiring a report in each fiscal year.

An earlier sec. 655—Limitations Upon Assistance to or for Cambodia—was added by the FA Act of 1971, and was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1187] Sec. 1306(a) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), amended and restated subsec. (b), which formerly read as follows:

"(b) INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles), defense services, and international military education and training authorized by the United States, excluding that which is pursuant to activities reportable under title V of the National Security Act of 1947, to each foreign country and international organization. The report shall specify, by category, whether such defense articles—

"(1) were furnished by grant under chapter 2 or chapter 5 of part II of this Act or under any other authority of law or by sale under chapter 2 of the Arms Export Control Act; or

"(2) were licensed for export under section 38 of the Arms Export Control Act.".

[1188] Sec. 702 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 861) added "and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report".

Code, that were licensed for export during the period covered by the report.[1189]

(c)[1190] AVAILABILITY ON INTERNET.—All unclassified portions of such report shall be made available to the public on the Internet through the Department of State.

SEC. 656.[1191] ANNUAL FOREIGN MILITARY TRAINING REPORT.

(a)[1192] ANNUAL REPORT.

(1)[1192] IN GENERAL.—Not later than January 31 of each year, the Secretary of Defense and the Secretary of State shall jointly prepare and submit to the appropriate congressional committees a report on all military training provided to foreign military personnel by the Department of Defense and the Department of State during the previous fiscal year and all such training proposed for the current fiscal year.

(2)[1193] EXCEPTION FOR CERTAIN COUNTRIES.—Paragraph (1) does not apply to any NATO member, Australia, Japan, or New Zealand, unless one of the appropriate congressional committees has specifically requested, in writing, inclusion of such country in the report. Such request shall be made not later than 90 calendar days prior to the date on which the report is required to be transmitted.

(b) CONTENTS.—The report described in subsection (a) shall include the following:

(1) For each military training activity, the foreign policy justification and purpose for the activity, the number of foreign military personnel provided training and their units of operation, and the location of the training.

[1189] Sec. 1205(c) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added ", including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States Code, that were licensed for export during the period covered by the report".

[1190] Sec. 1306(b) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added this subsec. as subsec. (d). It was subsequently redesignated as subsec. (c) by sec. 1262(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434), which also struck former subsec. (c), which pertained to information relating to military imports.

[1191] 22 U.S.C. 2416. Sec. 1307 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added sec. 656.

An earlier sec. 656—Limitations on United States Personnel and Personnel Assisted by United States in Cambodia—was added by Public Law 92–226 (86 Stat. 20), and was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

Sec. 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–449; 118 Stat. 2809), provided the following:

"FOREIGN MILITARY TRAINING REPORT

"SEC. 552. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be submitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations of the House of Representatives and the Senate by the date specified in that section.".

[1192] Sec. 1262(a)(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) struck out "(a) ANNUAL REPORT.—Not" and inserted in lieu thereof the subsec. (a) heading, and para. designation and text "(1) IN GENERAL.—Not".

[1193] Sec. 1262(a)(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) added para. (2).

(2) For each country, the aggregate number of students trained and the aggregate cost of the military training activities.

(3) With respect to United States personnel, the operational benefits to United States forces derived from each military training activity and the United States military units involved in each activity.

(c) FORM.—The report described in subsection (a) shall be in unclassified form but may include a classified annex.

(d) AVAILABILITY ON INTERNET.—All unclassified portions of the report described in subsection (a) shall be made available to the public on the Internet through the Department of State.

(e) DEFINITION.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations and the Committee on International Relations of the House of Representatives; and

(2) the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

Sec. 657.[1194] **Annual Report on Military Assistance and Military Exports.** * * * [Repealed—1981]

Sec. 658.[1195] **Limitations on Use of Funds.** * * * [Repealed—1978]

Sec. 659.[1196] **Access to Certain Military Bases Abroad.** * * * [Repealed—1981]

Sec. 660.[1197] **Prohibiting Police Training.**—(a) On and after July 1, 1975, none of the funds made available to carry out this

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[1194] Sec. 657, added by the FA Act of 1971 (Public Law 92–226), was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959). Subsequently, sec. 14 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 739) added a new sec. 657. Sec. 657 was again repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Some of the information previously required annually under sec. 657 on military assistance and military exports is now required by sec. 634(a)(10) of this Act and sec. 25(a) of the Arms Export Control Act.

[1195] Sec. 658, added by the FA Act of 1971 (Public Law 92–226), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1196] Sec. 659, added by sec. 20(a) of the FA Act of 1974 (Public Law 93–559), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It formerly read as follows:

"Sec. 659. Access to Certain Military Bases Abroad.—None of the funds authorized to be appropriated for foreign assistance (including foreign military sales, credit sales, and guaranties) under this Act may be used to provide any kind of assistance to any foreign country in which a military base is located if—

"(1) such base was constructed or is being maintained or operated with funds furnished by the United States;

"(2) personnel of the United States carry out military operations from such base; and

"(3) unless and until the President has determined that the government of such country has, consistent with security, authorized access, on a regular basis, to bona fide news media correspondents of the United States to such military base.".

[1197] 22 U.S.C. 2420. Sec. 30(a) of the FA Act of 1974 (Public Law 93–559) added sec. 660.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"SPECIAL AUTHORITIES

"SEC. 534. (a) AFGHANISTAN, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 512 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.

(b) Subsection (a) of this section shall not apply—

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"(g) RECONSTITUTING CIVILIAN POLICE AUTHORITY.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

"COMMUNITY-BASED POLICE ASSISTANCE

"SEC. 564. (a) AUTHORITY.—Funds made available by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict, respond to disasters, address gender-based violence, and foster improved police relations with the communities they serve.

"(b) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 214), provided the following:

"COMMUNITY-BASED POLICE ASSISTANCE

"SEC. 582. (a) AUTHORITY.—Funds made available to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority in Jamaica and El Salvador through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict and foster improved police relations with the communities they serve.

"(b) REPORT.—

"(1) The Administrator of the United States Agency for International Development shall submit, at the time of submission of the agency's Congressional Budget Justification Document for fiscal year 2004, and annually thereafter, a report to the Committees on Appropriations describing the progress these programs are making toward improving police relations with the communities they serve and institutionalizing an effective community-based police program.

"(2) The requirements of paragraph (1) are in lieu of the requirements contains in section 587(b) of Public Law 107–115.

"(c) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.".

Sec. 104 of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691; 22 U.S.C. 2420 note) provided the following exemption:

"SEC. 104. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEAR 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

"(a) EXEMPTION.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

"(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2321k);

"(2) funds made available for the 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

"(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

"(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

"(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).".

(1) with respect to assistance rendered under section 515(c) of the Omnibus Crime Control and Safe Streets Act of 1968 [1198] with respect to any authority of the Drug Enforcement Administration or the Federal Bureau of Investigation which relates to crimes of the nature which are unlawful under the laws of the United States, or with respect to assistance authorized under section 482 of this Act;

(2) to any contract entered into prior to the date of enactment of this section with any person, organization, or agency of the United States Government to provide personnel to conduct, or assist in conducting, any such program;

(3) [1199] with respect to assistance, including training, in maritime law enforcement and other maritime skills; [1200]

(4) [1201] with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states; or [1200]

(5) [1200] with respect to assistance, including training, relating to sanctions monitoring and enforcement;

(6) [1200] with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure for the purposes of supporting a nation emerging from instability, and the provision of professional public safety training, to include training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy; [1202]

(7) [1202] with respect to assistance provided to customs authorities and personnel, including training, technical assistance and equipment, for customs law enforcement and the improvement of customs laws, systems and procedures.

Notwithstanding clause (2), subsection (a) shall apply to any renewal or extension of any contract referred to in such paragraph entered into on or after such date of enactment.

(c) [1203] Subsection (a) shall not apply with respect to a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) [1203, 1204] Notwithstanding the prohibition contained in subsection (a), assistance may be provided to Honduras or El Salvador for fiscal years 1986 and 1987 if, at least 30 days before providing assistance, the President notifies the Committee on Foreign Af-

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[1198] Public Law 90–351 (82 Stat. 197), approved June 19, 1968. Such sec. 515(c) was redesignated as sec. 515(b) by sec. 124 of Public Law 94–503.

[1199] Sec. 127(b) by Public Law 99–83 (99 Stat. 205) added clause (3).

[1200] Sec. 540A(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 737), struck out "; or" at the end of para. (3); added "; or" at the end of para. (4), and added new paras. (5) and (6).

[1201] Sec. 594 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2060), added para. (4).

[1202] Sec. 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out a period at the end of para. (6), inserted in lieu thereof a semicolon, and added a new para. (7).

[1203] Sec. 711 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 244) added subsecs. (c) and (d).

[1204] See Presidential Determination No. 86–2 of October 29, 1985 (50 F.R. 48073), in which the President delegated authority to the Secretary of State to provide any future report required by sec. 660(d).

fairs[1205] of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act, that he has determined that the government of the recipient country has made significant progress, during the preceding six months, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the non-violent expression of their political views, or prolonged detention without trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

SEC. 661.[1206] TRADE AND DEVELOPMENT AGENCY.

(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries, with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment.[1207]

(b) AUTHORITY TO PROVIDE ASSISTANCE.—

(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

[1205] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[1206] 22 U.S.C. 2421. Sec. 201 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3655) amended and restated sec. 661. It was originally added by sec. 31 of the FA Act of 1974 (Public Law 93–559) as "Reimbursable Development Programs".

[1207] Sec. 5(a) of the Export Enhancement Act of 1998 (Public Law 106–158; 113 Stat. 1746) inserted ", with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment".

(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

(5)[1208] CONTRIBUTIONS TO COSTS.—The Trade and Development Agency shall, to the maximum extent practicable, require corporations and other entities to—

(A) share the costs of feasibility studies and other project planning services funded under this section; and

(B) reimburse the Trade and Development Agency those funds provided under this section, if the corporation or entity concerned succeeds in project implementation.

(c) DIRECTOR AND PERSONNEL.—

(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs[1209] of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

(e) AUDITS.—

[1208] Sec. 5(b) of the Export Enhancement Act of 1998 (Public Law 106–158; 113 Stat. 1746) added para. (5).

[1209] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office [1210] designated by the Comptroller General.

(f) FUNDING.—

(1) [1211] AUTHORIZATION.—(A) There are authorized to be appropriated for purposes of this section, in addition to funds oth-

[1210] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[1211] Sec. 201 of the Jobs Through Trade Expansion Act of 1994 (Public Law 103–392; 108 Stat. 4099) amended and restated para. (1) of subsec. (f), to add subpara. designations (A) and (B), and to state authorization levels for fiscal years 1995 and 1996. Sec. 5(c)(1) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out language establishing 1995–96 levels and inserted "$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter".

Authorizations under this section in recent years include: fiscal year 1977—$2,000,000; fiscal year 1978—$2,000,000; fiscal year 1979—$3,000,000; fiscal year 1980—$3,800,000; fiscal year 1981—$4,000,000; fiscal year 1982—$6,907,000; fiscal year 1983—$6,907,000; fiscal year 1984—$22,000,000; fiscal year 1985—no authorization; fiscal year 1986—$20,000,000; fiscal year 1987—$20,000,000; fiscal year 1988—no authorization; fiscal year 1989—no authorization; fiscal year 1990—no authorization; fiscal year 1991—no authorization; fiscal year 1992—no authorization; fiscal year 1993—$55,000,000; fiscal year 1994—$65,000,000; fiscal year 1995—$77,000,000; fiscal year 1996—"such sums as are necessary"; fiscal year 1997—$65,000,000; fis-

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erwise available for such purposes, $48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter.

(B) Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in carrying out its program, provide, as appropriate, funds[1212] to multilateral development banks for technical assistance grants.

(B) As used in subparagraph (A)—

(i) the term "technical assistance grants" means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

(ii) the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act.

Sec. 662.[1213] **Limitation on Intelligence Activities.** * * * [Repealed—1991]

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cal year 1998—no authorization; and fiscal year 2000—$48,000,000 ("and such sums as may be necessary for each fiscal year thereafter").

Titles I and V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"TRADE AND DEVELOPMENT AGENCY

"For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $51,500,000, to remain available until September 30, 2006.

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"TRADE CAPACITY BUILDING

"SEC. 570. Of the funds appropriated by this Act, under the headings 'Trade and Development Agency', 'Development Assistance', 'Transition Initiatives', 'Economic Support Fund', 'International Affairs Technical Assistance', and 'International Organizations and Programs', not less than $507,000,000 should be made available for trade capacity building assistance: *Provided,* That $20,000,000 of the funds appropriated in this Act under the heading 'Economic Support Fund' shall be made available for labor and environmental capacity building activities relating to the free trade agreement with the countries of Central America and the Dominican Republic.".

See also in title II of that Act: para. relating to assistance for the new independent states of the former Soviet Union; and in title V: sec. 505—Limitation on Representational Allowances; sec. 515—Notification Requirements; and sec. 553—Authorization Requirement.

Sec. 902(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 83) suspended any obligation of funds for new programs under the Trade and Development Agency to the People's Republic of China until the President reported to the Congress under subsec. (b) of that sec. that China had made certain political reforms, or that such assistance was in the national interest of the United States. For text of sec. 902, see *Legislation on Foreign Relations Through 2004,* vol. II, sec. D.

See also the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1503), sec. 6(c) of which called on the Director of the Trade and Development Agency to provide additional funds for activities related to projects in South Africa, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[1212] Sec. 5(c)(2) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out "in fiscal years 1993 and 1994, substantially increase the amount of funds it provides" and inserted in lieu thereof "in carrying out its program, provide, as appropriate, funds".

[1213] Formerly 22 U.S.C. 2422. Sec. 601 of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 441), repealed sec. 662. The section, added by sec. 32 of the FA Act of 1974 (Public Law 93–559), had provided the following prohibition:

"**Sec. 662. Limitation on Intelligence Activities.**—No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a

Sec. 663.[1214] **Exchanges of Certain Materials.**—(a) Notwithstanding any other provision of law, whenever the President determines it is in the United States national interest, he shall furnish assistance under this Act or shall furnish defense articles or services under the Foreign Military Sales Act pursuant to an agreement with the recipient of such assistance, articles, or services which provides that such recipient may only obtain such assistance, articles, or services in exchange for any necessary or strategic raw material controlled by such recipient. For the purposes of this section, the term "necessary or strategic raw material" includes petroleum, other fossil fuels, metals, minerals, or any other natural substance which the President determines is in short supply in the United States.

(b) The President shall allocate any necessary or strategic raw material transferred to the United States under this section to any appropriate agency of the United States Government for stockpiling, sale, transfer, disposal, or any other purpose authorized by law.

(c) Funds received from any disposal of materials under subsection (b) shall be deposited as miscellaneous receipts in the United States Treasury.

Sec. 664.[1215] **Waiver of Prohibition Against Assistance to Countries Engaging in Certain Trade.** * * * [Repealed—1977]

Sec. 665.[1216] **Transition Provisions for Interim Quarter.** * * * [Repealed—1978]

Sec. 666.[1217] **Discrimination Against United States Personnel.**—(a) The President shall not take into account, in assigning officers and employees of the United States to carry out any economic development assistance programs funded under this Act in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

(b) Effective six months after the date of enactment of the International Development and Food Assistance Act of 1975, or on such earlier date as the President may determine, none of the funds made available under this Act may be used to provide economic development assistance to any country which objects to the presence of any officer or employee of the United States who is present in such country for the purpose of carrying out any program of economic development assistance authorized by the provisions of this

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significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947.".

Public Law 102–88 also amended and restated the relevant sections of the National Security Act of 1947 (50 U.S.C. 413 *et seq.*); see *Legislation on Foreign Relations Through 2004*, vol. IV.

[1214] 22 U.S.C. 2423. Added by sec. 32 of the FA Act of 1974 (Public Law 93–559).

[1215] 22 U.S.C. 2424. Sec. 664, added by sec. 33 of the FA Act of 1974 (Public Law 93–559), was repealed by sec. 123(c) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541). It formerly read as follows:

"SEC. 664. WAIVER OF PROHIBITION AGAINST ASSISTANCE TO COUNTRIES ENGAGING IN CERTAIN TRADE.—Any provision of this Act which prohibits assistance to a country because that country is engaging in trade with a designated country, or because that country permits ships or aircraft under its registry to transport any equipment, materials, or commodities to or from such designated country, may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress.".

[1216] Sec. 665, added by Public Law 94–161 (89 Stat. 849), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1217] 22 U.S.C. 2426. Added by sec. 318 of Public Law 94–161 (89 Stat. 849).

Act on the basis of the race, religion, national origin, or sex of such officer or employee.

(c) The Secretary of State shall promulgate such rules and regulations as he may deem necessary to carry out the provisions of this section.

Sec. 667.[1218] **Operating Expenses.**—(a) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(1) $387,000,000 for the fiscal year 1986 and $387,000,000 for the fiscal year 1987 [1219] for necessary operating expenses of the agency primarily responsible for administering part I of this Act,[1220] of which $21,750,000 for the fiscal year 1987 is authorized for the necessary operating expenses of the Office

[1218] 22 U.S.C. 2427. Sec. 667, added by sec. 319 of Public Law 94–161 (89 Stat. 849), was amended and restated by sec. 129(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 543).

[1219] The authorization figures for fiscal years 1986 and 1987 were added by sec. 406 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 219). Authorizations under this section during recent years include: fiscal year 1979—$261,000,000; fiscal year 1980—$263,000,000; fiscal year 1981—$293,800,000; fiscal year 1982—$335,600,000; fiscal year 1983—$335,600,000; fiscal year 1984—$370,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and title II of that Act (118 Stat. 2809) provided the following:

"OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

"For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $618,000,000, of which up to $25,000,000 may remain available until September 30, 2006: *Provided,* That none of the funds appropriated under this heading and under the heading 'Capital Investment Fund' may be made available to finance the construction (including architect and engineering services), purchase, or long-term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long-term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further,* That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long-term lease of offices does not exceed $1,000,000: *Provided further,* That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2006: *Provided further,* That none of the funds in this Act may be used to open a new overseas mission of the United States Agency for International Development without the prior written notification of the Committees on Appropriations: *Provided further,* That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to 'Operating Expenses of the United States Agency for International Development' in accordance with the provisions of those sections.

"CAPITAL INVESTMENT FUND

"For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, $59,000,000, to remain available until expended: *Provided,* That this amount is in addition to funds otherwise available for such purposes: *Provided further*, That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the amounts appropriated under this heading, not to exceed $19,709,000 may be made available for the purposes of implementing the Capital Security Cost Sharing Program.

"OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

"For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $35,000,000, to remain available until September 30, 2006, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.".

See also in that Act, sec. 511—Availability of Funds; and sec. 534—Special Authorities.

[1220] Sec. 402 of Public Law 99–529 (100 Stat. 3010) inserted "of which $21,750,000 for the fiscal year 1987 is authorized for the necessary operating expenses of the Office of the Inspector General of the Agency for International Development and the remaining amount for the fiscal year is authorized for other necessary operating expenses of that agency and".

of the Inspector General of the Agency for International Development and the remaining amount for the fiscal year is authorized for other necessary operating expenses of that agency and

(2) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

(b) Amounts appropriated under this section are authorized to remain available until expended.

Sec. 668.[1221] **Report on Korea.** * * * [Repealed—1981]

Sec. 669.[1222] **Nuclear Enrichment Transfers.** * * * [Repealed—1994]

Sec. 670.[1223] **Nuclear Reprocessing Transfers, Illegal Exports for Nuclear Explosive Devices, Transfers of Nuclear Explosive Devices, and Nuclear Detonations.** * * * [Repealed—1994]

Sec. 671.[1224] **Notification of Program Changes.** * * * [Redesignated—1978]

[1221] Sec. 668, added by sec. 411 of Public Law 94–329 (90 Stat. 760), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). This report, required on an annual basis from 1976 through 1981, included information on progress made by Korea to modernize its armed forces, on the U.S. role in mutual security efforts in Korea, and on prospects for or implementation of phased reduction of U.S. Armed Forces assigned to duty in Korea. Similar information is now required under sec. 25(a)(9) of the Arms Export Control Act.

[1222] Formerly at 22 U.S.C. 2429. Sec. 669, popularly referred to as the Symington amendment, was added by sec. 305 of Public Law 94–329, amended and restated by sec. 12 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 620), further amended by secs. 10(b)(4) and 12 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 735, 737); further amended by sec. 737(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562).

Secs. 669 and 670 were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

[1223] Formerly at 22 U.S.C. 2429a. Sec. 670, popularly referred to as the Glenn amendment, was added by sec. 12 of Public Law 95–92 (91 Stat. 620); amended and restated by sec. 737(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562); and further amended by sec. 1204 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 277).

Secs. 669 and 670 were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

[1224] Sec. 671, added by Public Law 95–88 (91 Stat. 543), was redesignated as sec. 634A of this Act by sec. 502(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

PART IV—ENTERPRISE FOR THE AMERICAS INITIATIVE [1225]

SEC. 701.[1226] PURPOSE.

The purpose of this part is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this part for those countries with democratically elected governments that meet investment reforms and other policy conditions.

[1225] Sec. 602(a) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3664) added part IV—Enterprise for the Americas Initiative, secs. 701–710. See also footnote at part V—Debt Reduction for Developing Countries with Tropical Forests.

See also Executive Order 13345 of July 8, 2004 (69 F.R. 41901), in which the President assigned foreign affairs functions, requirements under the Enterprise for the Americas Initiative, and the Tropical Forest Conservation Act, under parts IV and V, to members of his cabinet, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

Sec. 401 of the FA Act of 1962 (Public Law 87–565) repealed former part IV, relating to amendments to other laws.

Sec. 566 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2809) provided the following:

"AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

"SEC. 566. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

"(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

"(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

"(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

"(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

"(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

"(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading 'Debt Restructuring'.".

[1226] 22 U.S.C. 2430.

SEC. 702.[1227] **DEFINITIONS.**

For purposes of this part—

(1) the term "administering body" means the entity provided for in section 708(c);

(2) the term "Americas Framework Agreement" means an Americas Framework Agreement provided for in section 708;

(3) the term "Americas Fund" means an Enterprise for the Americas Fund provided for in section 707(a);

(4) the term "appropriate congressional committees" means the Committee on Foreign Affairs[1228] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(5) the term "beneficiary country" means an eligible country with respect to which the authority of section 704(a)(1) is exercised;

(6) the term "eligible country" means a country designated by the President in accordance with section 703;

(7) the term "Enterprise for the Americas Board" or "Board" means the board established by section 610 of the Agricultural Trade Development and Assistance Act of 1954; and

(8) the term "Facility" means the Enterprise for the Americas Facility established in the Department of the Treasury by section 601 of that Act.

SEC. 703.[1229] **ELIGIBILITY FOR BENEFITS.**

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this part, a country must be a Latin American or Caribbean country—

(1) whose government is democratically elected;

(2) whose government has not repeatedly provided support for acts of international terrorism;

(3) whose government is not failing to cooperate on international narcotics control matters;

(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

[1227] 22 U.S.C. 2430a.

[1228] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[1229] 22 U.S.C. 2430b.

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATIONS.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

SEC. 704.[1230] **REDUCTION OF CERTAIN DEBT.**

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1992, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—(A) A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the agency primarily responsible for administering part I of this Act of the agreement with an eligible country to exchange a

[1230] 22 U.S.C. 2430c. Sec. 594(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1692), enacted authorization for debt reduction as chapter 12, sec. 499 of this Act. That enactment, however, was repealed by sec. 602(b) of Public Law 102–549 (106 Stat. 3669), which also provided:

"Any exercise of the authorities provided in that chapter prior to its repeal by this subsection shall be deemed to be an exercise of the authorities of part IV of the Foreign Assistance Act of 1961 (as enacted by subsection (a) of this section) and shall be carried out, after the enactment of this section, in accordance with that part.".

new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

SEC. 705.[1231] **REPAYMENT OF PRINCIPAL.**

(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 704(b) shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

SEC. 706.[1232] **INTEREST ON NEW OBLIGATIONS.**

(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 704(b) shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT; DEPOSITS.—

(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Americas Framework Agreement, interest shall be paid in the local currency of the beneficiary country and deposited in an Americas Fund. Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 707(d). Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Americas Framework Agreement, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country.

SEC. 707.[1233] **ENTERPRISE FOR THE AMERICAS FUNDS.**

(a) ESTABLISHMENT.—Each beneficiary country that enters into an Americas Framework Agreement shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 706(b)(1).

[1231] 22 U.S.C. 2430d.

[1232] 22 U.S.C. 2430e.

[1233] 22 U.S.C. 2430f. Title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

"For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $11,000,000, to remain available until expended.".

(b) DEPOSITS.—Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(c) INVESTMENT.—Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by the Congress.

(d) DISBURSEMENTS.—Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement.

SEC. 708.[1234] **AMERICAS FRAMEWORK AGREEMENTS.**

(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for that country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 709.

(b) CONTENTS OF AGREEMENTS.—An Americas Framework Agreement with an eligible country shall—

(1) require that country to establish an Americas Fund;

(2) require that country to make interest payments under section 706(b)(1) into an Americas Fund;

(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) ADMINISTERING BODY.—

(1) IN GENERAL.—Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) COMPOSITION.—The administering body shall consist of—

(A) one or more individuals appointed by the United States Government,

(B) one or more individuals appointed by the government of the beneficiary country, and

(C) individuals who represent a broad range of—

(i) environmental nongovernmental organizations of the beneficiary country,

(ii) child survival and child development nongovernmental organizations of the beneficiary country,

(iii) local community development nongovernmental organizations of the beneficiary country, and

(iv) scientific or academic organizations or institutions of the beneficiary country.

[1234] 22 U.S.C. 2430g.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

(3) RESPONSIBILITIES.—The administering body—

(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

(D) shall be required to grant to representatives of the United States Government Accountability Office[1235] such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

(d) ELIGIBLE ACTIVITIES.—Grants from an Americas Fund shall be used for—

(1) activities that link the conservation and sustainable use of natural resources with local community development; and

(2) child survival and other child development activities.

(e) GRANT RECIPIENTS.—Grants made from an Americas Fund shall be made to—

(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

(2) other appropriate local or regional entities; and

(3) in exceptional circumstances, the government of the beneficiary country.

(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 703(a), as determined by the President pursuant to section 703(b), then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President deter-

[1235] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

mines that such country meets the eligibility requirements set forth in section 703(a).

SEC. 709.[1236] **ENTERPRISE FOR THE AMERICAS BOARD.**

For purposes of this part, the Enterprise for the Americas Board shall—

(1) advise the Secretary of State on the negotiations of Americas Framework Agreements;

(2) ensure, in consultation with—

(A) the government of the beneficiary country,

(B) nongovernmental organizations of the beneficiary country,

(C) nongovernmental organizations of the region (if appropriate),

(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

(E) environmental, scientific, child survival and child development, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

(3) review the programs, operations, and fiscal audits of each administering body.

SEC. 710.[1237] **ANNUAL REPORTS TO THE CONGRESS.**

The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a description of each Americas Framework Agreement and a description of any grants that have been extended by administering bodies pursuant to an Americas Framework Agreement.

[1236] 22 U.S.C. 2430h.
[1237] 22 U.S.C. 2430i.

PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS [1238, 1239]

SEC. 801.[1240] SHORT TITLE.

This part may be cited as the "Tropical Forest Conservation Act of 1998".

[1238] Sec. 1 of Public Law 105–214 (112 Stat. 885) added part V. An earlier part V, relating to Indochina Postwar Reconstruction, was repealed by sec. 413 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 761). For complete text of regulations governing determinations, authorizations, etc., and remaining funds under part V, see page 828. An earlier part VI, relating to assistance to the Middle East, had been added by the FA Act of 1974, and was repealed by sec. 12(b)(4) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737).

See also Executive Order 13345 of July 8, 2004 (69 F.R. 41901), in which the President assigned foreign affairs functions, requirements under the Enterprise for the Americas Initiative, and the Tropical Forest Conservation Act, under parts IV and V, to members of his cabinet, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[1239] Sec. 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"ENVIRONMENT PROGRAMS

"SEC. 576. (a) FUNDING.—Of the funds appropriated under the heading 'Development Assistance', not less than $165,500,000 shall be made available for programs and activities which directly protect biodiversity, including forests, in developing countries, of which not less than $8,000,000 should be made available to implement a regional strategy for biodiversity conservation in the countries comprising the Amazon basin of South America, including to improve the capacity of indigenous communities and local law enforcement agencies to protect the biodiversity of indigenous reserves, which amount shall be in addition to the amounts requested for biodiversity activities in these countries in fiscal year 2005: *Provided*, That of the funds appropriated by this Act, not less than $180,000,000 shall be made available to support clean energy and other climate change policies and programs in developing countries, of which $100,000,000 should be made available to directly promote and deploy energy conservation, energy efficiency, and renewable and clean energy technologies, and of which the balance should be made available to directly: (1) measure, monitor, and reduce greenhouse gas emissions; (2) increase carbon sequestration activities; and (3) enhance climate change mitigation and adaptation programs.

"(b) CLIMATE CHANGE REPORT.—Not later than 45 days after the date on which the President's fiscal year 2006 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

"(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2005, including an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President's Budget Appendix; and

"(2) all fiscal year 2004 obligations and estimated expenditures, fiscal year 2005 estimated expenditures and estimated obligations, and fiscal year 2006 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (i) to promote the transfer and deployment of a wide range of United States clean energy and energy efficiency technologies; (ii) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (iii) to promote carbon capture and sequestration measures; (iv) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (v) to develop assessments of the vulnerability to impacts of climate change and mitigation and adaptation response strategies.

"(c) EXTRACTION OF NATURAL RESOURCES.—

"(1) The Secretary of the Treasury shall inform the managements of the international financial institutions and the public that it is the policy of the United States that any assistance by such institutions (including but not limited to any loan, credit, grant, or guarantee) for the extraction and export of oil, gas, coal, timber, or other natural resource should not be provided unless the government of the country has in place or is taking the necessary steps to establish functioning systems for: (i) accurately accounting for revenues and expenditures in connection with the extraction and export of the type of natural resource to be extracted or exported; (ii) the independent auditing of such accounts and the widespread public dissemination of the audits; and (iii) verifying government receipts against company payments including widespread dissemination of such payment information in a manner that does not create competitive disadvantage or disclose proprietary information.

"(2) Not later than 180 days after the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committees on Appropriations describing, for each international financial institution, the amount and type of assistance provided, by country, for the extraction and export of oil, gas, coal, timber, or other national resource since September 30, 2004.".

Title II of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2133), provided the following:

Continued

SEC. 802.[1241] **FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds the following:

(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

(2) Tropical forests provide a wide range of benefits to humankind by—

(A) harboring a major share of the Earth's biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

"DEBT RESTRUCTURING

"For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, $229,000,000, to remain available until expended: *Provided*, That not less than $5,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961, and up to $20,000,000 of unobligated balances of funds available under this heading from prior year appropriations acts should be made available to carry out such provisions: *Provided further*, That funds appropriated or otherwise made available under this heading in this Act may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: *Provided further*, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

"(1) the Inter-American Development Bank;

"(2) the African Development Fund;

"(3) the African Development Bank; and

"(4) the Central American Bank for Economic Integration:

"*Provided further*, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further*, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further*, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further*, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

"(a) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institution to export-oriented commercial projects that generate foreign exchange which are generally referred to as 'enclave' loans; and

"(b) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

"*Provided further*, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further*, That none of the funds made available under this heading in this or any other appropriations Acts shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.".

[1240] 22 U.S.C. 2151 note.

[1241] 22 U.S.C. 2431.

(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

(b) PURPOSES.—The purposes of this part are—

(1) to recognize the values received by United States citizens from protection of tropical forests;

(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

(4) to rechannel existing resources to facilitate the protection of tropical forests.

SEC. 803.[1242] **DEFINITIONS.**

As used in this part:

(1) ADMINISTERING BODY.—The term "administering body" means the entity provided for in section 809(c).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) BENEFICIARY COUNTRY.—The term "beneficiary country" means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

[1242] 22 U.S.C. 2431a.

(4) BOARD.—The term "Board" means the board referred to in section 811.

(5) DEVELOPING COUNTRY WITH A TROPICAL FOREST.—The term "developing country with a tropical forest" means—

(A)(i) a country that has a per capita income of $725 or less in 1994 United States dollars (commonly referred to as "low-income country"), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

(ii) a country that has a per capita income of more than $725 but less than $8,956 in 1994 United States dollars (commonly referred to as "middle-income country"), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a regional, continental, or global scale.

(6) ELIGIBLE COUNTRY.—The term "eligible country" means a country designated by the President in accordance with section 805.

(7) TROPICAL FOREST AGREEMENT.—The term "Tropical Forest Agreement" or "Agreement" means a Tropical Forest Agreement provided for in section 809.

(8) TROPICAL FOREST FACILITY.—The term "Tropical Forest Facility" or "Facility" means the Tropical Forest Facility established in the Department of the Treasury by section 804.

(9) TROPICAL FOREST FUND.—The term "Tropical Forest Fund" or "Fund" means a Tropical Forest Fund provided for in section 810.

SEC. 804.[1243] ESTABLISHMENT OF THE FACILITY.

There is established in the Department of the Treasury an entity to be known as the "Tropical Forest Facility" for the purpose of providing for the administration of debt reduction in accordance with this part.

SEC. 805.[1244] ELIGIBILITY FOR BENEFITS.

(a) IN GENERAL.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a tropical forest—

(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act; and

(2) that has put in place[1245] investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

(b) ELIGIBILITY DETERMINATIONS.—

[1243] 22 U.S.C. 2431b.
[1244] 22 U.S.C. 2431c.
[1245] Sec. 1 of Public Law 107–26 (115 Stat. 206) struck out "major" before "investment".

(1) IN GENERAL.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

SEC. 806.[1246] REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CONCESSIONAL LOANS UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

(2) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

(A) $25,000,000 for fiscal year 1999;

(B) $75,000,000 for fiscal year 2000; and

(C) $100,000,000 for fiscal year 2001.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—

(A) IN GENERAL.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) ADDITIONAL REQUIREMENT.—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—

(A) IN GENERAL.—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

[1246] 22 U.S.C. 2431d.

(c) ADDITIONAL TERMS AND CONDITIONS.—(1)[1247] The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of this Act:

(A)[1247] The provisions relating to repayment of principal under section 705 of this Act.

(B)[1247] The provisions relating to interest on new obligations under section 706 of this Act.

(2)[1247] In addition to the application of the provisions relating to repayment of principal under section 705 of this Act to the reduction of debt under subsection (a)(1) (in accordance with paragraph (1)(A) of this subsection), repayment of principal on a new obligation established under subsection (b) may be made in the local currency of the beneficiary country and deposited in the Tropical Forest Fund of the country in the same manner as the provisions relating to payment of interest on new obligations under section 706 of this Act.

(d)[1248] AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS AFTER FISCAL YEAR 2001.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section or section 807, there are authorized to be appropriated to the President the following:

(1) $50,000,000 for fiscal year 2002.
(2) $75,000,000 for fiscal year 2003.
(3) $100,000,000 for fiscal year 2004.
(4) $20,000,000 for fiscal year 2005.
(5) $25,000,000 for fiscal year 2006.
(6) $30,000,000 for fiscal year 2007.

(e)[1249] USE OF FUNDS TO CONDUCT PROGRAM AUDITS AND EVALUATIONS.—Of the amounts made available to carry out this part for a fiscal year, $200,000 is authorized to be made available to carry out audits and evaluations of programs under this part, including personnel costs associated with such audits and evaluations.

SEC. 807.[1250] REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

(2) AUTHORIZATION OF APPROPRIATIONS.—

[1247] Sec. 3(a) of Public Law 108–323 (118 Stat. 1218) struck out "The following" and inserted in lieu thereof "(1) The following"; redesignated paras. (1) and (2) as subparas. (A) and (B); and added a new para. (2).
[1248] Sec. 2(a) of Public Law 107–26 (115 Stat. 206) added subsec. (d) through para. (3). Sec. 1 of Public Law 108○323 (118 Stat. 1218) added paras. (4), (5), and (6).
[1249] Sec. 2 of Public Law 108○323 (118 Stat. 1218) added subsec. (e).
[1250] 22 U.S.C. 2431e.

(A) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

(i) $25,000,000 for fiscal year 1999;

(ii) $50,000,000 for fiscal year 2000; and

(iii) $50,000,000 for fiscal year 2001.

(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—

(A) IN GENERAL.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

(c) ADDITIONAL TERMS AND CONDITIONS.—(1)[1251] The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

(A)[1251] The provisions relating to repayment of principal under section 605 of such Act.

(B)[1251] The provisions relating to interest on new obligations under section 606 of such Act.

(2)[1251] In addition to the application of the provisions relating to repayment of principal under section 605 of the Agricultural Trade Development and Assistance Act of 1954 to the reduction of debt under subsection (a)(1) (in accordance with paragraph (1)(A) of this subsection), repayment of principal on a new obligation established under subsection (b) may be made in the local currency of the beneficiary country and deposited in the Tropical Forest Fund of the country in the same manner as the provisions relating to payment of interest on new obligations under section 606 of such Act.

[1251] Sec. 3(b) of Public Law 108–323 (118 Stat. 1219) struck out "The following" and inserted in lieu thereof "(1) The following"; redesignated paras. (1) and (2) as subparas. (A) and (B); and added a new para. (2).

SEC. 808.[1252] AUTHORITY TO ENGAGE IN DEBT-FOR-NATURE SWAPS AND DEBT BUYBACKS.

(a) LOANS AND CREDITS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) DEBT-FOR-NATURE SWAPS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

(B) ELIGIBLE PURCHASER DESCRIBED.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

(C) CONSULTATION REQUIREMENT.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

(D) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to be appropriated under sections 806(a)(2), 807(a)(2), and 806(d)[1253] shall be made available for such reduction of debt pursuant to subparagraph (A).

(2) DEBT BUYBACKS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than the lessor of 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

[1252] 22 U.S.C. 2431f.

[1253] Sec. 2(b) of Public Law 107–26 (115 Stat. 206) struck out "to appropriated under sections 806(a)(2) and 807(a)(2)" and inserted in lieu thereof "to be appropriated under sections 806(a)(2), 807(a)(2), and 806(d)".

(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to such paragraphs are made in advance.

(4) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

(5) ADMINISTRATION.—

(A) IN GENERAL.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

(B) ADDITIONAL REQUIREMENT.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

SEC. 809.[1254] **TROPICAL FOREST AGREEMENT.**

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

(2) CONSULTATION.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

(b) CONTENTS OF AGREEMENT.—The requirements contained in section 708(b) of this Act (relating to contents of an agreement) shall apply to an Agreement in the same manner as such requirements apply to an Americas Framework Agreement.

(c) ADMINISTERING BODY.—

(1) IN GENERAL.—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) COMPOSITION.—

(A) IN GENERAL.—The administering body shall consist of—

(i) one or more individuals appointed by the United States Government;

(ii) one or more individuals appointed by the government of the beneficiary country; and

[1254] 22 U.S.C. 2431g.

(iii) individuals who represent a broad range of—

(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

(II) local community development nongovernmental organizations of the beneficiary country; and

(III) scientific, academic, or forestry organizations of the beneficiary country.

(B) ADDITIONAL REQUIREMENT.—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

(3) RESPONSIBILITIES.—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

(d) ELIGIBLE ACTIVITIES.—Amounts deposited in a Fund shall be used only to provide grants to conserve, maintain, and restore the tropical forests in the beneficiary country, through one or more of the following activities:

(1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.

(2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.

(3) Training programs to increase the scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.

(4) Restoration, protection, or sustainable use of diverse animal and plant species.

(5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health related concerns.

(6) Development and support of the livelihoods of individuals living in or near a tropical forest in a manner consistent with protecting such tropical forest.

(e) GRANT RECIPIENTS.—

(1) IN GENERAL.—Grants made from a Fund shall be made to—

(A) nongovernmental environmental, forestry, conservation, and indigenous peoples organizations of, or active in, the beneficiary country;

(B) other appropriate local or regional entities of, or active in, the beneficiary country; or

(C) in exceptional circumstances, the government of the beneficiary country.

(2) PRIORITY.—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

SEC. 810.[1255] **TROPICAL FOREST FUND.**

(a) ESTABLISHMENT.—Each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest and principal [1256] on new obligations undertaken by the beneficiary country under this part.

(b) REQUIREMENTS RELATING TO OPERATION OF FUND.—The following terms and conditions shall apply to the Fund in the same manner as such terms as conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

(1) The provision relating to deposits under subsection (b) of such section.

(2) The provision relating to investments under subsection (c) of such section.

(3) The provision relating to disbursements under subsection (d) of such section.

SEC. 811.[1257] **BOARD.**

(a) ENTERPRISE FOR THE AMERICAS BOARD.—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610(c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.

(b) ADDITIONAL MEMBERSHIP.—

(1) IN GENERAL.—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

(A) Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.

(B) Two representatives from private nongovernmental environmental, scientific, forestry, or academic organizations with experience and expertise in preservation, maintenance, sustainable uses, and restoration of tropical forests.

(2) CHAIRPERSON.—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the

[1255] 22 U.S.C. 2431h.
[1256] Sec. 3(c) of Public Law 108–323 (118 Stat. 1219) inserted "and principal" after "interest".
[1257] 22 U.S.C. 2431i.

President and shall be the representative from the Department of State appointed under section 610(b)(1)(A) of such Act".[1258]

(c) DUTIES.—The duties described in this subsection are as follows:

(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

(2) Ensure, in consultation with—

(A) the government of the beneficiary country;

(B) nongovernmental organizations of the beneficiary country;

(C) nongovernmental organizations of the region (if appropriate);

(D) environmental, scientific, forestry, and academic leaders of the beneficiary country; and

(E) environmental, scientific, forestry, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Fund.

(3) Review the programs, operations, and fiscal audits of each administering body.

SEC. 812.[1259] CONSULTATIONS WITH THE CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

SEC. 813.[1260] ANNUAL REPORTS TO THE CONGRESS.

(a) IN GENERAL.—Not later than December 31 of each year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Agreement entered into under this part;

(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—Not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

[1258] Sec. 3 of Public Law 107–26 (115 Stat. 206) struck out "from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection" and inserted in lieu thereof "and shall be the representative from the Department of State appointed under section 610(b)(1)(A) of such Act".

[1259] 22 U.S.C. 2431j.

[1260] 22 U.S.C. 2431k.

b. The Arms Export Control Act

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b. The Arms Export Control Act

Public Law 90–629 [H.R. 15681], 82 Stat. 1320, approved October 22, 1968, as amended by Public Law 91–672 [H.R. 15628], 84 Stat. 2053, approved January 12, 1971; Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 32, approved February 7, 1972; Public Law 93–189 [Foreign Assistance Act of 1973, S. 1443], 87 Stat. 714, approved December 17, 1973; Public Law 93–559 [Foreign Assistance Act of 1974, S. 3394], 88 Stat. 1795, 1813, approved December 31, 1974; Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95–92 [International Security Assistance Act of 1977, H.R. 6884], 91 Stat. 614, approved August 4, 1977; Public Law 95–105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 846, approved August 17, 1977; Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730, approved September 26, 1978; Public Law 96–70 [Panama Canal Act of 1979; H.R. 111], 93 Stat. 452 at 499, approved September 27, 1979; Public Law 96–72 [Export Administration Act of 1979, S. 737], 93 Stat. 503 at 535, approved September 29, 1979; Public Law 96–92 [International Security Assistance Act of 1979; H.R. 3173], 93 Stat. 701, approved October 29, 1979; Public Law 96–533 [International Security and Development Cooperation Act of 1980; H.R. 6942], 94 Stat. 3131, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 97–392 [H.R. 6758], 96 Stat. 1962, approved December 29, 1982; Public Law 98–151 [Further Continuing Appropriations, 1984; H.J. Res. 413], 97 Stat. 964, approved November 14, 1983; Public Law 98–473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; Public Law 99–64 [Export Administration Amendments Act of 1985, S. 883], 99 Stat. 156, approved July 12, 1985; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99–139 [Act to amend Sec. 51(b) of the Arms Export Control Act, S. 1726], 99 Stat. 562, approved October 30, 1985; Public Law 99–247 [Act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law, S. 1831], 100 Stat. 9, approved February 12, 1986; Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99–433 [Department of Defense Reorganization Act of 1986, H.R. 3622], 100 Stat. 992, approved October 1, 1986; Public Law 99–591 [Continuing Appropriations Act, 1987; H.J. Res. 738], 100 Stat. 3341, approved October 30, 1986; Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987, S. 2638], 100 Stat. 3816, approved November 14, 1986; Public Law 100–71 [Supplemental Appropriations Act, 1987; H.R. 1827], 101 Stat. 391, approved July 11, 1987; Public Law 100–202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100–204 [Foreign Relations Authorization Act, 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100–456 [National Defense Authorization Act, 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 100–461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101–165 [Department of Defense Appropriations Act, 1990; H.R. 3072], 103 Stat. 1112, approved November 21, 1989; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101–222 [Anti-Terrorism and Arms Export Amendments Act of 1989, H.R. 91], 103 Stat. 1892, approved December 12, 1989; Public Law 101–231 [International Narcotics Control Act of 1989, H.R.

3611], 103 Stat. 1954, approved December 13, 1989; Public Law 101–510 [National Defense Authorization for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 102–25 [Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991; S. 725], 105 Stat. 75, approved April 6, 1991; Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102–182 [title III—Chemical and Biological Weapons Control and Warfare Elimination Act of 1991; H.R. 1724], 105 Stat. 1233 at 1245; approved December 4, 1991; sec. 545 of H.R. 2621 as passed by the House on June 19, 1991, enacted by reference in Public Law 102–145 [H.J. Res. 360; 105 Stat. 968, approved October 28, 1991; Public Law 102–228 [Conventional Forces in Europe Treaty Implementation Act of 1991; H.R. 3807], 105 Stat. 1691, approved December 12, 1991; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; Public Law 102–429 [Export Enhancement Act of 1992; H.R. 5739], 106 Stat. 2186, approved October 21, 1992; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103–87 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994; H.R. 2295], 107 Stat. 931, approved September 30, 1993; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 103–437 [United States Code Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in section 301 of H.R. 2880, 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 755, approved February 12, 1996; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104–164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997, H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105–194 [Agriculture Export Relief Act of 1998; S. 2282], 112 Stat. 627, approved July 14, 1998; Public Law 105–277 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999; and Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106–113 [Arms Control, Nonproliferation, and Security Assistance Act of 1999; division B of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Arms Control and Nonproliferation Act of 1999; title XI of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Security Assistance Act of 1999; title XII of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Defense Offsets Disclosure Act of 1999; subtitle D, title XII of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–280 [Security Assistance Act of 2000; H.R. 4919],

114 Stat. 845, approved October 6, 2000; Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; Public Law 108–458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

AN ACT To consolidate and revise foreign assistance legislation relating to reimbursable military exports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arms Export Control Act".[1]

Chapter 1—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

Section 1.[2] The Need for International Defense Cooperation and Military Export Controls.—As declared by the Congress in the Arms Control and Disarmament Act, an ultimate goal of the United States continues to be a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. In furtherance of that goal, it remains the policy of the United States to encourage regional arms control and disarmament agreements and to discourage arms races.

The Congress recognizes, however, that the United States and other free and independent countries continue to have valid requirements for effective and mutually beneficial defense relationships in order to maintain and foster the environment of international peace and security essential to social, economic, and political progress. Because of the growing cost and complexity of defense equipment, it is increasingly difficult and uneconomic for any country, particularly a developing country, to fill all of its legitimate defense requirements from its own design and production base. The need for international defense cooperation among the United States and those friendly countries to which it is allied by

[1] Sec. 201 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 734) struck out "Foreign Military Sales Act" and inserted in lieu thereof "Arms Export Control Act". Sec. 201 further stated that "any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act.".

[2] 22 U.S.C. 2751. See also sec. 1225 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2091), relating to bilateral exchanges and trade in defense articles and defense services between the United States and the United Kingdom and Australia; and sec. 4026 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3724), stating U.S. policy on the proliferation of Man-Portable Air Defense Systems (MANPADS). Regarding the latter, see also sec. 6902 in the same Act, stating congressional findings on MANPADS and other destructive weapons.

See also sec. 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845), establishing the Joint Committee for Review of Counterproliferation Programs of the United States; sec. 1503 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2916), relating to a report of the findings of the Counterproliferation Program Review Committee; sec. 154 of Public Law 104–164 (110 Stat. 1440), relating to Panama's eligibility under this Act, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

See also sec. 564 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 484) relating to prohibiting sales and leases to those participating in or supporting the Arab boycott of Israel, in *Legislation on Foreign Relations Through 2004*, vol. II.

mutual defense treaties is especially important, since the effectiveness of their armed forces to act in concert to deter or defeat aggression is directly related to the operational compatibility of their defense equipment.

Accordingly, it remains the policy of the United States to facilitate the common defense by entering into international arrangements with friendly countries which further the objective of applying agreed resources of each country to programs and projects of cooperative exchange of data, research, development, production, procurement, and logistics support to achieve specific national defense requirements and objectives of mutual concern. To this end, this Act authorizes sales by the United States Government to friendly countries having sufficient wealth to maintain and equip their own military forces at adequate strength, or to assume progressively larger shares of the costs thereof, without undue burden to their economies, in accordance with the restraints and control measures specified herein and in furtherance of the security objectives of the United States and of the purposes and principles of the United Nations Charter.

It is the sense of the Congress that all such sales be approved only when they are consistent with the foreign policy interests of the United States, the purposes of the foreign assistance program of the United States as embodied in the Foreign Assistance Act of 1961, as amended, the extent and character of the military requirement, and the economic and financial capability of the recipient country, with particular regard being given, where appropriate, to proper balance among such sales, grant military assistance, and economic assistance as well as to the impact of the sales on programs of social and economic development and on existing or incipient arms races.[3]

It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons

[3] A para., as amended by sec. 4 of Public Law 91–672 and which had previously appeared at this point, was repealed by sec. 734(a)(10) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It formerly read as follows:

"It is further the sense of Congress that sales and guaranties under sections 21, 22, 23, and 24, shall not be approved where they would have the effect of arming military dictators who are denying the growth of fundamental rights or social progress to their own people: *Provided,* That the President may waive this limitation when he determines it would be important to the security of the United States, and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations in the Senate.".

of death and destruction and to encourage regional arms control arrangements. In furtherance of this policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall consider measures to limit conventional arms transfers in the interest of international peace and stability.

It is the sense of the Congress that the aggregate value of defense articles and defense services—

(1) which are sold under section 21 or section 22 of this Act; or

(2) which are licensed or approved for export under section 38 of this Act to, for the use, or for benefit of the armed forces, police, intelligence, or other internal security forces of a foreign country or international organization under a commercial sales contract;

in any fiscal year should not exceed current levels.[4]

It is the sense of the Congress that the President maintain adherence to a policy of restraint in conventional arms transfers and that, in implementing this policy worldwide, a balanced approach should be taken and full regard given to the security interests of the United States in all regions of the world and that particular attention should be paid to controlling the flow of conventional arms to the nations of the developing world. To this end, the President is encouraged to continue discussions with other arms suppliers in order to restrain the flow of conventional arms to less developed countries.[5]

Sec. 2.[6] **Coordination With Foreign Policy.**—(a) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(b)[7] Under the direction of the President, the Secretary of State (taking into account other United States activities abroad, such as military assistance, economic assistance, and food for peace program) shall be responsible for the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this Act, including, but not limited to, determining—

(1) whether there will be a sale to or financing for a country and the amount thereof;

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[4] Sec. 202(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 734) amended sec. 1 by striking out the last para. and adding the language beginning with "It shall be the policy of the United States". The last para. of sec. 1 formerly read as follows:

"In order to reduce the role of the United States Government in the furnishing of defense articles and defense services to foreign countries and international organizations, and return such transactions to commercial channels, the United States Government shall reduce its sales, credit sales, and guaranties of such articles, and defense services as soon as, and to the maximum extent, practicable.".

[5] Sec. 15(a) of the International Security Assistance Act of 1978 (92 Stat. 739) added this para. Sec. 15(b) of the same Act required a report from the President to the Congress by December 31, 1979, concerning the implications of the multilateral discussions referred to in the para.

[6] 22 U.S.C. 2752. See also Presidential determinations, in notes at sec. 38.

[7] Sec. 115(b) of Public Law 99–83 (99 Stat. 201) amended and restated subsec. (b). It previously read as follows:

"(b) Under the direction of the President, the Secretary of State, taking into account other United States activities abroad, such as military assistance, economic assistance, and food for freedom, shall be responsible for the continuous supervision and general direction of sales, leases, and exports under this Act, including, but not limited to, determining whether there shall be a sale to a country and the amount thereof, whether there shall be a lease to a country, and whether there shall be delivery or other performance under such sale, lease, or export, to the end that sales, leases, and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.".

(2) whether there will be a lease to a country;

(3) whether there will be a cooperative project and the scope thereof; and

(4) whether there will be delivery or other performance under the sale, lease, cooperative project, or export,

to the end that sales, financing, leases, cooperative projects, and exports will be integrated with other United States activities and to the end that the foreign policy of the United States would be best served thereby.

(c) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to sales are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

Sec. 3.[8] **Eligibility.**—(a) No defense article or defense service shall be sold or leased[9] by the United States Government under this Act to any country or international organization,[10] and no agreement shall be entered into for a cooperative project (as defined in section 27 of this Act), unless—

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[8] 22 U.S.C. 2753.

Sec. 549 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"HAITI

"SEC. 549. (a) Of the funds appropriated by this Act, not less than the following amounts shall be made available for assistance for Haiti—

"(1) $20,000,000 from 'Child Survival and Health Programs Fund';

"(2) $25,000,000 from 'Development Assistance', of which funds should be made available for poverty reduction, agriculture, environment, and basic education programs; and

"(3) $40,000,000 from 'Economic Support Fund', of which funds should be made available for judicial reform programs, police training, and activities in support of national elections.

"(b) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.".

Language similar to that of subsec. (b) was first enacted as sec. 582 of the Foreign Assistance Appropriations Act, 1997. Prior to FY 2001, the section stated eligibility for both Haiti's Coast Guard and the civilian-led Haitian National Police.

Sec. 906 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) provided the following:

"SEC. 906. ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES.

"(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

"(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

"(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act, or

"(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

"(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'defense article' has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

"(2) the term 'excess defense article' has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).".

[9] Sec. 109(b)(2)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526) inserted "or leased".

[10] Sec. 115(b)(2)(A) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 201) inserted "and no agreement shall be entered into for a cooperative project (as defined in section 27 of this Act)".

(1)[11] the President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the United States and promote world peace;

(2) the country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service[12] so furnished to it, or produced in a cooperative project (as defined in section 27 of this Act),[13] to anyone not an officer, employee, or agent of that country or international organization (or the North Atlantic Treaty Organization or the specific member countries (other than the United States) in the case of a cooperative project)[14] and not to use or permit the use of such article or related training or other defense service[12] for purposes other than those for which furnished[15] unless the consent of the President has first been obtained;

(3)[16] the country or international organization shall have agreed that it will maintain the security of such article or service[17] and will provide substantially the same degree of security protection afforded to such article or service[17] by the United States Government; and

(4)[16] the country or international organization is otherwise eligible to purchase or lease[18] defense articles or defense services.

In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President

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[11] In 2004, the President determined "that the furnishing of defense articles and services to the RSS [Regional Security System] will strengthen the security of the United States and promote world peace" (Presidential Determination No. 2004–20 of January 5, 2004; 69 F.R. 2477). The President made a similar determination to provide defense articles and services to Iraq (Presidential Determination No. 2004–40 of July 21, 2004; 69 F.R. 46399), and for the African Union (Presidential Determination No. 2004–50 of September 24, 2004; 69 F.R. 58789).

In 2003, the President made a similar determination for Serbia and Montenegro (Presidential determination No. 2003–22 of May 6, 2003; 68 F.R. 25809).

In 2002, the President made similar determinations in relation to Palau, Kiribati, and Tuvalu (Presidential determination No. 2002–09 of March 12, 2002; 67 F.R. 13245); Armenia, Azerbaijan, and Tajikistan (Presidential determination No. 2002–15 of April 18, 2002; 67 F.R. 20429); and East Timor (Presidential determination No. 02–19 of May 27, 2002; 67 F.R. 39245).

The President made no determinations pursuant to this sec. in 1998–2001.

In 1997, the President made a similar determination in relation to Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, Russia, Ukraine, and Uzbekistan (Presidential Determination No. 97–19 of March 11, 1997; 62 F.R. 13531).

In 1995 and 1996, the President made similar determinations for Angola (Presidential Determination No. 95–32 of July 28, 1995; 60 F.R. 40255), Mongolia (Presidential Determination No. 95–38 of August 22, 1995; 60 F.R. 50069), Bosnia and Herzegovina (Presidential Determination No. 96–10 of February 23, 1996; 61 F.R. 8463), Slovenia, and the Former Yugoslav Republic of Macedonia (Presidential Determination No. 96–18 of March 8, 1996; 61 F.R. 11497).

[12] Sec. 203(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) inserted "or related training or other defense service".

[13] Sec. 115(b)(2)(B)(i) of Public Law 99–83 (99 Stat. 201) inserted "or produced in a cooperative project (as defined in section 27 of this Act".

[14] Sec. 115(b)(2)(B)(ii) of Public Law 99–83 (99 Stat. 201) inserted "(or the North Atlantic Treaty Organization or the specific member countries (other than the United States) in the case of a cooperative project)".

[15] Sec. 25(2) of the FA Act of 1973 (Public Law 93–189) struck out "and" at the end of para. (2) and inserted in lieu thereof "and not to use or permit the use of such article for purposes other than those for which furnished".

[16] Sec. 25(2)(B) of the FA Act of 1973 (Public Law 93–189) redesignated former para. (3) as para. (4) and added a new para. (3).

[17] Sec. 115(b)(2)(c) of Public Law 99–83 (99 Stat. 201) inserted "or service". Sec. 1102(3)(C) of Public Law 99–145 (99 Stat. 710) made the same amendment.

[18] Sec. 109(b)(2)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526) inserted "or lease".

shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[19] In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.[20] The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

(b)[21] The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 505(a) of the Foreign Assistance Act of 1961 (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this Act if—

(1) such articles constitute components incorporated into foreign defense articles;

(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, or the Government of New Zealand;

(3) the recipient is not a country designated under section 620A of the Foreign Assistance Act of 1961;

(4) the United States-origin components are not—

(A) significant military equipment (as defined in section 47(9));

(B) defense articles for which notification to Congress is required under section 36(b); and

(C) identified by regulation as Missile Technology Control Regime items; and

(5) the foreign country or international organization provides notification of the transfer of the defense articles to the United States Government not later than 30 days after the date of such transfer.

(c)(1)(A)[22] No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country

[19] Sec. 204(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 736) struck out ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred" after "country".

[20] Sec. 25(2)(C) of the FA Act of 1973 (Public Law 93–189) added the words to this point, beginning with "In considering a request for approval".

[21] Sec. 142 of Public Law 104–164 (110 Stat. 1433) inserted a new subsec. (b). Former subsec. (b), as amended by sec. 1 of Public Law 91–71, was repealed by sec. 15 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622). It had concerned U.S. military assistance to a country which had seized an American fishing vessel outside a 12–mile limit.

[22] Sec. 304(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 754) amended and restated subsec. (c), which formerly read as follows:

under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4 for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3)(A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolution pursuant to subparagraph (A) of this paragraph with respect to such ineligibility.

(4) A country shall remain ineligible in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

"(c) Except as otherwise provided in subsection (d), any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, in substantial violation of any provision of this Act or any agreement entered into under this Act, shall be immediately ineligible for further cash sales, credits, or guarantees.".

(d)[23] (1)[24] Subject to paragraph (5), the President may not[25] give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection, or under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at $50,000,000 or more,[26] unless[27] the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A)[24] the name of the country or international organization proposing to make such transfer,

(B)[24, 28] a description of the article or service proposed to be transferred, including its acquisition cost,

(C)[24] the name of the proposed recipient of such article or service,[29]

(D)[24] the reasons for such proposed transfer, and

(E)[24] the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this paragraph shall be unclassified, except that information regarding the dollar value and number of articles or services[29] proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2)[24] (A) Except as provided in subparagraph (B),[30] unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such

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[23] Sec. 204(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) added subsecs. (e) and (f). Sec. 304(b)(2) of the same Act repealed subsec. (d) and redesignated subsecs. (e) and (f) as (d) and (e). Previously, subsec. (d) read as follows:

"(d) A country shall remain ineligible in accordance with subsection (c) of this section until such time as the President determines that such violation has ceased, that the country concerned has given assurances satisfactory to the President that such violation will not recur, and that, if such violation involved the transfer of sophisticated weapons without the consent of the President, such weapons have been returned to the country concerned.".

[24] Sec. 16 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622) redesignated paras. (1) through (5) as subparas. (A) through (E), added para. designation "(1)", and added a new para. (2).

[25] Sec. 1405(a)(1)(A) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1456) struck out "The President may not" and inserted in lieu thereof "Subject to paragraph (5), the President may not".

[26] The words to this point beginning with "or under section 505(a)(1) * * *" were inserted in lieu of similar text by sec. 101(a)(1)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519). Previously, the President was required to submit a certification to Congress on all transfers of these items regardless of their value.

[27] Sec. 16(1) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622) struck out ", 30 days prior to giving such consent,".

[28] Sec. 101(a)(1)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519) amended and restated subpara. (B). It formerly read as follows:

"(B) a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service".

[29] Sec. 101(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519) struck out "defense" and "related training or other defense", before "article" and "service", respectively.

[30] Sec. 102(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520) inserted the subpara. designation "(A)", added the words to this point in subpara. (A), and added a new subpara. (B).

consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact,[31] within such 30-day period, a joint resolution[32] prohibiting the proposed transfer.

(B)[30] In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact,[31] within such fifteen-day period, a joint resolution[33] prohibiting the proposed transfer.

(C)[34] If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

(D)[34] (i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(3)[35] (A)[36] Subject to paragraph (5), the President may not[37] give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, the export

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[31] Public Law 99–247 (100 Stat. 9) replaced the language "adopt * * * concurrent resolution disapproving" with the current text.

[32] Sec. 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268–45), struck out "law" and inserted in lieu thereof "joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act". Sec. 141(a)(1) of Public Law 104–164 (110 Stat. 1430) subsequently struck out "as provided for in sections 36(b)(2) and 36(b)(3) of this Act".

[33] Sec. 141(a)(2) of Public Law 104–164 (110 Stat. 1430) struck out "law" and inserted in lieu thereof "joint resolution".

[34] Sec. 141(a)(3) of Public Law 104–164 (110 Stat. 1430) added subparas. (C) and (D).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[35] Sec. 101(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3131) redesignated existing para. (3) as para. (4) and added this new para. (3). Para. (4) was originally added as para. (3) by sec. 17 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622).

[36] Sec. 141(b)(1) of Public Law 104–164 (110 Stat. 1431) added subpara. designation "(A)".

[37] Sec. 1405(a)(1)(A) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1456) struck out "The President may not" and inserted in lieu thereof "Subject to paragraph (5), the President may not".

of which has been licensed or approved under section 38 of this Act,[38] unless[39] before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a certification[40] containing the information specified in subparagraphs (A) through (E) of paragraph (1). Such certification shall be submitted—[41]

(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4)[35] This subsection shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in

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[38] The value of the items listed in this sentence was increased from $7,000,000 and $25,000,000 to $14,000,000 and $50,000,000, respectively, by sec. 101(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519).

[39] Sec. 141(b)(2)(A) of Public Law 104–164 (110 Stat. 1431) struck out "at least 30 calendar days" after "unless".

[40] Sec. 141(b)(2)(B) of Public Law 104–164 (110 Stat. 1431) struck out "report" and inserted in lieu thereof "certification".

[41] Sec. 141(b)(3) of Public Law 104–164 (110 Stat. 1431) struck out a sentence after "paragraph (1).", which read : "Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.", and inserted in lieu thereof the text beginning with "Such certification shall be submitted—". The former text had been added by sec. 577 of Public Law 100–461 (102 Stat. 2268–45).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "Amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C)[42] to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

(i) for cooperative cross servicing, or

(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 36(b) of this Act with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.

(D)[43] * * * [Repealed—1981]

(5)[44] In the case of a transfer to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on consent of the President set forth in paragraphs (1) and (3)(A) shall apply only if the transfer is—

(A) a transfer of major defense equipment valued (in terms of its original acquisition cost) at $25,000,000 or more; or

(B) a transfer of defense articles or defense services valued (in terms of its original acquisition cost) at $100,000,000 or more).

(e)[23] If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 505 of the Foreign Assistance Act of 1961, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f)[45] No sales or leases shall be made to any country that the President has determined is in material breach of its binding commitments to the United States under international treaties or

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[42] Sec. 11 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705) amended and restated subpara. (C). It formerly read as follows:

"(C) to cooperative cross servicing arrangements among members of the North Atlantic Treaty Organization.".

[43] Subpara. (D), as added by sec. 101(b) of Public Law 96–536 (94 Stat. 3131), was repealed by sec. 101(a)(3)(C) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520). Subpara. (D) had stipulated that subsec. (d) would not apply to transfers to NATO, member countries of NATO, Japan, Australia, or New Zealand of major defense equipment valued at less than $7,000,000 or defense articles or related training or other defense service valued at less than $25,000,000.

[44] Sec. 1405(a)(1)(B) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1456) added para. (5).

[45] Sec. 822(a)(1) of the Nuclear Proliferation Prevention Act (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 511) added subsec. (f).

Previously, sec. 2(b) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1896) repealed sec. 3(f). Added by sec. 18 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622), sec. 3(f) formerly read as follows:

"(f)(1) Unless the President finds that the national security requires otherwise, he shall terminate all sales, under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The President may not thereafter make or extend sales, to such government until the end of the one year period beginning on the date of such termination, except that if during its

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agreements concerning the nonproliferation of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) and unsafeguarded special nuclear material (as defined in section 830(8) of that Act).

(g)[46] Any agreement for the sale or lease of any article on the United States Munitions List entered into by the United States Government after the date of enactment of this subsection shall state that the United States Government retains the right to verify credible reports that such article has been used for a purpose not authorized under section 4 or, if such agreement provides that such article may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

Sec. 4.[47] **Purposes for Which Military Sales by the United States Are Authorized.**—Defense articles and defense services shall be sold or leased[48] by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons,[49] to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort: *Provided,* That none of the funds contained in this authorization shall be used to guarantee, or extend credit, or participate in an extension of credit in connection with any sale of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, Iran, Israel, the Republic of China, the Philippines, and Korea unless the President determines that

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period of ineligibility for sales, pursuant to this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

"(2) If the President finds that the national security justifies a continuation of sales to any government described in paragraph (1), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.".

[46] Sec. 1225 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added subsec. (g).

[47] 22 U.S.C. 2754.

[48] Sec. 109(b)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526) inserted "or leased".

[49] Sec. 1202(a) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) inserted "for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons," after "self-defense,".

such financing is important to the national security of the United States and reports within thirty days each such determination to the Congress.

Sec. 5.[50] **Prohibition Against Discrimination.**—(a) It is the policy of the United States that no sales should be made, and no credits (including participations in credits) or guaranties extended to or for any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this Act on the basis of race, religion, national origin, or sex.

(b)(1) No agency performing functions under this Act shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(2) Each contract entered into by any such agency for the performance of any function under this Act shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(c) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any instance in which any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the performance of any sale or licensed transaction under this Act. Such reports shall include (1) a description of the facts and circumstances of any such discrimination, (2) the response thereto on the part of the United States or any agency or employee thereof, and (3) the result of such response, if any.

(d)(1)[51] Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[52] of the House

[50] 22 U.S.C. 2755. Added by sec. 302(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 752).

[51] Functions in this para. are delegated to the Assistant Secretary of State for Democracy, Human Rights and Labor (Department of State Public Notice 2086; Delegation of Authority No. 214; 59 F.R. 50790).

[52] Sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Subsequently, sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

of Representatives, the President shall, within 60 days after the receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Secretary of State,[53] with respect to the country designated in such request, setting forth—

(A) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin or sex and prevent any such person from participating in the performance of any sale or licensed transaction under this Act;

(B) the response of the United States thereto and the results of such response;

(C) whether, in the opinion of the President, notwithstanding any such policies or practices—

(i) extraordinary circumstances exist which necessitate a continuation of such sale or licensed transaction, and, if so, a description of such circumstances and the extent to which such sale or licensed transaction should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to continue such sale or licensed transaction; and

(D) such other information as such committee may request.

(2) In the event a statement with respect to a sale or licensed transaction is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within 60 days after receipt of such request, such sale or licensed transaction shall be suspended unless and until such statement is transmitted.

(3)(A) In the event a statement with respect to a sale or licensed transaction is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such sale or licensed transaction.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

Sec. 6.[54] **Foreign Intimidation and Harassment of Individuals in the United States.**—No letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this Act with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. The President shall report any such determination promptly to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate.

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[53] Sec. 162(f) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405) struck out "Assistant Secretary of State for Human Rights and Humanitarian Affairs" and inserted in lieu thereof "Secretary of State".

[54] 22 U.S.C. 2756. Added by sec. 115 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1528).

Chapter 2—FOREIGN MILITARY SALES AUTHORIZATIONS

Sec. 21.[55] **Sales From Stocks.**—(a)(1)[56] The President may sell defense articles and defense services from the stocks of the Department of Defense and the Coast Guard[57] to any eligible country or international organization if such country or international organization agrees to pay in United States dollars—

(A)[56] in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;[58]

(B)[56] in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

(C)[56, 59] in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 or to any high-income

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[55] 22 U.S.C. 2761. Sec. 205 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 736) amended sec. 21, which formerly read as follows:

"Sec. 21. Cash Sales From Stock.—The President may sell defense articles from the stocks of the Department of Defense and defense services of the Department of Defense to any friendly country or international organization if such country or international organization agrees to pay not less than the value thereof in United States dollars. Payment shall be made in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed one hundred and twenty days after the delivery of the defense articles or the rendering of the defense services.".

10 U.S.C. 2390, as added by sec. 815 of the Department of Defense Appropriation Authorization Act, 1979 (92 Stat. 1625), as sec. 975 and later redesignated, prohibited the sale of certain defense articles from Department of Defense stocks. See 10 U.S.C. 2390, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

Sec. 706 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 862) provided the following:

"SEC. 706. SENSE OF THE CONGRESS REGARDING EXCESS DEFENSE ARTICLES.

"It is the sense of the Congress that the President should make expanded use of the authority provided under section 21(a) of the Arms Export Control Act to sell excess defense articles by utilizing the flexibility afforded by section 47 of such Act to ascertain the 'market value' of excess defense articles.".

[56] Sec. 107(a)(1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 196) redesignated paras. (1), (2) and (3) as subparas. (A), (B) and (C) and inserted a "(1)" after subsec. (a).

[57] Sec. 1222 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "and the Coast Guard" after "Department of Defense".

[58] 10 U.S.C. 114(c)(2) provides:

"(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

"(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

"(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.".

[59] Sec. 108(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197) amended and restated subpara. (C). It previously read: "in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training, only those additional costs that are incurred by the United States Government in furnishing such training.".

foreign country (as described in that chapter),[60] only those additional costs that are incurred by the United States Government in furnishing such assistance.

(2)[61] For purposes of subparagraph (A) of paragraph (1), the actual value of a naval vessel of 3,000 tons or less and 20 years or more of age shall be considered to be not less than the greater of the scrap value or fair value (including conversion costs) of such vessel, as determined by the Secretary of Defense.

(b) Except as provided by subsection (d) of this section, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

(c)(1)[62] Personnel performing defense services sold under this Act may not perform any duties of a combatant nature, including any duties related to training and advising that may engage United States personnel in combat activities,[63] outside the United States in connection with the performance of those defense services.

(2)[62] Within forty-eight hours of the existence of, or a change in status of significant hostilities or terrorist acts or a series of such acts, which may endanger American lives or property, involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, classified if necessary, setting forth—

(A) the identity of such country;

(B) a description of such hostilities or terrorist acts; and

(C) the number of members of the United States Armed Forces and the number of United States civilian personnel that may be endangered by such hostilities or terrorist acts.

(d) If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made under letters of offer issued under this section after the enactment of this subsection may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net

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[60] Sec. 112(c)(2) of Public Law 104–164 (110 Stat. 1428) inserted "or to any high-income foreign country (as described in that chapter)" after "Foreign Assistance Act of 1961".

[61] Sec. 107(a)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 196) added para. (2).

[62] Sec. 102 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3132) added para. designation "(1)" and a new para. (2). Para. (2) was subsequently amended and restated by sec. 103 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1521). Para. (2) formerly read as follows:

"(2) Within 48 hours after the outbreak of significant hostilities involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

"(A) the identity of such country and a description of such hostilities; and

"(B) the number of members of the United States Armed Forces and the number of United States civilian personnel performing defense services related to such hostilities in such country, their location, the precise nature of their activities, and the likelihood of their becoming engaged in or endangered by hostilities.".

[63] Sec. 102(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3132) struck out "training, advising, or otherwise providing assistance regarding combat activities" and inserted in lieu thereof "training and advising that may engage United States personnel in combat activities".

amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President may extend such sixty-day period to one hundred and twenty days if he determines that emergency requirements of the purchaser for acquisition of such defense articles or defense services exceed the ready availability to the purchaser of funds sufficient to pay the United States in full for them within such sixty-day period and submits that determination to the Congress together with a special emergency request for the authorization and appropriation of additional funds to finance such purchases under this Act.

(e)(1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 22 of this Act shall include appropriate charges for—

(A)[64] administrative services, calculated on an average percentage basis to recover the full estimated costs (excluding a pro rata share of fixed base operations costs)[65] of administration of sales made under this Act to all purchasers of such articles and services as specified in section 43(b) and section 43(c) of this Act;[66]

(B)[67] a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment (except for equipment wholly paid for either from funds transferred under section 503(a)(3) of the Foreign Assistance Act of 1961 or from funds made available on a nonrepayable basis under section 23 of this Act);[68] and

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[64] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following under "Foreign Military Financing Program": "*Provided further,* That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations:".

[65] Sec. 109 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197) inserted parenthetical text.

[66] Sec. 9104(c)(1) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), inserted reference to secs. 43(b) and (c).

[67] Section 9104(c)(3) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), deleted para. (1)(B) which read "(B) any use of plant and production equipment in connection with such defense articles;" and redesignated subparas. (C) and (D) as subparas. (B) and (C), respectively.

Sec. 710 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 864) provided the following:

"SEC. 710. WAIVER OF CERTAIN COSTS.

"Notwithstanding any other provision of law, the President may waive the requirement to impose an appropriate charge for a proportionate amount of any nonrecurring costs of research, development, and production under section 21(e)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(B)) for the November 1999 sale of five UH–60L helicopters to the Republic of Colombia in support of counternarcotics activities.".

[68] Sec. 9104(c)(2) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), inserted parenthetical text.

(C)[69] the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.

(2)[70] (A) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B)[71] for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, standardization with the Armed Forces of Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries,[72] or foreign procurement in the United States under coproduction arrangements.

(B)[70] The President may waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for a particular sale if the President determines that—

(i) imposition of the charge or charges likely would result in the loss of the sale; or

(ii) in the case of a sale of major defense equipment that is also being procured for the use of the Armed Forces, the waiver of the charge or charges would (through a resulting increase in the total quantity of the equipment purchased from the source of the equipment that causes a reduction in the unit cost of the equipment) result in a savings to the United States on the cost of the equipment procured for the use of the Armed Forces that substantially offsets the revenue foregone by reason of the waiver of the charge or charges.

(C) The President may waive, for particular sales of major defense equipment, any increase in a charge or charges previously

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[69] Sec. 16 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 740) added subpara. (D), which was subsequently redesignated as subpara. (C) by the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152).

[70] Sec. 4303(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 658) conditionally amended para. (2) by inserting subpara. designation "(A)", and adding subparas. (B) and (C). Sec. 4303(b) of that Act stated the conditions for incorporating the amendment as follows:

"(b) CONDITIONS.—Subsection (a) shall be effective only if—

"(1) the President, in the budget of the President for fiscal year 1997, proposes legislation that if enacted would be qualifying offsetting legislation; and

"(2) there is enacted qualifying offsetting legislation.

"(c) EFFECTIVE DATE.—If the conditions in subsection (b) are met, then the amendments made by subsection (a) shall take effect on the date of the enactment of qualifying offsetting legislation.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'qualifying offsetting legislation' means legislation that includes provisions that—

"(A) offset fully the estimated revenues lost as a result of the amendments made by subsection (a) for each of the fiscal years 1997 through 2005;

"(B) expressly state that they are enacted for the purpose of the offset described in subparagraph (A); and

"(C) are included in full on the PayGo scorecard.

"(2) The term 'PayGo scorecard' means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

The required offsetting legislation was enacted as sec. 3303(e) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 98d note).

[71] Sec. 9104(c)(3) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) made a conforming amendment to show redesignation of para. (B) and (C), above.

[72] Sec. 104 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1521) inserted "standardization with the Armed Forces of Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries,".

considered appropriate under paragraph (1)(B) if the increase results from a correction of an estimate (reasonable when made) of the production quantity base that was used for calculating the charge or charges for purposes of such paragraph.

(3)[73] (A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

(i) a weapon system partnership agreement; or

(ii) a NATO/SHAPE project.

(B) The Secretary of Defense may reimburse the fund established to carry out section 43(b) of this Act in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

(C) As used in this paragraph—

(i) the term "weapon system partnership agreement" means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

(I) is entered into pursuant to the terms of the charter of that organization; and

(II) is for the common logistic support of a specific weapon system common to the participating countries; and

(ii) the term "NATO/SHAPE project" means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.

(f) Any contracts entered into between the United States and a foreign country under the authority of this section or section 22 of this Act shall be prepared in a manner which will permit them to be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

(g)[74] The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94–106), and may enter into

[73] Sec. 1002 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2037) added sec. 21(e)(3).

[74] Sec. 108(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197) added subsec. (g).

An earlier subsec. (g) was repealed by the Foreign Assistance Appropriations Act, 1985 (sec. 101 of the Continuing Appropriations Act, 1985; Public Law 98–473; 98 Stat. 1895). This amendment had been included as sec. 102(b) of S. 2346, as introduced on February 27, 1984. Public Law 98–473 enacted sec. 102 of S. 2346. Subsec. (g) previously read as follows:

"(g) The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94–106), and may enter into similar agreements with Japan, Australia, and New Zealand, for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.".

similar agreements with countries[75] which are major non-NATO allies, for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.[76]

(h)[77] (1) The President is authorized to provide (without charge) quality assurance, inspection, contract administration services,[78] and contract audit defense services under this section—

(A)[77] in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services[79] entered into after the date of enactment of this subsection by, or under this Act on behalf of, a foreign government which is a member of the

[75] Sec. 147(b) of Public Law 104–164 (110 Stat. 1435) struck out "similar agreements with Japan, Australia, and New Zealand, and with other countries" and inserted in lieu thereof "similar agreements with countries". Sec. 580 of Public Law 100–202 (101 Stat. 1329–181) had added "and with other countries which are major non-NATO allies".

On November 12, 1996, the President notified Congress that he designated the Hashemite Kingdom of Jordan as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 97–4; 61 F.R. 59809).

On January 6, 1998, the President notified Congress that he designated the Republic of Argentina as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 98–9; 63 F.R. 3635).

On March 14, 2002, the President notified Congress that he designated the Kingdom of Bahrain as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2002–10; 67 F.R. 13247).

On October 6, 2003, the President notified Congress that he designated the Republic of the Philippines as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–02; 68 F.R. 59855).

On December 30, 2003, the President notified Congress that he designated the Kingdom of Thailand as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–16; 69 F.R. 2053).

On January 15, 2004, the President notified Congress that he designated the State of Kuwait as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–21; 69 F.R. 4843).

On June 3, 2004, the President notified Congress that he designated the Kingdom of Morocco as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–35; 69 F.R. 34049).

On June 16, 2004, the President notified Congress that he designated the Islamic Republic of Pakistan as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 2004–37; 69 F.R. 38797).

[76] Sec. 147(a)(3)(A) of Public Law 104–164 (110 Stat. 1435) struck out the last sentence of subsec. (g). Originally added by sec. 580 of Public Law 100–202 (101 Stat. 1329–181), and amended by sec. 705(d)(1) of Public Law 102–25 (105 Stat. 120), the sentence read: " As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.".

[77] Sec. 12 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705) redesignated subsec. (h) as subsec. (i) and added a new subsec. (h).

Subsequently, sec. 111 (1), (2), and (3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197), inserted the para. designation "(1)" after subsec. (h), added para. (2), and redesignated what was previously paras. (1) and (2) as subparas. (A) and (B) of the newly designated (h)(1).

[78] Sec. 110 of Public Law 99–83 (99 Stat. 197) inserted "contract administration services".

[79] Sec. 115(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134) inserted ", or design and construction services".

North Atlantic Treaty Organization, if such government provides such services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government; or

(B)[77] in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services[79] pursuant to the North Atlantic Treaty Organization Security Investment program[80] in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.

(2)[77] In carrying out the objectives of this section, the President is authorized to provide cataloging data and cataloging services, without charge, to the North Atlantic Treaty Organization or to any member government of that Organization if that Organization or member government provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.

(i)[81] (1) Sales of defense articles and defense services which could have significant adverse effect on the combat readiness of the Armed Forces of the United States shall be kept to an absolute minimum. The President shall transmit to the Speaker of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate on the same day a written statement giving a complete explanation with respect to any proposal to sell, under this section or under authority of chapter 2B,[82] any defense articles or defense services if such sale could have a significant adverse effect on the combat readiness of the Armed Forces of the United States. Each such statement shall be unclassified except to the extent that public disclosure of any item of information contained therein would be clearly detrimental to the security of the United States. Any necessarily classified information shall be confined to a supplemental report. Each such statement shall include an explanation relating to only one such proposal to sell and shall set forth—

(A) the country or international organization to which the sale is proposed to be made;

(B) the amount of the proposed sale;

(C) a description of the defense article or service proposed to be sold;

(D) a full description of the impact which the proposed sale will have on the Armed Forces of the United States; and

(E) a justification for such proposed sale, including a certification that such sale is important to the security of the United States.

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[80] Sec. 2802(d)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2787) struck out "North Atlantic Treaty Organization Infrastructure Program" and inserted in lieu thereof "North Atlantic Treaty Organization Security Investment program".

[81] Subsec. (i), originally added as subsec. (h) by sec. 206 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 738), was redesignated as subsec. (i) by sec. 12 of Public Law 96–92.

[82] Sec. 3 of Public Law 97–392 (96 Stat. 1962) added the reference to the authority under chapter 2B.

A certification described in subparagraph (E) shall take effect on the date on which such certification is transmitted and shall remain in effect for not to exceed one year.

(2) No delivery may be made under any sale which is required to be reported under paragraph (1) of this subsection unless the certification required to be transmitted by paragraph (E) of paragraph (1) is in effect.

(j)[83] * * * [Repealed—1996]

(k)[84] Before entering into the sale under this Act of defense articles that are excess to the stocks of the Department of Defense, the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.

(l)[85] REPAIR OF DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may acquire a repairable defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this Act;

(B) is not an end item; and

(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

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[83] Sec. 112 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 206) repealed subsec. (j), originally added by sec. 114 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2333). The subsec. read as follows:

"(j) TANK AND INFANTRY VEHICLE UPGRADES.—(1) Funds received from the sale of tanks under this section shall be available for the upgrading of tanks for fielding to the Army.

"(2) Funds received from the sale of infantry fighting vehicles or armored personnel carriers under this section shall be available for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

"(3) Paragraphs (1) and (2) apply only to the extent provided in advance in appropriations Acts.

"(4) This subsection applies with respect to funds received from sales occurring after September 30, 1989.".

[84] Sec. 731(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) added subsec. (k). Sec. 104(b)(1) of Public Law 104–164 (110 Stat. 1426) struck out "the President shall first consider the effects of the sale of the articles on the national technology and industrial base, particularly the extent, if any, to which the sale reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are sold." and inserted the text beginning "the President shall * * *".

[85] Sec. 152(a) of Public Law 104–164 (110 Stat. 1438) added subsec. (l). Subsec. (c) (22 U.S.C. 2761 note) of that section provided: "Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act.".

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

(3) REQUIREMENT.—(A) The foreign government or international organization receiving a new or repaired defense article in exchange for a repairable defense article pursuant to paragraph (1) shall, upon the acceptance by the United States Government of the repairable defense article being returned, be charged the total cost associated with the repair and replacement transaction.

(B) The total cost charged pursuant to subparagraph (A) shall be the same as that charged the United States Armed Forces for a similar repair and replacement transaction, plus an administrative surcharge in accordance with subsection (e)(1)(A) of this section.

(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a repairable defense article as provided in subsection (a) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.

(m)[86] RETURN OF DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may accept the return of a defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this Act;

(B) is not significant military equipment (as defined in section 47(9) of this Act); and

(C) is in fully functioning condition without need of repair or rehabilitation.

(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

(3) CREDIT FOR TRANSACTION.—Upon acquisition and acceptance by the United States Government of a defense article under paragraph (1), the appropriate Foreign Military Sales

[86] Sec. 152(b) of Public Law 104–164 (110 Stat. 1439) added subsec. (m). Subsec. (c) (22 U.S.C. 2761 note) of that section provided: "Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act.".

account of the provider shall be credited to reflect the transaction.

(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a defense article as provided in paragraph (1) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.

Sec. 22.[87] **Procurement for Cash Sales.**—(a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due. Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding

[87] 22 U.S.C. 2762. Sec. 25(3) of the FA Act of 1973 (Public Law 93–189) amended and restated sec. 22, which formerly read as follows:

"Sec. 22. Procurement for Cash Sales.—The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any friendly country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due: *Provided*, That the President may, when he determines it to be in the national interest accept a dependable undertaking to make full payment within one hundred and twenty days after delivery of the defense articles, or the rendering of the defense services, and appropriations available to the Department of Defense may be used to meet the payments required by the contracts and shall be reimbursed by the amounts subsequently received from the country or international organization: *Provided further,* That the President may, when he determines it to be in the national interest, enter into sales agreements with purchasing countries or international organizations which fix prices to be paid by the purchasing countries or international organizations for the defense articles or defense services ordered. Funds made available under section 31 for financing sales shall be used to reimburse the applicable appropriations in the amounts required by the contracts which exceed the price so fixed, except that such reimbursement shall not be required upon determination by the President that the continued production of the defense article being sold is advantageous to the Armed Forces of the United States. Payments by purchasing countries or international organizations which exceed the amounts required by such contracts shall be transferred to the general fund of the Treasury. To the maximum extent possible, prices fixed under any such sales agreement shall be sufficient to reimburse the United States for the cost of defense articles or defense services ordered. The President shall submit to the Congress promptly a detailed report concerning any fixed- price sales agreement under which the aggregate cost to the United States exceeds the aggregate amount required to be paid by the purchasing country or international organization. No sales of unclassified defense articles shall be made to the government of any economically developed nation under the provisions of this section unless such articles are not generally available for purchase by such nations from commercial sources in the United States: *Provided, however*, That the President may waive the provisions of this sentence when he determines that the waiver of such provisions is in the national interest.".

the net arrearage and shall be computed from the date of net arrearage.[88]

(b) The President may, if he determines it to be in the national interest, issue letters of offer under this section which provide for billing upon delivery of the defense article or rendering of the defense service and for payment within one hundred and twenty days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this Act.[89] Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold.

(c)[90] The provisions of the Renegotiation Act of 1951 do not apply to procurement contracts, heretofore or hereafter entered into under this section, section 29, or predecessor provisions of law.

(d)[91] COMPETITIVE PRICING.—(1)[92] Procurement contracts made in implementation of sales under this section for defense articles and defense services wholly paid for from funds made available on a nonrepayable basis shall be priced on the same costing basis with regard to profit, overhead, independent research and development,

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[88] Sec. 207(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 738) added the last two sentences of this para.

[89] Sec. 207(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 738) amended subsec. (b) by striking out the first sentence and adding in lieu thereof the first two sentences. The first sentence of subsec. (b) formerly read as follows: "(b) The President may, when he determines it to be in the national interest, accept a dependable undertaking of a foreign country or international organization with respect to any such sale, to make full payment within 120 days after delivery of the defense articles or the rendering of the defense services.".

Sec. 1007(b)(5) of the DOD Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2579) waived the requirement under sec. 22 for payment in advance of delivery with respect to the purchase by the Federal Republic of Germany of one Patriot missile fire unit.

[90] Subsec. (c), as added by sec. 17 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 740), was amended and restated by sec. 105(b)(2) of the International Security and Development Cooperation Act of 1980 (Public Law 96–553; 94 Stat. 3134). It formerly read as follows:

"(c) The provisions of the Renegotiation Act of 1951 do not apply to contracts for the procurement of defense articles and defense services heretofore or hereafter entered into under this section or predecessor provisions of law.".

[91] Sec. 531A(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 731), added subsec. (d). Sec. 531A(b) and (c) of that Act provided the following:

"(b) EFFECTIVE DATE AND IMPLEMENTING REGULATIONS.—Section 22(d) of the Arms Export Control Act, as added by subsection (a)—

"(1) shall take effect on the 60th day following the date of the enactment of this Act;

"(2) shall be applicable only to contracts made in implementation of sales made after such effective date; and

"(3) shall be implemented by revised procurement regulations, which shall be issued prior to such effective date.

"(c) DIRECT COSTS ALLOWABLE.—Direct costs associated with meeting a foreign customer's additional or unique requirements will continue to be allowable under such contracts. Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.".

[92] Sec. 1223 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "Procurement contracts", inserted in lieu thereof "(1) Procurement contracts", and added para. (2).

bid and proposal, and other costing elements, as is applicable to procurements of like items purchased by the Department of Defense for its own use.

(2)[92] Direct costs associated with meeting additional or unique requirements of the purchaser shall be allowable under contracts described in paragraph (1). Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.

Sec. 23.[93, 94] **Credit Sales.**—(a) The President is authorized to finance the procurement of defense articles, defense services, and

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[93] 22 U.S.C. 2763. Sec. 102 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195) amended and restated sec. 23, which previously read as follows:

"The President is authorized to finance procurements of defense articles, defense services, and design and construction services by friendly foreign countries and international organizations on terms requiring the payment to the United States Government in United States dollars of—

"(1) the value of such articles or services within a period not to exceed twelve years after the delivery of such articles or the rendering of such services; and

"(2) interest on the unpaid balance of that obligation for payment of the value of such articles or services, at a rate equivalent to the current average interest rate, as of the last day of the month preceding the financing of such procurement that the United States Government pays on outstanding marketable obligations of comparable maturity, unless the President certifies to Congress that the national interest requires a lesser rate of interest and states in the certification the lesser rate so required and the justification therefor.".

Prior to that, sec. 45(a)(2) of the FA Act of 1974 (Public Law 93–559) amended sec. 23, which formerly read as follows:

"**Sec. 23. Credit Sales**.—The President is hereby authorized to finance procurements of defense articles and defense services by friendly countries and international organizations on terms of repayment to the United States Government of not less than the value thereof in the United States dollars within a period of not to exceed ten years after the delivery of the defense articles or the rendering of the defense services.".

[94] Sec. 101(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 193) provided an authorization for each of the fiscal years 1986 and 1987 of $5,371,000,000 to carry out sec. 23 and set a ceiling of $553,900,000 for each fiscal year of the amount that may be made available at concessional interest rates.

Sec. 1201 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1427) provided the following:

"TITLE XII—MILITARY AND RELATED ASSISTANCE

"SUBTITLE A—FOREIGN MILITARY SALES AND FINANCING AUTHORITIES

"SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $4,107,200,000 for fiscal year 2003.".

In that Act, see also: sec. 1206, relating to defense transfers to Taiwan; subtitle C—assistance for select countries, including sec. 1221, authorizing assistance to Israel and Egypt; sec. 1222, authorizing assistance to Greece and Turkey; sec. 511, authorizing security assistance and IMET to the Baltic states, Bulgaria, the Czech Republic, Hungary, Jordan, Malta, the Philippines, Poland, Romania, Slovakia, Slovenia, and Georgia (IMET funding only); and sec. 1224, condition ESF to Lebanon.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $402,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That of this amount not to exceed $32,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is

in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That funds available during fiscal year 2005 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2005 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2006: *Provided further,* That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That funds appropriated under this heading that are available for 'Anti-terrorism Assistance' and 'Export Control and Border Security' shall remain available until September 30, 2006.".

Title III of that Act (118 Stat. 2809) provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"(INCLUDING TRANSFER OF FUNDS)

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,783,500,000: *Provided,* That of the funds appropriated under this heading, not less than $2,220,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $580,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That of the funds appropriated by this paragraph, $206,000,000 should be made available for assistance for Jordan: *Provided further,* That in addition to the funds appropriated under this heading, up to $150,000,000 for assistance for Pakistan may be derived by transfer from unobligated balances of funds appropriated under the headings 'Economic Support Fund' and 'Foreign Military Financing Program' in prior appropriations Acts and not otherwise designated in those Acts for a specific country, use, or purpose: *Provided further,* That of the funds appropriated under this heading, not more than $2,000,000 may be made available for assistance for Uganda and only for non-lethal military equipment if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uganda has made significant progress in: (1) the protection of human rights, especially preventing acts of torture; (2) the protection of civilians in northern and eastern Uganda; and (3) the professionalization of the Ugandan armed forces: *Provided further,* That funds appropriated or otherwise made available by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

"None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan and Guatemala: *Provided further,* That none of the funds appropriated under this heading may be made available for assistance for Haiti except pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That only those countries for which assistance was justified for the 'Foreign Military Sales Financing Program' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $40,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for

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design and construction services by friendly foreign countries and international organizations, on such terms and conditions as he may determine consistent with the requirements of this section. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of this section may be used to provide financing to Israel and Egypt for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this Act.[95]

(b) The President shall require repayment in United States dollars within a period not to exceed twelve years[96] after the loan agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by statute for that country or international organization.

Egypt during fiscal year 2005 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.".

Title V of that Act (118 Stat. 2809) provided the following:

"COMMERCIAL LEASING OF DEFENSE ARTICLES

"SEC. 510. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

"AVAILABILITY OF FUNDS

"SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading 'Assistance for Eastern Europe and the Baltic States', shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

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"NOTIFICATION REQUIREMENTS

"SEC. 515. * * * *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: * * *".

[95] Sec. 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100–202) added this sentence.

[96] Sec. 208(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 739) struck out "ten years" and inserted in lieu thereof "twelve years". Sec. 208(b) of the same Act went on to say, "The amendment made by subsection (a) shall apply with respect to financing under agreements entered into on or after the date of enactment of this Act for the procurement of defense articles to be delivered, or defense services to be rendered, after such date".

(c)(1) The President shall charge interest under this section at such rate as he may determine, except that such rate may not be less than 5 percent per year.

(2) For purposes of financing provided under this section—

(A) the term "concessional rate of interest" means any rate of interest which is less than market rates of interest; and

(B) the term "market rate of interest" means any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing of the procurement under this section) that the United States Government pays on outstanding marketable obligations of comparable maturity.

(d) References in any law to credits extended under this section shall be deemed to include reference to participations in credits.

(e)[97] (1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).

(f)[98] For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section.

(g)[99] (1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act or the Foreign Assistance Act of 1961 shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

(2) For purposes of this subsection, the term "cash flow financing" has the meaning given such term in subsection (d) of section 25, as added by section 112(b) of Public Law 99–83.

(h)[100] Of the amounts made available for a fiscal year to carry out this section, not more than $100,000,000 for such fiscal year may be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act.

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[97] Sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2045) added subsec. (e).

[98] Sec. 102(a) of Public Law 104–164 (110 Stat. 1422) added subsec. (f).

[99] Sec. 102(b) of Public Law 104–164 (110 Stat. 1422) added subsec. (g).

[100] Sec. 102(c) of Public Law 104–164 (110 Stat. 1422) added subsec. (h).

Sec. 24.[101] **Guaranties.**—(a) The President may guarantee any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies other than the Federal Financing Bank)[102] against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles, defense services, and design and construction services[79] to friendly countries and international organizations. Fees shall be charged for such guaranties.

(b) The President may sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies other than the Federal Financing Bank)[102] promissory notes issued by friendly countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 23, and may guarantee payment thereof.

(c)[103] Funds obligated under this section before the date of enactment of the International Security and Development Cooperation Act of 1980 which constitute a single reserve for the payment of claims under guaranties issued under this section shall remain available for expenditure for the purposes of this section on and after that date. That single reserve may, on and after the date of enactment of the International Security and Development Cooperation Act of 1985, be referred to as the "Guaranty Reserve Fund." Funds provided for necessary expenses to carry out the provisions of section 23 of the Arms Export Control Act and of section 503 of the Foreign Assistance Act of 1961, as amended, may be used to pay claims on the Guaranty Reserve Fund to the extent that funds in the Guaranty Reserve Fund are inadequate for that purpose.

For purposes of any provision in this Act or any other Act relating to a prohibition or limitation on the availability of funds under this Act, whenever a guaranty is issued under this section, the principal amount of the loan so guaranteed shall be deemed to be funds made available for use under this Act. Any guaranties issued

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[101] 22 U.S.C. 2764.

[102] Sec. 45(a)(3) of the FA Act of 1974 (Public Law 93–559) struck out "(excluding United States Government agencies)" and inserted in lieu thereof "(excluding United States Government agencies other than the Federal Financing Bank)".

[103] Subsec. (c), as amended by the FA Act of 1973 (Public Law 93–189) and the FA Act of 1974 (Public Law 93–559), was further amended and restated by sec. 104(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3132). It formerly read as follows:

"(c) Funds made available to carry out this Act shall be obligated in an amount equal to 10 per centum of the principal amount of contractual liability related to any guaranty issued under this section, and all the funds so obligated shall constitute a single reserve for the payment of claims under such guaranties. Any funds so obligated which are deobligated from time to time during any current fiscal year as being in excess of the amount necessary to maintain a fractional reserve of 10 per centum in the principal amount of contractual liability under outstanding guaranties shall be transferred to the general fund of the Treasury. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.".

Sec. 106 (b) and (c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 196) amended subsec. (c) by deleting the following text:

"The President shall report promptly to the Congress whenever the payment of a claim under any such guaranty reduces the total amount of funds in the single reserve under this subsection to an amount less than $750,000,000, together with his recommendations for the authorization of appropriations of additional funds for such reserve.".

It also added the text beginning with "That single reserve" and continued with the following:

"Funds authorized to be appropriated by section 31(a) to carry out this Act which are allocated for credits at market rates of interest may be used to pay claims under such guarantees to the extent funds in the Guaranty Reserve Fund are inadequate for that purpose.".

The Supplemental Appropriations Act, 1987 (Public Law 100–71; 101 Stat. 409), deleted this text and replaced it with the present language.

hereunder shall be backed by the full faith and credit of the United States.

Sec. 25.[104] **Annual Estimate and Justification for Sales Program.**—(a) Except as provided in subsection (d) of this section,[105] no later than February 1 of each year, the President shall transmit to the appropriate congressional committees,[1066] as a part of the annual presentation materials for security assistance programs proposed for the next fiscal year, a report which sets forth—

(1)[107] an Arms Sales Proposal covering all sales and licensed commercial exports under this Act of major weapons or weapons-related defense equipment for $7,000,000 or more, or of any other weapons or weapons-related defense equipment for $25,000,000 or more, which are considered eligible for approval during the current calendar year, together with an indication of which sales and licensed commercial exports are deemed most likely actually to result in the issuance of a letter of offer or of an export license during such year;

(2) an estimate of the total amount of sales and licensed commercial exports expected to be made to each foreign nation from the United States;

(3) the United States national security considerations involved in expected sales or licensed commercial exports to each country, an analysis of the relationship between anticipated sales to each country and arms control efforts concerning such country and an analysis of the impact of such anticipated sales on the stability of the region that includes such country;

(4) an estimate with regard to the international volume of arms traffic to and from nations purchasing arms as set forth in paragraphs (1) and (2) of this subsection, together with best estimates of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries during the preceding fiscal year;

(5)(A)[108] an estimate of the aggregate dollar value and quantity of defense articles and defense services, military education

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[104] 22 U.S.C. 2765. Popularly referred to as the "Javits report". Sec. 25, as added by sec. 209(a) of Public Law 94–329 (90 Stat. 739), amended by sec. 18 of Public Law 95–384 (92 Stat. 740), secs. 13 and 14 of Public Law 96–92 (93 Stat. 706), by secs. 104 and 107 of Public Law 96–533 (94 Stat. 3183), was amended and restated by sec. 732 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1557). The previous text of sec. 25 required information similar to that specified in new paras. (1) through (4), (7), and (8). Much of the remaining information now required by sec. 25, was formerly required by other statutes as follows: para. (6)—sec. 43(c) of the Arms Export Control Act; para. (9)—sec. 668 of the Foreign Assistance Act of 1961; para. (10)—sec. 714 of the International Security and Development Cooperation Act of 1980; and para. (11)—sec. 634(a)(4) of the Foreign Assistance Act of 1961.

[105] Subsec. (d) and the reference to it at the beginning of subsec. (a) were added by sec. 113(1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198).

[106] Sec. 519(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2411), struck out "Congress" and inserted in lieu thereof "appropriate congressional committees".

[107] Sec. 519 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1631), provided the following:

"REPORTING REQUIREMENT

"SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.".

[108] Sec. 112(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198) added subpara. (B) and subpara. designation "(A)".

and training, grant military assistance, and credits and guarantees, to be furnished by the United States to each foreign country and international organization in the next fiscal year; and

(B)[108] for each country that is proposed to be furnished credits or guaranties under this Act in the next fiscal year and that has been approved for cash flow financing (as defined in subsection (d) of this section) in excess of $100,000,000 as of October 1 of the current fiscal year—

(i) the amount of such approved cash flow financing,

(ii) a description of administrative ceilings and controls applied, and

(iii) a description of the financial resources otherwise available to such country to pay such approved cash flow financing;

(6) an analysis and description of the services performed during the preceding fiscal year by officers and employees of the United States Government carrying out functions on a full-time basis under this Act for which reimbursement is provided under section 43(b) or section 21(a) of this Act, including the number of personnel involved in performing such services;

(7) the total amount of funds in the reserve under section 24(c) at the end of the fiscal year immediately preceding the fiscal year in which a report under this section is made, together with an assessment of the adequacy of such total amount of funds as a reserve for the payment of claims under guaranties issued pursuant to section 24 in view of the current debt servicing capacity of borrowing countries, as reported to the Congress pursuant to section 634(a)(5) of the Foreign Assistance Act of 1961;

(8) a list of all countries with respect to which findings made by the President pursuant to section 3(a)(1) of this Act are in effect on the date of such transmission;

(9) the progress made under the program of the Republic of Korea to modernize its armed forces, the role of the United States in mutual security efforts in the Republic of Korea and the military balance between the People's Republic of Korea and the Republic of Korea;

(10) the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding fiscal year and the military capabilities of those armed forces;

(11) the status of each loan and each contract of guaranty or insurance theretofore made under the Foreign Assistance Act of 1961, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guaranty in connection with any such procurement, theretofore made under

the Arms Export Control Act with respect to which there remains outstanding any unpaid obligation or potential liability;[109]

(12)[109] (A) a detailed accounting of all articles, services, credits, guarantees, or any other form of assistance furnished by the United States to each country and international organization, including payments to the United Nations, during the preceding fiscal year for the detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance for the detection and clearance of landmines; and

(B) for each provision of law making funds available or authorizing appropriations for demining activities described in subparagraph (A), an analysis and description of the objectives and activities undertaken during the preceding fiscal year, including the number of personnel involved in performing such activities;[110]

(13)[110] a list of weapons systems that are significant military equipment (as defined in section 47(9) of this Act), and numbers thereof, that are believed likely to become available for transfer as excess defense articles during the next 12 months; and

(14)[109, 110] such other information as the President may deem necessary.

(b) Not later than thirty days following the receipt of a request made by any of the congressional committees described in subsection (e)[111] of the House of Representatives for additional information with respect to any information submitted pursuant to subsection (a), the President shall submit such information to such committee.

(c) The President shall make every effort to submit all of the information required by subsection (a) or (b) wholly in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d)[105] The information required by subsection (a)(4) of this section shall be transmitted to the Congress no later than April 1 of each year.

(d)[112] For the purposes of subsection (a)(5)(B) of this section, the term "cash flow financing" means the dollar amount of the difference between the total estimated price of a Letter of Offer and Acceptance or other purchase agreement that has been approved

[109] Sec. 102(d) of Public Law 104–164 (110 Stat. 1423) struck out "and" at the end of para. (11); redesignated para. (12) as para. (13); and added a new para. (12).

[110] Sec. 1232 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433), struck out "and" at the end of subpara. (B); redesignated para. (13) as para. (14); and added a new para. (13).

[111] Sec. 519(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2411), struck out "the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs" and inserted in lieu thereof "any of the congressional committees described in subsection (e)".

[112] Subsec. (d), which probably should read subsec. (e), was added to the end of sec. 25 by sec. 112(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198). It should probably end with a period instead of a semicolon.

for financing under this Act or under section 503(a)(3) of the Foreign Assistance Act of 1961 and the amount of the financing that has been approved therefor;[112]

(e)[113] As used in this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

Sec. 26.[114] **Security Assistance**[115] **Surveys.**—(a) The Congress finds that surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of security assistance[115] surveys conducted by the United States clearly do not represent a commitment by the United States to provide any military equipment to any foreign country. Further, recommendations in such surveys should be consistent with the arms export control policy provided for in this Act.

(b) As part of the quarterly report required by section 36(a) of this Act, the President shall include a list of all security assistance surveys authorized during the preceding calendar quarter, specifying the country with respect to which the survey was or will be conducted, the purpose of the survey, and the number of United States Government personnel who participated or will participate in the survey.

(c) Upon a request of the chairman of the Committee on Foreign Affairs[116] of the House of Representatives or the chairman of the Committee on Foreign Relations of the Senate, the President shall submit to that committee copies of[117] security assistance[115] surveys conducted by United States Government personnel.

(d)[118] As used in this section, the term "security assistance surveys" means any survey or study conducted in a foreign country by United States Government personnel for the purpose of assessing the needs of that country for security assistance, and includes defense requirement surveys, site surveys, general surveys or studies, and engineering assessment surveys.

Sec. 27.[119] **Authority of President to Enter into Cooperative Projects with Friendly Foreign Countries.**—(a) The President may enter into a cooperative project agreement with the

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[113] Sec. 519(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2411), added subsec. (e).

[114] 22 U.S.C. 2766. Added by sec. 19 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 740).

[115] Sec. 114(a)(1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198) struck out "defense requirement" and inserted in lieu thereof "security assistance".

[116] Sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Subsequently, sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[117] Sec. 114(b) of Public Law 99–83 (99 Stat. 199) struck out "grant that committee access to" and inserted in lieu thereof "submit to that committee copies of".

[118] Sec. 114(a)(3) of Public Law 99–83 (99 Stat. 198) added subsec. (d).

[119] 22 U.S.C. 2767. Sec. 27 was added by sec. 15 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 706). It was amended and restated by sec. 115 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 199), at which time it was titled "North Atlantic Treaty Organization Cooperative Projects." Its current heading was added by sec. 1103(a)(2) of Public Law 99–661 (100 Stat. 3816).

North Atlantic Treaty Organization or with one or more member countries of that Organization.

(b) As used in this section—

(1) the term "cooperative project" in the case of an agreement with the North Atlantic Treaty Organization[120] or with one or more member countries of that Organization, means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to further the objectives of standardization, rationalization, and interoperability of the armed forces of North Atlantic Treaty Organization member countries forces and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in another member country of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another member country or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization;[121]

(2)[122] the term "cooperative project", in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve the conventional defense capabilities of the participants and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and

(3)[122] the term "other participant" means a participant in a cooperative project other than the United States.

(c) Each agreement for a cooperative project shall provide that the United States and each of the other participants will contribute to the cooperative project its equitable share of the full cost of such cooperative project and will receive an equitable share of the results of such cooperative project. The full costs of such cooperative project shall include overhead costs, administrative costs, and costs

[120] Sec. 1103(a)(1)(A)(i) of Public Law 99–661 (100 Stat. 3816) inserted "in the case of an agreement with the North Atlantic Treaty Organization".

[121] Sec. 1022 of Public Law 100–180 (101 Stat. 1144) inserted "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization".

[122] Sec. 1103(a)(1)(A)(iv) of Public Law 99–661 (100 Stat. 3816) added para. (2) and redesignated former para. (2) as para. (3).

of claims.[123] The United States and the other participants may contribute their equitable shares of the full cost of such cooperative project in funds or in defense articles or defense services needed for such cooperative project. Military assistance and financing received from the United States Government may not be used by any other participant to provide its share of the cost of such cooperative project. Such agreements shall provide that no requirement shall be imposed by a participant for worksharing or other industrial or commercial compensation in connection with such agreement that is not in accordance with such agreement.

(d) The President may enter into contracts or incur other obligations for a cooperative project on behalf of the other participants, without charge to any appropriation or contract authorization, if each of the other participants in the cooperative project agrees (1) to pay its equitable share of the contract or other obligation, and (2) to make such funds available in such amounts and at such times as may be required by the contract or other obligation and to pay any damages and costs that may accrue from the performance of or cancellation of the contract or other obligation in advance of the time such payments, damages, or costs are due.

(e)(1) For those cooperative projects entered into on or after the effective date of the International Security and Development Cooperation Act of 1985, the President may reduce or waive the charge or charges which would otherwise be considered appropriate under section 21(e) of this Act in connection with sales under sections 21 and 22 of this Act when such sales are made as part of such cooperative project, if the other participants agree to reduce or waive corresponding charges.

(2) Notwithstanding provisions of section 21(e)(1)(A) and section 43(b) of this Act, administrative surcharges shall not be increased on other sales made under this Act in order to compensate for reductions or waivers of such surcharges under this section. Funds received pursuant to such other sales shall not be available to reimburse the costs incurred by the United States Government for which reduction or waiver is approved by the President under this section.

(f) Not less than 30 days before a cooperative project agreement is signed on behalf of the United States, the President shall transmit to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, and the chairman of the Committee on Armed Services of the Senate, a numbered certification with respect to such proposed agreement, setting forth—

(1) a detailed description of the cooperative project with respect to which the certification is made;

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[123] Sec. 843(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2468) struck out "and administrative costs" and inserted in lieu thereof "costs, administrative costs, and costs of claims". Sec. 843(c) of that Act further provided:

"(c) TERMINATION.—On the date which is two years after the date of the enactment of this Act [October 23, 1992], subsections (a) and (b) shall cease to be in effect, and section 27(c) of the Arms Export Control Act and section 2350a of title 10, United States Code, shall read as if such subsections had not been enacted.".

Sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902), however, repealed sec. 843(c), making permanent the authority for the Department of Defense to share the cost of claims under international armaments cooperative programs.

(2) an estimate of the quantity of the defense articles expected to be produced in furtherance of such cooperative project;

(3) an estimate of the full cost of the cooperative project, with an estimate of the part of the full cost to be incurred by the United States Government, including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act,[124] for its participation in such cooperative project and an estimate of that part of the full costs to be incurred by the other participants;

(4) an estimate of the dollar value of the funds to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(5) a description of the defense articles and defense services expected to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(6) a statement of the foreign policy and national security benefits anticipated to be derived from such cooperative project; and

(7) to the extent known, whether it is likely that prime contracts will be awarded to particular prime contractors or that subcontracts will be awarded to particular subcontractors to comply with the proposed agreement.

(g) In the case of a cooperative project with a North Atlantic Treaty Organization country,[125] section 36(b) of this Act shall not apply to sales made under section 21 or 22 of this Act and to production and exports made pursuant to cooperative projects under this section, and section 36(c) of this Act shall not apply to the issuance of licenses or other approvals under section 38 of this Act, if such sales are made, such production and exports ensue, or such licenses or approvals are issued, as part of a cooperative project.

(h) The authority under this section is in addition to the authority under sections 21 and 22 of this Act and under any other provision of law.

(i)(1) With the approval of the Secretary of State and the Secretary of Defense, a cooperative agreement which was entered into by the United States before the effective date of the amendment to this section made by the International Security and Development Cooperation Act of 1985 and which meets the requirements of this section as so amended may be treated on and after such date as having been made under this section as so amended.

(2) Notwithstanding the amendment made to this section made by the International Security and Development Cooperation Act of 1985, projects entered into under the authority of this section before the effective date of that amendment may be carried through to conclusion in accordance with the terms of this section as in effect immediately before the effective date of that amendment.

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[124] Sec. 1103(a)(1)(B) of Public Law 99–661 (100 Stat. 3816) inserted "including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act,".

[125] Sec. 1103(a)(1)(c) of Public Law 99–661 (100 Stat. 3816) inserted "In the case of a cooperative project with a North Atlantic Treaty Organization country,".

(j)[126] (1) The President may enter into a cooperative project agreement with any friendly foreign country not a member of the North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

(2) Not later than January 1 of each year, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs[127] of the House of Representatives a report specifying (A) the countries eligible for participation in such a cooperative project agreement under this subsection, and (B) the criteria used to determine the eligibility of such countries.

Sec. 28.[128] * * * [Repealed—1996]

Chapter 2A—FOREIGN MILITARY CONSTRUCTION SALES[129]

Sec. 29.[130] **Foreign Military Construction Sales.**—The President may sell design and construction services to any eligible foreign country or international organization if such country or international organization agrees to pay in United States dollars not less than the full cost to the United States Government of furnishing such services. Payment shall be made to the United States Government in advance of the performance of such services by officers or employees of the United States Government. The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of design and construction services for sale under this section if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such time as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.

Chapter 2B—SALES TO UNITED STATES COMPANIES FOR INCORPORATION INTO END ITEMS

Sec. 30.[131] **General Authority.**—(a) Subject to the conditions specified in subsection (b) of this section, the President may, on a

[126] Sec. 1103(a)(1)(D) of Public Law 99–661 (100 Stat. 3816) added subsec. (j).

[127] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[128] Formerly at 22 U.S.C. 2768. Sec. 1064(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 445) repealed sec. 28, relating to reports on price and availability estimates.

[129] Sec. 105 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3133) added chapter 2A.

[130] 22 U.S.C. 2769.

[131] 22 U.S.C. 2770. Added by sec. 1 of Public Law 97–392 (96 Stat. 1962).

negotiated contract basis, under cash terms (1) sell defense articles at not less than their estimated replacement cost (or actual cost in the case of services), or (2) procure or manufacture and sell defense articles at not less than their contract or manufacturing cost to the United States Government, to any United States company for incorporation into end items (and for concurrent or follow-on support) to be sold by such a company either (i)[132] on a direct commercial basis to a friendly foreign country or international organization pursuant to an export license or approval under section 38 of this Act or (ii)[132] in the case of ammunition parts subject to subsection (b) of this section, using commercial practices which restrict actual delivery directly to a friendly foreign country or international organization pursuant to approval under section 38 of this Act. The President may also sell defense services in support of such sales of defense articles, subject to the requirements of this chapter: *Provided, however,* That such services may be performed only in the United States. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

(b) Defense articles and defense services may be sold, procured and sold, or manufactured and sold, pursuant to subsection (a) of this section only if (1) the end item to which the articles apply is to be procured for the armed forces of a friendly country or international organization, (2) the articles would be supplied to the prime contractor as government-furnished equipment or materials if the end item were being procured for the use of the United States Armed Forces, and (3) the articles and services are available only from United States Government sources or are not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor's delivery schedule.

(c) For the purpose of this section, the terms "defense articles" and "defense services" mean defense articles and defense services as defined in sections 47(3) and 47(4) of this Act.

Chapter 2C[133]—EXCHANGE OF TRAINING AND RELATED SUPPORT

Sec. 30A.[133] Exchange of Training and Related Support.—(a) Subject to subsection (b), the President may provide training and related support to military and civilian defense personnel of a friendly foreign country or an international organization. Such training and related support shall be provided by a Secretary of a military department and may include the provision of transportation, food services, health services, and logistics and the use of facilities and equipment.

[132] Section 9097 of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1150), added clause designation "(i)" and added clause (ii) through the first sentence.

[133] 22 U.S.C. 2770a. Sec. 116 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 202) added chapter 2C (sec. 30A).

(b) Training and related support may be provided under this section only pursuant to an agreement or other arrangements providing for the provision by the recipient foreign country or international organization, on a reciprocal basis, of comparable training and related support to military and civilian personnel under the jurisdiction of the Secretary of the military department providing the training and related support under this section. Such reciprocal training and related support must be provided within a reasonable period of time (which may not be more than one year) of the provision of training and related support by the United States. To the extent that a foreign country or international organization to which training and related support is provided under this section does not provide such comparable training and related support to the United States within a reasonable period of time, that country or international organization shall be required to reimburse the United States for the full costs of the training and related support provided by the United States.

(c) Training and related support under this section shall be provided under regulations prescribed by the President.

(d) Not later than February 1 of each year, the President shall submit to the Congress a report on the activities conducted pursuant to this section during the preceding fiscal year, including the estimated full costs of the training and related support provided by the United States to each country and international organization and the estimated value of the training and related support provided to the United States by that country or international organization.

Chapter 3—MILITARY EXPORT CONTROLS

Sec. 31.[134, 135] **Authorization and Aggregate Ceiling on Foreign Military Sales Credits.**—(a) There are authorized to be appropriated to the President to carry out this Act $5,371,000,000 for

[134] 22 U.S.C. 2771.

[135] The authorization figures for years 1986 and 1987 were added by sec. 101(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 193). Past figures authorized under sec. 31(a) are as follows: fiscal year 1969—$269,000,000; fiscal year 1970—$250,000,000; fiscal year 1971—$250,000,000; fiscal year 1972—$400,000,000; fiscal year 1974—$325,000,000; fiscal year 1975—$1,039,000,000; fiscal year 1977—$740,000,000; fiscal year 1978—$682,000,000; fiscal year 1979—$674,300,000; fiscal year 1980—$673,500,000; fiscal year 1981—$500,000,000; fiscal year 1982—$800,000,000; fiscal year 1983—$800,000,000; fiscal year 1984—$1,315,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2000—no authorization; fiscal years 2004 and 2005—no authorization.

For fiscal years 2001 and 2002, sec. 101 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 846) authorized $3,550,000,000 for fiscal year 2001 and $3,627,000,000 for fiscal year 2002 under sec. 23 of the AECA.

For fiscal year 2003, sec. 1201 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) provided the following:

"TITLE XII—MILITARY AND RELATED ASSISTANCE

"SUBTITLE A—FOREIGN MILITARY SALES AND FINANCING AUTHORITIES

"SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $4,107,200,000 for fiscal year 2003.".

In that Act, see also: sec. 1206, relating to defense transfers to Taiwan; subtitle C—assistance for select countries, including sec. 1221, authorizing assistance to Israel and Egypt; sec. 1222, authorizing assistance to Greece and Turkey; sec. 511, authorizing security assistance and

IMET to the Baltic states, Bulgaria, the Czech Republic, Hungary, Jordan, Malta, the Philippines, Poland, Romania, Slovakia, Slovenia, and Georgia (IMET funding only); and sec. 1224, condition ESF to Lebanon.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $402,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That of this amount not to exceed $32,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That funds available during fiscal year 2005 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2005 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2006: *Provided further,* That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That funds appropriated under this heading that are available for 'Anti-terrorism Assistance' and 'Export Control and Border Security' shall remain available until September 30, 2006.".

Title III of that Act (118 Stat. 2809) provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"(INCLUDING TRANSFER OF FUNDS)

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,783,500,000: *Provided*, That of the funds appropriated under this heading, not less than $2,220,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $580,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That of the funds appropriated by this paragraph, $206,000,000 should be made available for assistance for Jordan: *Provided further,* That in addition to the funds appropriated under this heading, up to $150,000,000 for assistance for Pakistan may be derived by transfer from unobligated balances of funds appropriated under the headings 'Economic Support Fund' and 'Foreign Military Financing Program' in prior appropriations Acts and not otherwise designated in those Acts for a specific country, use, or purpose: *Provided further,* That of the funds appropriated under this heading, not more than $2,000,000 may be made available for assistance for Uganda and only for non-lethal military equipment if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uganda has made significant progress in: (1) the protection of human rights, especially preventing acts of torture; (2) the protection of civilians in northern and eastern Uganda; and (3) the professionalization of the Ugandan armed forces: *Provided further,* That funds appropriated or otherwise made available by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

"None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance

Continued

fiscal year 1986 and $5,371,000,000 for fiscal year 1987. Credits may not be extended under section 23 of this Act in an amount, and loans may not be guaranteed under section 24(a) of this Act in a principal amount, which exceeds any maximum amount which may be established with respect to such credits or such loan guarantees in legislation appropriating funds to carry out this Act.[136] Unobligated balances of funds made available pursuant to this section are hereby authorized to be continued available by appropriations legislation to carry out this Act.

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for Sudan and Guatemala: *Provided further,* That none of the funds appropriated under this heading may be made available for assistance for Haiti except pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That only those countries for which assistance was justified for the 'Foreign Military Sales Financing Program' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $40,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2005 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.".

Title V of that Act (118 Stat. 2809) provided the following:

"COMMERCIAL LEASING OF DEFENSE ARTICLES

"SEC. 510. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

"AVAILABILITY OF FUNDS

"SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading 'Assistance for Eastern Europe and the Baltic States', shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

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"NOTIFICATION REQUIREMENTS

"*Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: * * *".

[136] Sec. 104(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3133) added this sentence.

(b)[137] (1) The total amount of credits extended under section 23 of this Act shall not exceed $5,371,000,000 for fiscal year 1986 and $5,371,000,000 for fiscal year 1987.

(2) Of the aggregate amount of financing provided under this section, not more than $553,900,000 for fiscal year 1986 and not more than $553,900,000 for fiscal year 1987 may be made available at concessional rates of interest. If a country is released from its contractual liability to repay the United States Government with respect to financing provided under this section, such financing shall not be considered to be financing provided at concessional rates of interest for purposes of the limitation established by this paragraph.

(c)[138] Loans available under section 23 shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(d)[139] * * * [Repealed—1996]

Sec. 32.[140] **Prohibition Against Certain Military Export Financing by Export-Import Bank.** * * * [Repealed—1992]

Sec. 33.[141] **Restraint in Arms Sales to Sub-Saharan Africa.**—It is the sense of the Congress that the problems of Sub-Saharan Africa are primarily those of economic development and that

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[137] Sec. 101(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 193), amended and restated sec. 31(b) and (c) and added authorizations for fiscal year 1986 and fiscal year 1987.

Sec. 101(c), (d), (e) and (f) of Public Law 99–83 also included specific earmarks and conditions on the use of credits authorized under sec. 23 for Israel, Egypt, Greece and Turkey.

[138] Sec. 101 of Public Law 104–164 (110 Stat. 1422) amended and restated subsec. (c). Amended and restated earlier by sec. 101(b) of Public Law 99–83 (99 Stat. 193), it formerly read as follows:

"For fiscal year 1986 and fiscal year 1987, the principal amount of credits provided under section 23 at market rates of interest with respect to Greece, the Republic of Korea, the Philippines, Portugal, Spain, Thailand, and Turkey shall (if and to the extent each country so desires) be repaid in not more than twenty years, following a grace period of ten years on repayment of principal.".

[139] Sec. 104(b)(2)(C) of Public Law 104–164 (110 Stat. 1427) repealed subsec. (d). The subsection, originally added by sec. 210(c)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 740), and amended by sec. 17(a)(4) of Public Law 96–92 (93 Stat. 709), and by sec. 596(c) of Public Law 101–513 (104 Stat. 2062), formerly read as follows:

"The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to foreign countries or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this Act may not exceed $250,000,000 (exclusive of ships and their onboard stores and supplies transferred in accordance with law, and of any defense articles with respect to which the President submits a certification under section 36(b) of this Act).".

[140] Formerly at 22 U.S.C. 2772; repealed by sec. 112(e)(2) of the Export Enhancement Act of 1992 (Public Law 102–429; 106 Stat. 2195). Sec. 12(c)(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4935) made an identical amendment; however, sec. 12(e) of that Act also provided that if an Act to reauthorize the Export-Import Bank of the United States with identical amendments is enacted, the amendments contained in the reauthorization shall be effective. Sec. 32 formerly read as follows:

"Notwithstanding any other provision of law, no funds or borrowing authority available to the Export-Import Bank of the United States shall be used by such Bank to participate in any extension of credit in connection with any agreement to sell defense articles and defense services entered into with any economically less developed country after June 30, 1968.".

[141] 22 U.S.C. 2773. Sec. 18 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709) amended and restated sec. 33, which formerly read as follows:

"Sec. 33. Regional Ceiling on Foreign Military Sales.—(a) The aggregate of the total amount of military assistance pursuant to the Foreign Assistance Act of 1961, as amended, of credits, or participations in credits, financed pursuant to section 23, of the principal amount of loans guaranteed pursuant to section 24(a), shall, excluding training, not exceed $40,000,000 in each fiscal year for African countries.

Continued

United States policy should assist in limiting the development of costly military conflict in that region. Therefore, the President shall exercise restraint in selling defense articles and defense services, and in providing financing for sales of defense articles and defense services, to countries in Sub-Saharan Africa.

Sec. 34.[142] **Foreign Military Sales Credit Standards.**—The President shall establish standards and criteria for credit and guaranty transactions under sections 23 and 24 in accordance with the foreign, national security, and financial policies of the United States.

Sec. 35.[143] **Foreign Military Sales to Less Developed Countries.**—(a) When the President finds that any economically less developed country is diverting development assistance furnished pursuant to the Foreign Assistance Act of 1961, as amended, or sales under the Agricultural Trade Development and Assistance Act of 1954, as amended, to military expenditures, or is diverting its own resources to unnecessary military expenditures, to a degree which materially interferes with its development, such country shall be immediately ineligible for further sales and guarantees under sections 21, 22, 23, and 24, until the President is assured that such diversion will no longer take place.

(b)[144] * * * [Repealed—1974]

Sec. 36.[145] **Reports on Commercial and Governmental Military Exports; Congressional Action.**—(a) The President shall

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"(b) The President may waive the limitations of this section when he determines it to be important to the security of the United States and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.".

[142] 22 U.S.C. 2774.

[143] 22 U.S.C. 2775.

[144] Sec. 45(a)(5) of the FA Act of 1974 (Public Law 93–559) repealed subsec. (b).

[145] 22 U.S.C. 2776. Sec. 211(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 740) amended sec. 36, which formerly read as follows:

"**Sec. 36. Reports on Commercial and Governmental Military Exports.—**

"(a) The President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate quarterly reports containing—

"(1) a listing of all letters of offer to sell any defense articles or services under this Act, if such offer has not been accepted or canceled;

"(2) a cumulative listing of all such letters of offer to sell that have been accepted during the fiscal year in which such report is submitted;

"(3) the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 made before the submission of such quarterly report and during the fiscal year in which such report is submitted; and

"(4) projections of the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 to be made in the quarter of the fiscal year immediately following the quarter for which such report is submitted.

"For each letter of offer to sell under paras. (1) and (2), the report shall specify (A) the foreign country or international organization to which the defense article or service is offered, (B) the dollar amount of the offer to sell under para. (1) or of the completed sale under para. (2), (C) a brief description of the defense article or service offered, (D) the United States armed force which is making the offer to sell, (E) the date of such offer, and (F) the date of any acceptance under paragraph (2).

"(b) In the case of any letter of offer to sell any defense articles or services under this Act for $25,000,000 or more, before issuing such letter of offer the President shall submit to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate a statement with respect to such offer to sell containing the information specified in subparagraphs (A) through (E) in subsection (a). The letter of offer shall not be issued if the Congress, within twenty calendar days after receiving any such statement, adopts a concurrent resolution stating in effect that it objects to such proposed sale, unless the President in his statement certifies that an emergency exists which requires such sale in the national security interests of the United States.

"(c) Nothing in this section shall be construed as modifying in any way the provisions of section 414 of the Mutual Security Act of 1954, as amended, relating to munitions control.".

transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than sixty days[146] after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) or (c)(1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be listed in such addendum unless such letter of offer has been the subject of an unclassified certification pursuant to subsection (b)(1) of this section, and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum)[147] containing—

(1) a listing of all letters of offer to sell any major defense equipment for $1,000,000 or more under this Act to each foreign country and international organization, by category, if such letters of offer have not been accepted or canceled;

(2) a listing of all such letters of offer that have been accepted during the fiscal year in which such report is submitted, together with the total value of all defense articles and defense services sold to each foreign country and international organization during such fiscal year;

(3) the cumulative dollar amounts, by foreign country and international organization, of sales credit agreements under section 23 and guaranty agreements under section 24 made during the fiscal year in which such report is submitted;

(4) a numbered listing of all licenses and approvals for the export to each foreign country and international organization during such fiscal year of commercially sold major defense equipment, by category, sold for $1,000,000 or more, together with the total value of all defense articles and defense services so licensed for each foreign country and international organization, setting forth, with respect to the listed major defense equipment—

(A) the items to be exported under the license,

(B) the quantity and contract price of each such item to be furnished, and

(C) the name and address of the ultimate user of each such item;

(5)[148] projections of the dollar amounts, by foreign country and international organization, of sales expected to be made under sections 21 and 22, in the quarter of the fiscal year immediately following the quarter for which such report is submitted;

Sec. 211(b) of the same Act further stated: "The amendment made by subsection (a) of this section shall apply with respect to letters of offer for which a certification is transmitted pursuant to section 36(b) of the Arms Export Control Act on or after the date of enactment of this Act and to export licenses for which an application is filed under section 38 of such Act on or after such date.".

[146] Sec. 19(a)(1) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709) struck out "thirty" and inserted in lieu thereof "sixty".

[147] Sec. 7(b) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899) added ", and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum".

[148] Sec. 1209(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279), deleted references in paras. (5) and (6) to "cash sales, and credits, and guaranty agreements".

(6)[148] a projection with respect to all sales expected to be made to each country and organization for the remainder of the fiscal year in which such report is transmitted;

(7)[149] a description of each payment, contribution, gift, commission, or fee reported to the Secretary of State under section 39, including (A) the name of the person who made such payment, contribution, gift, commission, or fee; (B) the name of any sales agent or other person to whom such payment, contribution, gift, commission, or fee was paid; (C) the date and amount of such payment, contribution, gift, commission, or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report;

(8)[150] a listing of each sale under section 29 during the quarter for which such report is made, specifying (A) the purchaser, (B) the United States Government department or agency responsible for implementing the sale, (C) an estimate of the dollar amount of the sale, and (D) a general description of the real property facilities to be constructed pursuant to such sale;

(9)[151] a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of the Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost)

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[149] Sec. 604(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 766) redesignated para. (8) as para. (9) and inserted a new para. (8). Sec. 604(c) of the same Act stated that para. (8) would "take effect sixty days after the date of enactment of this Act" (August 29, 1976). Para. (8) was redesignated as para. (7) by sec. 1262(c) of Public Law 107–228 (see following).

Para. (9), as redesignated by this amendment, was struck out by sec. 19(a)(4) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709). It formerly read as follows:

"(9) an analysis and description of the services being performed by officers and employees of the United States Government under section 21(a) of this Act, including the number of personnel so employed.".

Sec. 1262(c) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) struck out para. (7) and redesignated the remaining paras. Para. (7), which was previously amended and restated by sec. 1209(c) of Public Law 99–83 (99 Stat. 279), provided as follows:

"(7) an estimate of—

"(A) the number of United States military personnel, the number of United States Government civilian personnel, and the United States civilian contract personnel, who were in each foreign country at the end of that quarter, and

"(B) the number of members of each such category of personnel who were in each foreign country at any time during that quarter,

"in implementation of sales and commercial exports under this Act or of assistance under chapter 2, 5, 6, or 8 of part II of the Foreign Assistance Act of 1961, including both personnel assigned to the country and personnel temporarily in the country by detail or otherwise;".

[150] Para. (9) was added by sec. 105(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134). Redesignated as para. (8) by sec. 1262(c) of Public Law 107–228 (117 Stat. 1434).

[151] Paras. (10) and (11) were added by sec. 7 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899). Redesignated as paras. (9) and (10) by sec. 1262(c) of Public Law 107–228 (117 Stat. 1434).

The original para. (10), as added by sec. 109(f) of Public Law 96–533, was repealed by sec. 109(d)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526). Para. (10) had required information concerning leases of property valued at over $1,000,000 to a foreign government. Leases of defense articles are now covered under chapter 6 of this Act.

of the defense articles or defense services to be transferred is $1,000,000 or more;[152]

(10)[151] a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

(A) the value of the munitions items was $250,000 of more; and

(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities);[152, 153]

(11)[152] a report on all concluded government-to-government agreements regarding foreign coproduction of defense articles of United States origin and all other concluded agreements involving coproduction or licensed production outside of the United States of defense articles of United States origin (including coproduction memoranda of understanding or agreement) that have not been previously reported under this subsection, which shall include—

(A) the identity of the foreign countries, international organizations, or foreign firms involved;

(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

(C) a description of any restrictions on third-party transfers of the foreign-manufactured articles; and

(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the foreign country, a description of alternative measures and controls incorporated in the coproduction or licensing program to ensure compliance with restrictions in the agreement on production quantities and third-party transfers; and[153]

(12)[153] a report on all exports of significant military equipment for which information has been provided pursuant to section 38(i).

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[152] Sec. 1045(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2644) struck out "; and" at the end of para. (10); struck out a period at the end of para. (11) and inserted "; and"; and added a new para. (12). Subsec. (b) of that section made para. (12) not applicable to any relevant agreement entered into before the date of enactment of the amendment (September 23, 1996).

[153] Sec. 1302(b) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "and" at the end of para. (11); replaced "third-party transfers." with "third-party transfers; and" at the end of para. (12); and added a new para. (13). Redesignated as paras. (11) and (12) by sec. 1262(c) of Public Law 107–228 (117 Stat. 1434).

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered or was sold, as the case may be: (ii) the dollar amount of the offer to sell or the sale and the number of defense articles offered or sold, as the case may be; (iii) a description of the defense article or service offered or sold, as the case may be; and (iv) the United States Armed Forces or other agency of the United States which is making the offer to sell or the sale, as the case may be.

(b)(1)[154] Subject to paragraph (6), in the case of[155] any letter of offer to sell any defense articles or services under this Act for $50,000,000[156] or more, any design and construction services for $200,000,000 or more,[157] or any major defense equipment for $14,000,000[158] or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a), or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) of subsection (a),[159] and a description, containing the information specified in paragraph (8) of subsection (a), of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such letter of offer. Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles, defense services, or design and construction services[160] proposed to be sold,[161] and a detailed justification of the reasons necessitating the sale of such articles or services in view of the sensitivity of such technology.[162] In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including

[154] To fulfill the requirements of sec. 36(e) of this Act, as amended by sec. 155 of Public Law 104–164; 110 Stat. 1440), the Defense Security Assistance Agency of the Department of Defense reports arms sales to which sec. 36(b) applies. In 2003, DSAA filed numerous notifications; see *Federal Register*, annual index.

[155] Sec. 1405(a)(2)(A)(i) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "(1) In the case of" and inserted in lieu thereof "(1) Subject to paragraph (6), in the case of".

[156] This figure was increased from $25,000,000 to $50,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[157] Sec. 105(d)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134) inserted "any design and construction services for $200,000,000 or more,".

[158] This figure was increased from $7,000,000 to $14,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[159] Sec. 105(d)(2)(A) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134) inserted ", or (in the case of a sale of design and construction services) the information specified in clauses (a) through (D) of paragraph (9) of subsection (a)".

[160] Sec. 105(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134) added the reference to design and construction services.

[161] This sentence to this point was added by sec. 20(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 710).

[162] Sec. 1180 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 995 Stat. 203) inserted "and a detailed justification of the reasons necessitating the sale of such articles or services in view of the sensitivity of such technology".

the consistency of such export with United States missile nonproliferation policy.[163] Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification).[164] In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs[165] of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

(A) a detailed description of the defense articles, defense services, or design and construction services[166] to be offered, including a brief description of the capabilities of any defense article to be offered;

(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

(C) the name of each contractor expected to provide the defense article, defense service, or design and construction services[167] proposed to be sold and a description of any offset agreement with respect to such sale;[168]

(D)[169] an evaluation, prepared by the Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence, of the manner, if any, in which the proposed sale would—

(i) contribute to an arms race;

(ii)[170] support international terrorism;

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[163] Sec. 735(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) added this sentence.

[164] Sec. 732(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) added this sentence.

[165] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Previously, sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4581) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

[166] Sec. 105(d)(2)(C)(ix) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135) added reference to defense services or design and construction services.

[167] Sec. 105(d)(2)(C)(ii) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134) added reference to design and construction service.

[168] Sec. 1245(a)(1) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "and a description from such contractor of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);" and inserted in lieu thereof "and a description of any offset agreement with respect to such sale;". This phrase was substantially amended previously by sec. 732(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503).

[169] Sec. 1225(a)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense" and inserted in lieu thereof "Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence".

Previously, sec. 21(1) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 741) amended and restated subpara. (D), which formerly read as follows: "(D) an analysis of the arms control impact pertinent to such offer to sell, prepared in consultation with the Secretary of Defense;".

[170] Sec. 3(b) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1896) redesignated clauses (ii) through (iv) as (iii) through (v), respectively, and inserted a new clause (ii).

(iii)[170] increase the possibility of an outbreak or escalation of conflict;

(iv)[170] prejudice the negotiation of any arms controls; or

(v)[170] adversely affect the arms control policy of the United States;

(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles, defense services, or design and construction services[166] which are the subject of such sale and a description of how such country or organization intends to use such defense articles, defense services, or design and construction services;[166]

(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

(G) the reasons why the proposed sale is in the national interest of the United States;

(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles, defense services, or design and construction services[166] which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles, defense services, or design and construction services;[166]

(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles, defense services, or design and construction services[166] proposed to be sold;

(K) an analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services[166] are available from other countries;

(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles, defense services, or design and construction services[166] which are the subject of such sale would be delivered;

(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, defense services, design and construction services[166] or defense equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and

unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement;

(N)[171] the projected delivery dates of the defense articles, defense services, or design and construction services[166] to be offered;

(O)[171] a detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and

(P)[171] an analysis of the relationship of the proposed sale to projected procurements of the same item.

A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (ii) and the details of the description specified in clause (iii) of subsection (a) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States, in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information.[172] The letter of offer shall not be issued, with respect to a proposed sale to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, if the Congress, within fifteen calendar days after receiving such certification, or with respect to a proposed sale to any other country or organization, if the Congress within thirty calendar days[173] after receiving such certification,[174] enacts a joint[175] resolution prohibiting the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States. If the President states in his certification that an emergency exists which requires the proposed sale in the national security interest of the United States, thus waiving the congressional review requirements of this subsection, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security interests involved.[176]

(2) Any such joint[175] resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976,

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[171] Sec. 21(4) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 741) added subparas. (N), (O) and (P).

[172] Sec. 1301(b)(1) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added ", in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information".

[173] With regard to the sale to Jordan of advanced weapons systems, see Public Law 99–162 (99 Stat. 937), in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[174] Sec. 102(b)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520) struck out "if the Congress, within thirty calendar days after receiving such certification," and inserted in lieu thereof "with respect to a proposed sale to any other country or organization, if the Congress within thirty days after receiving such certification,".

[175] Public Law 99–247 (100 Stat. 9) struck out "concurrent" and inserted in lieu thereof "joint".

[176] Sec. 19(c) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709) added this sentence.

except that for purposes of consideration of any joint[175] resolution with respect to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, it shall be in order in the Senate to move to discharge a committee to which such joint[175] resolution was referred if such committee has not reported such joint[175] resolution at the end of five calendar days after its introduction.[177]

(3) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint[175] resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4)[178] In addition to the other information required to be contained in a certification submitted to the Congress under this subsection, each such certification shall cite any quarterly report submitted pursuant to section 28 of this Act which listed a price and availability estimate, or a request for the issuance of a letter of offer, which was a basis for the proposed sale which is the subject of such certification.

(5)[179] (A) If, before the delivery of any major defense article or major defense equipment, or the furnishing of any defense service or design and construction service, sold pursuant to a letter of offer described in paragraph (1), the sensitivity of technology or the capability of the article, equipment, or service is enhanced or upgraded from the level of sensitivity or capability described in the numbered certification with respect to an offer to sell such article, equipment, or service, then, at least 45 days before the delivery of such article or equipment or the furnishing of such service, the President shall prepare and transmit to the chairman of the Committee on Foreign Affairs[180] of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report—

(i) describing the manner in which the technology or capability has been enhanced or upgraded and describing the significance of such enhancement or upgrade; and

(ii) setting forth a detailed justification for such enhancement or upgrade.

(B) The provisions of subparagraph (A) apply to an article or equipment delivered, or a service furnished, within ten years after the transmittal to the Congress of a numbered certification with respect to the sale of such article, equipment, or service.

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[177] Sec. 102(b)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520) inserted ", except that for purposes of consideration of any concurrent resolution with respect to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, it shall be in order in the Senate to move to discharge a committee to which such concurrent resolution was referred if such committee has not reported such concurrent resolution at the end of five calendar days after its introduction" (see footnote above, relating to "concurrent" and "joint").

[178] Sec. 16(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 708) added para. (4).

[179] Sec. 118(2) of the International Security and Development Cooperation Act of 1983 (Public Law 99–83; 99 Stat. 203) added para. 5.

[180] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(C) Subject to paragraph (6), if[181] the enhancement or upgrade in the sensitivity of technology or the capability of major defense equipment, defense articles, defense services, or design and construction services described in a numbered certification submitted under this subsection costs $14,000,000 or more in the case of any major defense equipment, $50,000,000 or more in the case of defense articles or defense services, or $200,000,000 or more in the case of design or construction services, then the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a new numbered certification which relates to such enhancement or upgrade and which shall be considered for purposes of this subsection as if it were a separate letter of offer to sell defense equipment, articles, or services, subject to all of the requirements, restrictions, and conditions set forth in this subsection. For purposes of this subparagraph, references in this subsection to sales shall be deemed to be references to enhancements or upgrades in the sensitivity of technology or the capability of major defense equipment, articles, or services, as the case may be.

(D) For the purposes of subparagraph (A), the term "major defense article" shall be construed to include electronic devices, which if upgraded, would enhance the mission capability of a weapons system.

(6)[182] The limitation in paragraph (1) and the requirement in paragraph (5)(C) shall apply in the case of a letter of offer to sell to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries only if the letter of offer involves—

(A) the sale of major defense equipment under this Act for, or the enhancement or upgrade of major defense equipment at a cost of, $25,000,000 or more, as the case may be; and

(B) the sale of defense articles or services for, or the enhancement or upgrade of defense articles or services at a cost of, $100,000,000 or more, as the case may be; or

(C) the sale of design and construction services for, or the enhancement or upgrade of design and construction services at a cost of, $300,000,000 or more, as the case may be.

[181] Sec. 1405(a)(1)(B)(ii) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "(C) If" and inserted in lieu thereof "(C) Subject to paragraph (6), if".

[182] Sec. 1405(a)(2)(A)(iii) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) added para. (6).

(c)[183] (1)[184] Subject to paragraph (5), in the case of[185] an application by a person (other than with regard to a sale under section 21 or section 22 of this Act) for a license for the export of any major defense equipment sold under a contract in the amount of $14,000,000[186] or more or of defense articles or defense services sold under a contract in the amount of $50,000,000[187] or more,[188] (or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)[189] before issuing such license the President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate an unclassified numbered certification with respect to such application specifying (A) the foreign country or international organization to which such export will be made, (B) the dollar amount of the items to be exported, and (C) a description of the items to be exported. Each such numbered certification shall also contain an item indicating whether any offset agreement is proposed to be entered into in connection with such export and a description of any such offset agreement.[190] In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs[191] of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request a description of the capabilities of the items to be exported, an estimate of the total number of United States personnel expected to be needed in the foreign country concerned in connection

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[183] Each year the Director of the Office of Defense Trade Controls notifies Congress of proposed commercial export licenses pursuant to this subsection in numerous Department of State Public Notices. See *Federal Register*, Annual Index.

Sec. 708(b) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 863) provided the following:

"(b) TERMINATION OF EXISTING LICENSES.—If, at any time after the issuance of a license under section 36(c) of the Arms Export Control Act relating to the use, development, or co-production of commercial rocket engine technology with a foreign person, the President determines that the foreign person has engaged in any action described in section 73(a)(1) of the Arms Export Control Act (22 U.S.C. 2797b(a)(1)) since the date the license was issued, the President may terminate the license.".

[184] Sec. 107(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3136) added the para. designation "(1)", made several technical changes to para. (1), and added new paras. (2) and (3).

[185] Sec. 1405(a)(2)(B)(i) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "(1) In the case of" and inserted in lieu thereof "(1) Subject to paragraph (5), in the case of".

[186] This figure was increased from $7,000,000 to $14,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[187] This figure was increased from $25,000,000 to $50,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[188] The words "not less than 30 days" which formerly appeared at this point, were struck out by sec. 107(b)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3136). This 30-day prior notification requirement is now included in para. (2) of subsec. (c).

[189] Sec. 1205(a) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) inserted "(or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)" after "$50,000,000 or more".

[190] Sec. 1245(a)(2) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "(if known on the date of transmittal of such certification)" and inserted in lieu thereof "and a description of any such offset agreement".

[191] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Previously, sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4581) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

with the items to be exported and an analysis of the arms control impact pertinent to such application, prepared in consultation with the Secretary of Defense and a description from the person who has submitted the license application of any offset agreement proposed to be entered into in connection with such export (if known on the date of transmittal of such statement). In a case in which such articles or services are listed on the Missile Technology Control Regime Annex and are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy.[192] A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (B) and the details of the description specified in clause (C) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States, in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information.[193]

(2)[184] Unless the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, a license for export described in paragraph (1)—

(A)[194] in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export;[195]

(B)[195] in the case of a license for an export of a commercial communications satellite for launch from, and by nationals of, the Russian Federation, Ukraine, or Kazakhstan, shall not be

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[192] Sec. 735(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 506) inserted the sentence beginning with "In a case in which such * * *".

[193] Sec. 1301(b)(2) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added ", in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information".

[194] Sec. 141(c) of Public Law 104–164 (110 Stat. 1431) amended and restated subparas. (A) and (B), which formerly read as follows:

"(A) shall not be issued until at least 30 calendar days after the Congress receives such certification; and

"(B) shall not be issued then if the Congress, within such 30-day period, enacts a joint resolution prohibiting the proposed export, except that this subparagraph does not apply with respect to a license issued for an export to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.".

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[195] Sec. 102(c)(1) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 849) struck out "and" at the end of subpara. (A), redesignated subpara. (B) as subpara. (C), and added a new subpara. (B). Para. (2) of that section, furthermore, provided the following:

"(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that the appropriate committees of Congress and the appropriate agencies of the United States Government should review the commodity jurisdiction of United States commercial communications satellites.".

issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

(C)[195] in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.

If the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, thus waiving the requirements of subparagraphs (A) and (B) of this paragraph, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the export license and a discussion of the national security interests involved.

(3)[196] (A) Any joint[175] resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint[175] resolutions under this subsection, a motion to proceed to the consideration of any such joint[175] resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4)[196] The provisions of subsection (b)(5) shall apply to any equipment, article, or service for which a numbered certification has been transmitted to Congress pursuant to paragraph (1) in the same manner and to the same extent as that subsection applies to any equipment, article, or service for which a numbered certification has been transmitted to Congress pursuant to subsection (b)(1). For purposes of such application, any reference in subsection (b)(5) to "a letter of offer" or "an offer" shall be deemed to be a reference to "a contract".

(5)[197] In the case of an application by a person (other than with regard to a sale under section 21 or 22 of this Act) for a license for the export to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on the issuance of the license set forth in paragraph (1) shall apply only if the license is for export of—

(A) major defense equipment sold under a contract in the amount of $25,000,000 or more; or

(B) defense articles or defense services sold under a contract in the amount of $100,000,000 or more.

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[196] Sec. 1224 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added para. (4).

[197] Sec. 1405(a)(2)(B)(ii) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) added para. (5).

(d)(1)[198] In the case of an approval under section 38 of this Act of a United States commercial technical assistance or manufacturing licensing agreement[199] which involves the manufacture abroad of any item of significant combat equipment on the United States Munitions List, before such approval is given, the President shall submit a certification with respect to such proposed commercial agreement in a manner similar to the certification required under subsection (c)(1) containing comparable information, except that the last sentence of such subsection shall not apply to certifications submitted pursuant to this subsection.

(2)[200] A certification under this subsection shall be submitted—

(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(e)[201] For purposes of this section—

(1) the term "offset agreement" means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to

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[198] Sec. 141(d)(1) of Public Law 104–164 (110 Stat. 1432) inserted para. designation "(1)" after "(d)".

[199] Sec. 141(d)(2) of Public Law 104–164 (110 Stat. 1432) struck out "for or in a country not a member of the North Atlantic Treaty Organization" after "licensing agreement".

[200] Sec. 141(d)(3) of Public Law 104–164 (110 Stat. 1432) added paras. (2) through (5).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[201] Sec. 732(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) added subsec. (e).

promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense service from the supplier; and

(2) the term "United States person" means—

(A) an individual who is a national or permanent resident alien of the United States; and

(B) any corporation, business association, partnership, trust, or other juridical entity—

(i) organized under the laws of the United States or any State, district, territory, or possession thereof; or

(ii) owned or controlled in fact by individuals described in subparagraph (A).

(f)[202] The President shall cause to be published in a timely manner[203] in the Federal Register, upon transmittal to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, the full unclassified text of—[204]

(1) each numbered certification submitted pursuant to subsection (b);

(2) each notification of a proposed commercial sale submitted under subsection (c); and

(3) each notification of a proposed commercial technical assistance or manufacturing licensing agreement submitted under subsection (d).

(g)[205] Information relating to offset agreements provided pursuant to subparagraph (C) of the fifth sentence of subsection (b)(1) and the second sentence of subsection (c)(1) shall be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)).

Sec. 37.[206] **Fiscal Provisions Relating to Foreign Military Sales Credits.**—(a) Cash payments received under sections 21, 22, and 29[207] and advances received under section 23 shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

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[202] Sec. 155 of Public Law 104–164 (110 Stat. 1440) added this subsec. as subsec. (e). Sec. 1245(b)(1) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) redesignated as subsec. (f) to correct the occurrence of two subsecs. (e).

[203] Sec. 1301(a)(1) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), inserted "in a timely manner" after "to be published".

[204] Sec. 1301(a)(2) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "the full unclassified text of each numbered certification submitted pursuant to subsection (b) and each notification of a proposed commercial sale submitted under subsection (c)." and inserted in lieu thereof "the full unclassified text of—" and text of subparas. (1) through (3).

[205] Sec. 1245(b)(2) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added subsec. (g).

[206] 22 U.S.C. 2777.

[207] Sec. 105(e)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135) added the reference to sec. 29.

(b) Amounts received from foreign governments and international organizations as repayments for credits extended pursuant to section 23, amounts received from the disposition of instruments evidencing indebtedness under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are made available for such obligations),[208] and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

(c)[209] Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 24(c) are paid out for a claim arising out of a loan guaranteed under section 24, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.

Sec. 38.[210] **Control of Arms Exports and Imports.**—(a)(1) In furtherance of world peace and the security and foreign policy of

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[208] Sec. 25(11) of the FA Act of 1973 (Public Law 93–189) inserted "under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are made available for such obligations)," .

[209] Sec. 104(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3133) added subsec. (c).

[210] 22 U.S.C. 2778.

Sec. 38 was added by sec. 212(a)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 744). Sec. 212(b) of the same Act repealed sec. 414 of the Mutual Security Act of 1954 and stated that any reference to sec. 414 would be considered as a reference to sec. 38 of the Arms Export Control Act.

See also sec. 1403 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1453), relating to information management priorities.

See also secs. 1402–1412 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 798 *et seq.*), relating to, among other issues, export controls, satellite licensing, technology transfers, high-performance computers, and the Defense Threat Reduction Agency.

See also sec. 1309 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), relating to satellite export activities.

See also title XV, subtitle B, of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2173), relating to satellite export controls, particularly as they are applied to exportation to the People's Republic of China.

See also title IV, secs. 401–405, of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 718–722), relating to arms transfers restraint policy for the Middle East and Persian Gulf region.

See also in the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2561): sec. 1365, relating to landmine export moratorium; title XV—Weapons of Mass Destruction Control Act of 1992; and title XVI—Iran-Iraq Arms Non-Proliferation Act of 1992. As a result of sec. 1365 of that Act, the Department of State gave notice to the following:

"Notice is hereby given that all licenses, approvals, sales or transfers of landmines specifically designed for antipersonnel use, regardless of method of delivery, are suspended until further notice. Additionally, all existing authorizations for the sale, export, or transfer of such defense articles are revoked until further notice. This action has been taken pursuant to sections 2, 38 and 42 of the Arms Export Control Act, and section 1365 of the National Defense Authorization Act for Fiscal Year 1993." (Public Notice 1727 of November 25, 1992; 57 F.R. 55614).

Licenses and approvals to export or otherwise transfer defense articles and defense services to the following countries or foreign entities are suspended or restricted:

Iran (Department of State Notice 84–3, January 23, 1984, 49 F.R. 2836; Public Notice 4371, May 16, 2003, 68 F.R. 28315; Public Notice 4375, May 28, 2003, 68 F.R. 31739); Haiti—including those for use by the police (effective October 3, 1991; Department of State Public Notice 1496; 56 F.R. 50968; October 9, 1991); Sudan (effective October 8, 1992; Department of State Public Notice 1711; 57 F.R. 49741; November 3, 1992); Yemen (effective November 16, 1992; Department of State Public Notice 1734; 57 F.R. 59852; December 16, 1992); the armed forces on

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Cyprus (except to the United Nations Forces in Cyprus) (effective November 18, 1992; Department of State Public Notice 1738; 57 F.R. 60265; December 18, 1992); Somalia (effective December 16, 1992; Department of State Public Notice 1736; 57 F.R. 59851; December 16, 1992); Liberia (other than for the peacekeeping forces of ECOWAS) (effective December 18, 1992; Department of State Public Notice 1737; 57 F.R. 60265; December 18, 1992; and Department of State Public Notice 3767; 66 F.R. 46491; September 5, 2001); Burma (Department of State Public Notice 1820; 58 F.R. 33293; June 16, 1993); Guatemala (Department of State Public Notice 1831; 58 F.R. 38597; July 19, 1993); Afghanistan (Taliban-controlled areas: Department of State Public Notice (June 27, 1996; 61 F.R. 33313; and Public Notice 3657, May 8, 2001; 66 F.R. 23310; all licenses except to the Afghan Interim Authority: June 3, 2002; 67 F.R. 44352)); Zimbabwe (April 11, 2002; 67 F.R. 18978; some export exceptions, July 17, 2002; 67 F.R. 48242); and Cote D'Ivoire (Department of State Public Notice 4922; December 6, 2004; 69 F.R. 74560).

Over 2000–2001, restrictions imposed against India and Pakistan were adjusted or lifted: Presidential Determination No. 2000–18; March 18, 2000; 65 F.R. 16297; Presidential Determination No. 2001–11; January 19, 2001; 66 F.R. 8503; Presidential Determination No. 2001–23; August 9, 2001; 66 F.R. 44521; and Presidential Determination No. 2001–28; September 22, 2001; 66 F.R. 50095. Effective June 20, 2003, per Department of State Public Notice 4384 (68 F.R. 37039), notice is given that requests for export and retransfer of defense articles, defense services, and related technical data to India or Pakistan will be considered on a standard case-by-case basis, reversing policy stated on May 20, 1998 and June 17, 1998. (Restrictions originally imposed against India on May 13, 1998 (Department of State Public Notice 2825; 63 F.R. 27781); and against Pakistan on May 30, 1998 (Department of State Public Notice 2835; 63 F.R. 33122).

Effective March 24, 2003, Khan Research Laboratories of Pakistan were restricted under the ITAR and within terms of sec. 203(b)(3) of the International Emergency Economic Powers Act (Public Notice 4327; 68 F.R. 16113).

Effective September 10, 1999, restrictions were imposed against Indonesia ("except for certain exports related to commercial communication satellites and Y2K compliance activities"; Department of State Public Notice 3137; 64 F.R. 55805; September 10, 1999). These were eased, effective August 25, 2000, to expand "the exception of the items permitted to be exported * * * to, on a case-by-case basis, C–130 spare parts including when for the Government of Indonesia" (Department of State Public Notice 3557; 66 F.R. 7836). Effective November 28, 2000, exceptions to Indonesia for defense articles and defense services "for ultimate end-use by a third country" were allowed on a case-by-case basis (Department of State Public Notice 3612; 66 F.R. 16085). Effective September 19, 2001, the exceptions to Indonesia were again expanded to include, on a case-by-case basis: "(a) Non-lethal defense articles and spare parts; and (b) non-lethal, safety-of-use spare parts for lethal end-items. An example of safety-of-use items would be cartridge actuated aircraft for purposes of enhancing the safety of the aircraft crew. for non-lethal defense end-items, no distinction will be made between Indonesia's existing and new inventory." (Department of State Public Notice 3854; 66 F.R. 65235).

Effective May 30, 1999, restrictions against Nigeria were eased. Henceforth, applications for licenses are reviewed on a case by case basis (Department of State Public Notice 3076; 64 F.R. 34304). Exports to Nigeria had been restricted since 1993 (see: Department of State Public Notice 1844; 58 F.R. 40845; July 30, 1993; and Public Notice 2313; 60 F.R. 66334; December 11, 1995).

Peru and Ecuador are restricted on a case-by-case basis (Peru: Department of State Public Notice 2021; 59 F.R. 32481; June 8, 1994; and Public Notice 2168; 60 F.R. 10138; February 23, 1995; Peru and Ecuador: Department of State Public Notice 2205; 60 F.R. 26070; May 4, 1995; and Public Notice 2286; 60 F.R. 57049; November 13, 1995).

The following countries are embargoed under International Traffic in Arms Regulations (ITAR; 22 CFR Part 126), effective April 1, 2004: Belarus, Cuba, Iran, Libya, North Korea, Syria, and Vietnam. For some of these countries, other restrictions may also make arms transfers unavailable. Restrictions under the ITAR also apply to countries with respect to which the United States maintains an arms embargo: Burma, People's Republic of China (see also 68 F.R. 28314), Haiti, Liberia (see also 66 F.R. 46491), Somalia, and Sudan.

The ITAR prohibits exports and sales to persons identified by the United Nations in implementing U.N. Security Council Resolutions 1390 (2002) and 1455 (2003). See Department of State Public Notice 4455, effective August 25, 2003 (68 F.R. 51048).

Once removed from the ITAR, some selective restrictions may be applied, as stated in the ITAR, for licenses and other approvals for exports and imports of defense articles and services. Iraq, Afghanistan, Rwanda, and the Democratic Republic of the Congo are thus restricted.

The Democratic Republic of the Congo was removed from the ITAR restrictive list effective February 17, 2004 (69 F.R. 7349), though a presumption of denial for the export of most defense articles and services continues.

Rwanda was removed from the ITAR restrictive list effective July 30, 2003 (68 F.R. 44613), though a presumption of denial for the export of most defense articles and services continues.

Angola was removed from the ITAR restrictive list effective November 21, 2003 (68 F.R. 56533). Previously, effective July 2, 1993, the domestic arms embargo on Angola was lifted and section 126.1(a) of the International Traffic in Arms Regulations (ITAR) (22 CFR Part 126) was amended accordingly (58 F.R. 35864).

The Federal Republic of Yugoslavia (Serbia and Montenegro) was removed from the ITAR restrictive list effective December 3, 2001 (67 F.R. 1074). Armenia and Azerbaijan were removed from the list effective April 3, 2002 (67 F.R. 15101).

Ukraine was removed from the ITAR restrictive list, effective December 27, 2000 (65 F.R. 81739). Mongolia was removed from the ITAR restrictive list, effective June 30, 1997, in State Department Public Notice 2567 (62 F.R. 37133). The phrase "the states of the former Yugoslavia" was replaced with "the FRY (Serbia and Montenegro)", effective July 12, 1996, pursuant

the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall take into account[211] whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.[212]

(3)[213] In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this Act as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b)(1)(A)(i)[214] As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State for local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by

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to State Department Public Notice 2410 (61 F.R. 36625). Georgia, Kazakhstan, Turkmenistan, and Uzbekistan were removed from the ITAR restrictive list, effective July 17, 1996, in State Department Public Notice 2407 (61 F.R. 41499).

[211] Sec. 1225(a)(2)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to" and inserted in lieu thereof "take into account".

[212] Sec. 1225(a)(2)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out " The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved.".

Previously, sec. 714(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), amended and restated para. (2). The para. formerly read as follows:

"(2) Decisions on issuing export licenses under this section shall be made in coordination with the director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.".

[213] Sec. 107(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3136) added para. (3).

[214] Sec. 151(a) of Public Law 104–164 (110 Stat. 1437) added clause designation "(i)" and added clause (ii).

the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(ii)[215] (I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

(aa) for use by an agency of the United States Government; or

(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(IV) For purposes of this clause, the term "foreign defense article or defense service" includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

(B)[216] A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.

(B)[216] The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and

[215] Sec. 151(a)(2) of Public Law 104–164 (110 Stat. 1437) added clause (ii). Subsec. (b) (22 U.S.C. 2778 note) of that section provided: "Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a), shall apply with respect to brokering activities engaged in beginning on or after 120 days after the enactment of this Act.".

[216] Sec. 1255(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1431) added the first subpara. (B). The second subpara. (B), which should probably have been designated subpara. (C) was added by sec. 8142(a) of the Department of Defense Appropriations Act, 1988 (sec. 101(b) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329–88).

attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this Act or any other foreign assistance or sales program of the United States if—

(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for such export or import, issued in accordance with this Act and regulations issued under this Act, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(3)[217] (A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Any person who willfully violates any provision of this section or section 39, or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction

[217] Sec. 1255(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1431), added para. (3). The original para. (3), as amended by sec. 21 of Public Law 96–92 (93 Stat. 710) and sec. 107(a) of Public Law 96–533 (94 Stat. 3136), was repealed by sec. 106 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522). Para. (3) had stipulated that no license could be issued under this Act for the export of any major defense equipment sold under contract in the amount of $100,000,000 or more (exceptions were provided for NATO members, Australia, Japan, New Zealand, countries participating in co-production arrangements).

be fined for each violation not more than $1,000,000,[218] or imprisoned not more than ten years, or both.

(d)[219] * * * [Repealed—1979]

(e) In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act,[220] subject to the same terms and conditions as are applicable to such powers under such Act, except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that[221] the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest.[222] Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979, the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed $500,000.[223]

(f)[224] (1) The President shall periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International

[218] Sec. 119(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 203) raised the amount of the fine to $1,000,000; added the limitation "for each violation"; and raised the period of imprisonment from two to ten years. Previously the fine was "not more than $100,000".

[219] Subsec. (d), which specified that sec. 38 would apply to and within the Canal Zone, was repealed by sec. 3303(a)(4) of the Panama Canal Act of 1979 (Public Law 96–70; 93 Stat. 499).

[220] Sec. 22(a) of Public Law 96–72 (93 Stat. 535) inserted references to various sections of the Export Administration Act of 1979 in lieu of references to secs. 6 and 7 of the Export Administration Act of 1969.

[221] Sec. 1303 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" to secs. 38(e), 39A(c), and 40(k) of this Act.

[222] Sec. 156 of Public Law 104–164 (110 Stat. 1440) added ", except that the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest".

[223] Sec. 119(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 204) added the last sentence.

[224] Sec. 107 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522) added subsec. (f). Sec. 102(b) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 848) added para. designation "(1)" and added paras. (2) and (3).

Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.[225]

(2) The President may not authorize an exemption for a foreign country from the licensing requirements of this Act for the export of defense items under subsection (j) or any other provision of this Act until 30 days after the date on which the President has transmitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a notification that includes—

(A) a description of the scope of the exemption, including a detailed summary of the defense articles, defense services, and related technical data covered by the exemption; and

(B) a determination by the Attorney General that the bilateral agreement concluded under subsection (j) requires the compilation and maintenance of sufficient documentation relating to the export of United States defense articles, defense services, and related technical data to facilitate law enforcement efforts to detect, prevent, and prosecute criminal violations of any provision of this Act, including the efforts on the part of countries and factions engaged in international terrorism to illicitly acquire sophisticated United States defense items.

(3) Paragraph (2) shall not apply with respect to an exemption for Canada from the licensing requirements of this Act for the export of defense items.

(g)[226] (1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

(i) this section,

(ii) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410),

(iii) section 793, 794, or 798 of title 18, United States Code (relating to espionage involving defense or classified information) or section 2339A of such title (relating to providing material support to terrorists),[227]

[225] Sec. 1406 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) struck out "Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979." and inserted in lieu thereof "The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.".

[226] Sec. 1255 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1429), added subsec. (g).

[227] Sec. 1304 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law

Continued

(iv) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705),

(vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd2),

(vii) chapter 105 of title 18, United States Code (relating to sabotage),

(viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),

(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

(x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421),

(xi) section 603 (b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113 (b) and (c)); or

(xii)[228] section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);

(B) persons who are the subject of an indictment or have been convicted under section 371 of title 18, United States Code, for conspiracy to violate any of the statutes cited in subparagraph (A); and

(C) persons who are ineligible—

(i) to contract with,

(ii) to receive a license or other form of authorization to export from, or

(iii) to receive a license or other form of authorization to import defense articles or defense services from,

any agency of the United States Government.

(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

(3) If the President determines—

(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

106–113; 113 Stat. 1536), added "or section 2339A of such title (relating to providing material support to terrorists)".

[228] Sec. 6910 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of the Intelligence Reform and Terrorism Prevention Act of 2004; Public Law 108–458; 118 Stat. 3774) struck out "or" at the end of clause (x), added "or" at the end of clause (xi), and added new clause (xii).

(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government,

the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

(4) A license to export an item on the United States Munitions List may not be issued to a person—

(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,

except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

(7)[229] The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection—

(A) the term "foreign corporation" means a corporation that is not incorporated in the United States;

(B) the term "foreign government" includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term "foreign person" means any person who is not a citizen or national of the United States or lawfully admitted

[229] Sometimes referred to as the "Blue Lantern Program".

to the United States for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, international organizations, and foreign governments;

(D) the term "party to the export" means—

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.

(h)[230] The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall not be subject to judicial review.

(i)[231] As prescribed in regulations issued under this section, a United States person to whom a license has been granted to export an item on the United States Munitions List shall, not later than 15 days after the item is exported, submit to the Department of State a report containing all shipment information, including a description of the item and the quantity, value, port of exit, and end-user and country of destination of the item.

(j)[232] REQUIREMENTS RELATING TO COUNTRY EXEMPTIONS FOR LICENSING OF DEFENSE ITEMS FOR EXPORT TO FOREIGN COUNTRIES.—

(1) REQUIREMENT FOR BILATERAL AGREEMENT.—

(A) IN GENERAL.—The President may utilize the regulatory or other authority pursuant to this Act to exempt a foreign country from the licensing requirements of this Act with respect to exports of defense items only if the United States Government has concluded a binding bilateral agreement with the foreign country. Such agreement shall—

(i) meet the requirements set forth in paragraph (2); and

(ii) be implemented by the United States and the foreign country in a manner that is legally-binding under their domestic laws.

(B) EXCEPTION.—The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption for Canada from the licensing requirements of this Act for the export of defense items.

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[230] Sec. 6 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899) added subsec. (h).

[231] Sec. 1302(a) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added subsec. (i).

[232] Sec. 102(a) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 846) added subsec. (j).

(2) REQUIREMENTS OF BILATERAL AGREEMENT.—A bilateral agreement referred to paragraph (1)—

(A) shall, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy requiring—

(i) conditions on the handling of all United States-origin defense items exported to the foreign country, including prior written United States Government approval for any reexports to third countries;

(ii) end-use and retransfer control commitments, including securing binding end-use and retransfer control commitments from all end-users, including such documentation as is needed in order to ensure compliance and enforcement, with respect to such United States-origin defense items;

(iii) establishment of a procedure comparable to a "watchlist" (if such a watchlist does not exist) and full cooperation with United States Government law enforcement agencies to allow for sharing of export and import documentation and background information on foreign businesses and individuals employed by or otherwise connected to those businesses; and

(iv) establishment of a list of controlled defense items to ensure coverage of those items to be exported under the exemption; and

(B) should, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy regarding—

(i) controls on the export of tangible or intangible technology, including via fax, phone, and electronic media;

(ii) appropriate controls on unclassified information relating to defense items exported to foreign nationals;

(iii) controls on international arms trafficking and brokering;

(iv) cooperation with United States Government agencies, including intelligence agencies, to combat efforts by third countries to acquire defense items, the export of which to such countries would not be authorized pursuant to the export control regimes of the foreign country and the United States; and

(v) violations of export control laws, and penalties for such violations.

(3) ADVANCE CERTIFICATION.—Not less than 30 days before authorizing an exemption for a foreign country from the licensing requirements of this Act for the export of defense items, the President shall transmit to the Committee on International

Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a certification that—

(A) the United States has entered into a bilateral agreement with that foreign country satisfying all requirements set forth in paragraph (2);

(B) the foreign country has promulgated or enacted all necessary modifications to its laws and regulations to comply with its obligations under the bilateral agreement with the United States; and

(C) the appropriate congressional committees will continue to receive notifications pursuant to the authorities, procedures, and practices of section 36 of this Act for defense exports to a foreign country to which that section would apply and without regard to any form of defense export licensing exemption otherwise available for that country.

(4) DEFINITIONS.—In this section:

(A) DEFENSE ITEMS.—The term "defense items" means defense articles, defense services, and related technical data.

(B) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(i) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(ii) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Sec. 39.[233] **Fees of Military Sales Agents and Other Payments.**—(a) In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

(1) sales of defense articles or defense services under section 22, or of design and construction services under section 29[234] of this Act; or

(2) commercial sales of defense articles or defense services licensed or approved under section 38 of this Act;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

(b) The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions,

[233] 22 U.S.C. 2779. Sec. 604(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 767) added sec. 39. Sec. 604(c) of the same Act stated that this amendment "shall take effect sixty days after the date of enactment of this Act" (August 29, 1976).

[234] Sec. 105(e)(2)(A) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135) added the reference to design and construction services under sec. 29.

and fees as he determines will be in furtherance of the purposes of this Act.

(c) No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 22 or section 29[235] of this Act, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this section, "improper influence" means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

(d)(1) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this section shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this section.

(2) Access by an agency of the United States Government to records maintained under this section shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.

SEC. 39A.[236] PROHIBITION ON INCENTIVE PAYMENTS.

(a) No United States supplier of defense articles or services sold or licensed[237] under this Act, nor any employee, agent, or subcontractor thereof, shall, with respect to the sale or export[238] of any such defense article or defense service to a foreign country, make any incentive payments for the purpose of satisfying, in whole or in part, any offset agreement with that country.

(b) Any person who violates the provisions of this section shall be subject to the imposition of civil penalties as provided for in this section.

(c) In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement and imposition of civil penalties which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979 and section 12(a) of such Act, subject to the same terms and conditions as are applicable to such powers under that Act, except that section

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[235] Sec. 105(e)(2)(B) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3155) added the reference to sec. 29.

[236] 22 U.S.C. 2779a. Sec. 733 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 504), added sec. 39A. Functions in this section are delegated to the Under Secretary of State for International Security Affairs (Department of State Public Notice 2086; Delegation of Authority No. 214; 59 F.R. 50790).

[237] Sec. 1246(a)(1) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "or licensed" after "sold".

[238] Sec. 1246(a)(2) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "or export" after "sale".

11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that[239] notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000 or five times the amount of the prohibited incentive payment, whichever is greater.

(d) For purposes of this section—

(1) the term "offset agreement" means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense services from the supplier;

(2) the term "incentive payments" means direct monetary compensation made by a United States supplier of defense articles or defense services or by any employee, agent or subcontractor thereof to any other United States person to induce or persuade that United States person to purchase or acquire goods or services produced, manufactured, grown, or extracted, in whole or in part, in the foreign country which is purchasing those defense articles or services from the United States supplier; and

(3) the term "United States person" means—

(A) an individual who is a national or permanent resident alien of the United States; and

(B) any corporation, business association, partnership, trust, or other juridical entity—

(i) organized under the laws of the United States or any State, the District of Columbia, or any territory or possession of the United States; or

(ii) owned or controlled in fact by individuals described in subparagraph (A) or by an entity described in clause (i).[240]

Sec. 40.[241] Transactions With Countries Supporting Acts of International Terrorism.

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[239] Sec. 1303 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" to secs. 38(e), 39A(c), and 40(k) of this Act.

[240] Sec. 1246(b) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "or by an entity described in clause (i)" after "subparagraph (A)".

[241] 22 U.S.C. 2780. See also 22 CFR Part 120–130. Sec. 509(a) of Public Law 99–399 (100 Stat. 874) added sec. 40. It was amended and restated by the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1892). It previously read as follows: "**Sec. 40. Exports to Countries Supporting Acts of International Terrorism.**

(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regulations issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent, which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item

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"(a) PROHIBITION.—Except as provided in subsection (b), items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

"(b) WAIVER.—The President may waive the prohibition contained in subsection (a) in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver.".

to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

(A) by any department, agency, or other instrumentality of the Government,

(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

(b) PROHIBITED TRANSACTIONS BY UNITED STATES PERSONS.—

(1) IN GENERAL.—A United States person may not take any of the following actions:

(A) Exporting any munitions item to any country described in subsection (d).

(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item with be made available to any country described in subsection (d).

(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

(2) LIABILITY FOR ACTIONS OF FOREIGN SUBSIDIARIES, ETC.—A United State person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue), takes an action described in paragraph (1) outside the United States.

(3) APPLICABILITY TO ACTIONS OUTSIDE THE UNITED STATES.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3)(A) or (B). To the extent provided in regulations issued

under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United State by a person designated as a United States person in those regulations.

(c) TRANSFERS TO GOVERNMENTS AND PERSONS COVERED.—This section applies with respect to—

(1) the acquisition of munitions items by the government of a country described in subsection (d); and

(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

(d)[242] COUNTRIES COVERED BY PROHIBITION.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism. For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups,[243] willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material, or willingly aid or abet the efforts of an individual or group to use, develop, produce, stockpile,

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[242] Sec. 542 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 542. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.".

In prior years, this section referred to sec. 40(d) of the Arms Export Control Act where it currently cites sec. 6(j) of the Export Administration Act of 1979. Governments of countries designated as supporters of acts of international terrorism under sec. 6(j) of the Export Administration Act of 1979 include: Cuba, Iran, Libya, North Korea, Sudan, and Syria.

On October 7, 2004, the Secretary of State issued Department of State Public Notice 4863 (69 F.R. 61702), in which he rescinded "the Determination of September 13, 1990 (Public Notice 1264) that Iraq is a country which has repeatedly provided support for acts of international terrorism. This action is a further step to cement the partnership of the United States and Iraq in combating acts of international terrorism, and is an act of symbolic importance to the new Iraqi government. This rescission is appropriate although nearly all the restrictions applicable to countries that have supported terrorism, including the application of 22 U.S.C. 1605(a)(7), were made inapplicable with respect to Iraq permanently in Presidential Directive [*sic*] No. 2003–23 of May 7, 2003, pursuant to sec. 1503 of Pub. L. 108–11, and as affirmed in the Conference Report for Pub. L. 108–106. This rescission shall also satisfy the provisions of section 620A(c)(1) of the Foreign Assistance Act of 1961, Pub. L. 87–195, as amended, and section 40(f)(1)(A) of the Arms Export Control Act, Pub. L. 90–629, as amended.". On September 24, 2004, the President issued a similar statement in Presidential Determination No. 2004–52 (69 F.R. 58793).

[243] Sec. 1204(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) struck out "groups or" and inserted in lieu thereof "groups,".

or otherwise acquire chemical, biological, or radiological weapons.[244]

(e) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

(f) RESCISSION.—(1)[245] A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

(A)[246] before the proposed rescission would take effect, a report certifying that—

(i)[247] there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii)[247] that government is not supporting acts of international terrorism; and

(iii)[247] that government has provided assurances that it will not support acts of international terrorism in the future; or

(B)[246] at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i)[247] the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(ii)[247] the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(2)[245] (A) No rescission under paragraph (1)(B) of a determination under subsection (d) may be made if the Congress, within 45 days after receipt of a report under paragraph (1)(B), enacts a joint resolution the matter after the resolving clause of which is as follows: "That the proposed rescission of the determination under section 40(d) of the Arms Export Control Act pursuant to the report submitted to the Congress on _____ is hereby prohibited.", the blank to be completed with the appropriate date.

(B) A joint resolution described in subparagraph (A) and introduced within the appropriate 45-day period shall be considered in the Senate and the House of Representatives in accordance with

[244] Sec. 822(a)(2)(A) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 511), added the sentence that begins "For purposes of this subsection, * * *". Sec. 1204(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) added ", or willingly aid or abet the efforts of an individual or group to use, develop, produce, stockpile, or otherwise acquire chemical, biological, or radiological weapons".

[245] Sec. 321(3) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 710), inserted new designation for para. (1), and sec. 321(4) added a new para. (2).

[246] Sec. 321(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 710), redesignated paras. (1) and (2), as subparas. (A) and (B), respectively.

[247] Sec. 321(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 710), redesignated "subparagraphs (A), (B), and (C) of each of paragraphs (1) and (2) as clauses (i), (ii), and (iii), respectively.". Clause (2), redesignated here as subpara. (B), however, has only two subparas., redesignated here as (i) and (ii), from (A) and (B), respectively.

paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act (as contained in Public Law 98–473),[248] except that references in such paragraphs to the Committees on Appropriations of the House of Representatives and the Senate

[248] Sec. 8066 of the Department of Defense Appropriations Act (title VIII of the Continuing Appropriations, 1985; Public Law 98–473; 98 Stat. 1837 at 1935), placed restrictions on fiscal year 1985 funds made available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities, which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual. Subsec. (b) of that section allowed for the lifting of the prohibition (1) if the President reported on certain criteria; and (2) if a joint resolution approving assistance for military or paramilitary operations in Nicaragua were to be enacted.

In particular subsec. (c), paras. (1) and (3) through (7), provided the following [para. (1) included here because of repeated references to it throughout paras. (3)–(7)]:

"(c)(1) For the purpose of subsection (b)(2), 'joint resolution' means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by the Congress, the matter after the resolving clause of which is as follows: 'That the Congress approved the obligation and expenditure of funds available for fiscal year 1985 for supporting, directly or indirectly, military or paramilitary operations in Nicaragua.'.

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"(3) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Appropriations of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Appropriations of the Senate. Such a resolution may not be reported before the eighth day after its introduction.

"(4) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of fifteen calendar days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

"(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

"(6) If, before the passage by the Senate of a resolution of the Senate described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

"(A) The resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (1) of the Senate—

"(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

"(ii) the vote on final passage shall be on the resolution of the House.

"(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(7) If the Senate receives from the House of Representatives a resolution described in paragraph (1) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.".

shall be deemed to be references to the Committee on Foreign Affairs[249] of the House of Representatives and the Committee on Foreign Relations of the Senate, respectively.

(g) WAIVER.—The President may waive the prohibitions contained in this section with respect to a specific transaction if—

(1) the President determines that the transaction is essential to the national security interests of the United States; and

(2) not less than 15 days prior to the proposed transaction, the President—

(A) consults with the Committee on Foreign Affairs[249] of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

(iii) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

(iv) the date on which the proposed transaction is expected to occur; and

(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

(h) EXEMPTION FOR TRANSACTIONS SUBJECT TO NATIONAL SECURITY ACT REPORTING REQUIREMENTS.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

(i) RELATION TO OTHER LAWS.—

(1) IN GENERAL.—With regard to munitions items controlled pursuant to this Act, the provisions of this section shall apply notwithstanding any other provisions of law, other than section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)).

[249] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(2) SECTION 614(A) WAIVER AUTHORITY.—If the authority of section 614(a) of the Foreign Assistance Act of 1961 is used to permit a transaction under that Act or the Arms Export Control Act which is otherwise prohibited by this section, the written policy justification required by that section shall include the information specified in subsection (g)(2)(B) of this section.

(j) CRIMINAL PENALTY.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

(k) CIVIL PENALTIES; ENFORCEMENT.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979[250] (subject to the same terms and conditions as are applicable to such powers under that Act), except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that,[251] notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

(l) DEFINITIONS.—As used in this section—

(1) the term "munitions item" means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

(2) the term "United States", when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;[252]

(3) the term "United States person" means—

(A) any citizen or permanent resident alien of the United States;

(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(C) any other person with respect to that person's actions while in the United States; and

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[250] See *Legislation on Foreign Relations Through 2004*, vol. III, sec. J.

[251] Sec. 1303 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" to secs. 38(e), 39A(c), and 40(k) of this Act.

[252] Sec. 822(a)(2)(B) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 511), struck out "and" at the end of para. (2); struck out a period at the end of para. (3), and inserted in lieu thereof a semicolon; and added new paras. (4) and (5).

(D) to the extent provided in regulations issued by the Secretary of state, any person that is not described in subparagraph (A), (B), or (C) but—

(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations), or

(ii) is otherwise subject to the jurisdiction of the United States

with respect to that person's actions while outside the United States;

(4)[252] the term "nuclear explosive device" has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994; and

(5)[252] the term "unsafeguarded special nuclear material" has the meaning given that term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.

SEC. 40A.[253] TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH UNITED STATES ANTITERRORISM EFFORTS.—

(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is important to the national interests of the United States.

Chapter 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES[254]

SEC. 40A.[255] END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

(a) ESTABLISHMENT OF MONITORING PROGRAM.—

(1) IN GENERAL.—In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the President shall establish a program which provides for the end-use monitoring of such articles and services.

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[253] 22 U.S.C. 2781. Sec. 330 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1258) added this sec. 40A. Sec. 150(a) of Public Law 104–164 (110 Stat. 1436) also added a sec. 40A, relating to end-use monitoring of defense articles and defense services.

On May 12, 2004, the Secretary of State determined and certified, as is done annually, "that the following countries are not cooperating fully with United States antiterrorism efforts: Cuba; Iran; North Korea; Syria; Libya" (Department of State Public Notice No. 4722; 69 F.R. 28185). The first list promulgated under this section, in 1997, included Afghanistan, Iraq, and Sudan. Afghanistan was removed from the list in 2002. Iraq was removed from the list in 2003. Sudan was removed from the list in 2004.

[254] Sec. 150(a) of Public Law 104–164 (110 Stat. 1436) added chapter 3A.

[255] 22 U.S.C. 2785. Added by sec. 150(a) of Public Law 104–164 (110 Stat. 1436). Sec. 330 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1258) added another sec. 40A, relating to transactions with countries not fully cooperating with U.S. antiterrorism efforts.

(2) REQUIREMENTS OF PROGRAM.—To the extent practicable, such program—

(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 38(g)(7) of this Act (commonly referred to as the "Blue Lantern" program); and

(B) shall be designed to provide reasonable assurance that—

(i) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and

(ii) such articles and services are being used for the purposes for which they are provided.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the President shall ensure that the program—

(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this section, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961, the President shall transmit to the Congress a report describing the actions taken to implement this section, including a detailed accounting of the costs and number of personnel associated with the monitoring program.

(d) THIRD COUNTRY TRANSFERS.—For purposes of this section, defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party and the numbers, range, and finding of end-use monitoring of United States transfers of small arms and light weapons.[256]

Chapter 4—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

Sec. 41. Effective Date.—This Act shall take effect on July 1, 1968.

[256] Sec. 1205(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) inserted "and the numbers, range, and finding of end-use monitoring of United States transfers of small arms and light weapons".

Sec. 42.[257] **General Provisions.**—(a)[258] In carrying out this Act, special emphasis shall be placed on procurement in the United States, but, subject to the provisions of subsection (b) of this section, consideration shall also be given[259] to coproduction or licensed production outside the United States of defense articles of United States origin when such production best serves the foreign policy, national security, and economy of the United States. In evaluating any sale proposed to be made pursuant to this Act, there shall be taken into consideration (A) the extent to which the proposed sale damages or infringes upon licensing arrangements whereby United States entities have granted licenses for the manufacture of the defense articles selected by the purchasing country to entities located in friendly foreign countries, which licenses result in financial returns to the United States,[260] (B) the portion of the defense articles so manufactured which is of United States origin, and (C)[258] whether, and the extent to which, such sale might contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.

(b)[261] No credit sale shall be extended under section 23, and no guarantee shall be issued under section 24, in any case involving coproduction or licensed,[262] production outside the United States of any defense article of United States origin unless the Secretary of State shall, in advance of any such transaction, advise the appropriate committees of the Congress and furnish the Speaker of the House of Representatives and the President of the Senate with full information regarding the proposed transaction, including, but not limited to, a description of the particular defense article or articles which would be produced under license or coproduced outside the

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[257] 22 U.S.C. 2791. See also notes at section 38, regarding Presidential Determinations.

[258] Sec. 1225(a)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "the assessment of the Director of the United States Arms Control and Disarmament Agency as to" in para. (1)(c); struck out para. designation "(1)" after subsec. designation "(a)"; and struck out para. (2). Para. (2) had read as follows:

"(2) Any proposed sale made pursuant to this Act shall be approved only after consultation with the Director of the United States Arms Control and Disarmament Agency. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that a sale under this section would be detrimental to the national security of the United States, to recommend to the President that such sale be disapproved.".

Previously, sec. 714(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), added para. designation "(1)"; redesignated clauses (1), (2), and (3) as (A), (B), and (C), restated clause (C); and added para. (2). Clause (C), as redesignated, formerly read as follows:

"(C) in coordination with the Director of the United States Arms Control and Disarmament Agency, the Director's opinion as to the extent to which such sale might contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.".

[259] Sec. 401(f)(1) of the FA Act of 1971 (Public Law 92–226) struck out "but consideration shall also be given" and inserted in lieu thereof "but, subject to the provisions of subsection (b) of this section, consideration shall also be given".

[260] Sec. 401(e) of the FA Act of 1971 (Public Law 92–226) struck out the word "and".

[261] Sec. 401(f)(2) of the FA Act of 1971 (Public Law 92–226) added subsecs. (b) and redesignated former subsecs. (b) and (c) as subsecs. (c) and (d), respectively.

[262] Although the slip law contains a comma between "licensed, production" in the first sentence, it is interpreted as "licensed production" with no comma.

United States, the estimated value of such production or coproduction, and the probable impact of the proposed transaction on employment and production within the United States.

(c)[261] Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States.

(d)[260] (1) With respect to sales and guaranties under sections 21, 22, 23, 24, 29, and 30[263] the Secretary of Defense shall, under the direction of the President, have primary responsibility for—

(A) the determination of military end-item requirements;

(B) the procurement of military equipment in a manner which permits its integration with service programs;

(C) the supervision of the training of foreign military personnel;

(D) the movement and delivery of military end-items; and

(E) within the Department of Defense, the performance of any other functions with respect to sales and guaranties.

(2) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall, under the direction of the President, be determined by the Secretary of Defense.

(e)[264] (1) Each contract for sale entered into under sections 21, 22, 29, and 30[263] of this Act, and each contract entered into under section 27(d) of this Act,[265] shall provide that such contract may be canceled in whole or in part, or its execution suspended, by the United States at any time under unusual or compelling circumstances if the national interest so requires.

(2)(A) Each export license issued under section 38 of this Act shall provide that such license may be revoked, suspended, or amended by the Secretary of State, without prior notice, whenever the Secretary deems such action to be advisable.

(B) Nothing in this paragraph may be construed as limiting the regulatory authority of the President under this Act.

(3) There are authorized to be appropriated from time to time such sums as may be necessary (A) to refund moneys received from purchasers under contracts of sale entered into under sections 21, 22, 29, and 30[263] of this Act, or under contracts entered into under sec. 27(d) of this Act,[265] that are canceled or suspended under this subsection to the extent such moneys have previously been disbursed to private contractors and United States Government agencies for work in progress, and (B) to pay such damages and costs that accrue from the corresponding cancellation or suspension of

[263] Sec. 105(e)(3) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135) added the reference to sec. 29. Sec. 2 of Public Law 97–392 (96 Stat. 1962) added the reference to sec. 30.

[264] Sec. 213 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 745) added subsec. (e).

[265] Sec. 115(b)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 210) added the reference to sec. 27(d).

the existing procurement contracts or United States Government agency work orders involved.

(f)[266] The President shall, to the maximum extent possible and consistent with the purposes of this Act, use civilian contract personnel in any foreign country to perform defense services sold under this Act.

Sec. 43.[267] **Administrative Expenses.**—(a) Funds made available under other law for the operations of United States Government agencies carrying out functions under this Act shall be available for the administrative expenses incurred by such agencies under this Act.

(b)[268] Charges for administrative services calculated under section 21(e)(1)(A) of this Act shall include recovery of administrative expenses and official reception and representation expenses[269] incurred by any department or agency of the United States Government, including any mission or group thereof, in carrying out functions under this Act when—

(1) such functions are primarily for the benefit of any foreign country;

(2) such expenses are not directly and fully charged to, and reimbursed from amounts received for, sale of defense services under section 21(a) of this Act; and

(3)[270] such expenses are neither salaries of the Armed Forces of the United States nor represent unfunded estimated costs of civilian retirement and other benefits.

(c)[271] Not more than $86,500 of the funds derived from charges for administrative services pursuant to section 21(e)(1)(A) of this Act may be used each fiscal year for official reception and representation expenses.

Sec. 44.[272] **Statutory Construction.**—No provision of this Act shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended, or section 7307 of title 10 of the United States Code.

Sec. 45. Statutes Repealed and Amended.—(a) Sections 521, 522, 523, 524(b)(3), 525, 634(g), and 640 of the Foreign Assistance Act of 1961, as amended, are hereby repealed.

(b) Part III of the Foreign Assistance Act of 1961, as amended, is amended as follows:

(1) Section 622(b) is amended by striking out "or sales".

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[266] Sec. 605(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 768) added subsec. (f).

[267] 22 U.S.C. 2792.

[268] Subsec. (b), as added by sec. 214 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 746), was amended and restated by sec. 7(d) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 617).

[269] Sec. 120(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 204) added the reference to reception and representation expenses.

[270] Sec. 9104(b)(1) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) added para. (3).

[271] This subsec. (c) was added by sec. 120(2) of Public Law 99–83 (99 Stat. 204). Sec. 1203 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) raised the limit from $72,500 to $86,500.

A previous subsec. (c), added by sec. 19(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709), was repealed by sec. 734(a)(10) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The information previously contained in the annual report required by subsec. (c) is now required by sec. 25(a)(6) of this Act.

[272] 22 U.S.C. 2793.

(2) Section 622(c) is amended by striking out "and sales" and "or sales".

(3) Section 632(d) is amended by striking out "sections 506, 522, and 523," in the first sentence and inserting in lieu thereof "section 506".

(4) Section 634(d) is amended by inserting "or any other" between "under this" and "Act" in the fourth sentence.

(5) Section 644(m) is amended by striking out "and sales" in the first sentence of the paragraph following numbered paragraph (3).

(c) References in law to the provisions of law repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act. Except for the laws specified in section 44, no other provision of law shall be deemed to apply to this Act unless it refers specifically to this Act or refers generally to sales of defense articles and defense services under any Act.

Sec. 46.[273] **Savings Provisions.**—Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provisions of law repealed by section 45(a) shall continue in full force and effect until modified by appropriate authority.

Sec. 47.[274] **Definitions.**—For purposes of this Act, the term—

(1) "excess defense article" has the meaning provided by section 644(g) of the Foreign Assistance Act of 1961;

(2) "value" means, in the case of an excess defense article, except as otherwise provided in sec. 21(a),[275] not less than the greater of—

(A) the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such article, plus the scrap value; or

(B) the market value, if ascertainable;

(3)[276] "defense article", except as provided in paragraph (7) of this section, includes—

(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

(B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales,

(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

(D) any component or part of any article listed in this paragraph,

but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954) source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to

[273] 22 U.S.C. 2341 note.

[274] 22 U.S.C. 2794 note. Added by sec. 25(12) of the FA Act of 1973 (Public Law 93–189).

[275] Sec. 102(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat 197) added the reference to sec. 21(a).

[276] Sec. 215 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 746) added paras. (3), (4), (5), (6), and (7).

take advantage of high density or pyrophoric characteristics unrelated to radioactivity),[277] byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;

(4)[276] "defense service", except as provided in paragraph (7) of this section, includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 644(e) of the Foreign Assistance Act of 1961) used for the purposes of making military sales, but does not include design and construction services under section 29 of this Act;[278]

(5)[276] "training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

(6)[276] "major defense equipment" means any item of significant military[279] equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50,000,000 or a total production cost of more than $200,000,000;

(7)[276] "defense articles and defense services" means, with respect to commercial exports subject to the provisions of section 38 of this Act, those items designated by the President pursuant to subsection (a)(1) of such section;[280]

(8)[281] "design and construction services" means, with respect to sales under section 29 of this Act, the design and construction of real property facilities, including necessary construction equipment and materials, engineering services, construction contract management services relating thereto, and technical advisory assistance in the operation and maintenance of real property facilities provided or performed by any department or agency of the Department of Defense or by a contractor pursuant to a contract with such department or agency;[280]

(9)[280] "significant military equipment" means articles—

(A) for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and

(B) identified on the United States Munitions List;

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[277] Sec. 22 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 710) inserted the parenthetical phrase. See also sec. 110 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3138).

[278] Sec. 105(f) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135) inserted "but does not include design and construction services under section 29 of this Act".

[279] Sec. 1211 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) inserted "military" in lieu of "combat".

[280] Sec. 144 of Public Law 104–164 (110 Stat. 1434) struck out "and" at the end of para. (7); struck out the period at the end of para. (8) and inserted in lieu thereof "; and"; and added a new para. (9).

[281] Sec. 105(f) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135) added para. (8).

(10)[282] "weapons of mass destruction" has the meaning provided by section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1); and

(11)[283] "Sales territory" means a country or group of countries to which a defense article or defense service is authorized to be reexported.

Chapter 5—SPECIAL DEFENSE ACQUISITION FUND[284]

Sec. 51.[285] **Special Defense Acquisition Fund.**—(a)(1) Under the direction of the President and in consultation with the Secretary of State, the Secretary of Defense shall establish a Special Defense Acquisition Fund (hereafter in this chapter referred to as the "Fund"), to be used as a revolving fund separate from other accounts, under the control of the Department of Defense, to finance the acquisition of defense articles and defense service in anticipation of their transfer pursuant to this Act, the Foreign Assistance Act of 1961, or as otherwise authorized by law, to eligible foreign countries and international organizations, and may acquire such articles and services with the funds in the Fund as he may determine. Acquisition under this chapter of items for which the initial issue quantity requirements for United States Armed Forces have not been fulfilled and are not under current procurement contract shall be emphasized when compatible with security assistance requirements for the transfer of such items.

(2) Nothing in this chapter may be construed to limit or impair any responsibilities conferred upon the Secretary of State or the Secretary of Defense under this Act or the Foreign Assistance Act of 1961.

(3)[286] The Fund may be used to keep on continuous order such defense articles and defense services as are assigned by the Department of Defense for integrated management by a single agency thereof for the common use of all military departments in anticipation of the transfer of similar defense articles and defense services to foreign countries and international organizations pursuant to this Act, the Foreign Assistance Act of 1986, or other law.

(4)[287] The Fund shall also be used to acquire defense articles that are particularly suited for use for narcotics control purposes and are appropriate to the needs of recipient countries, such as

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[282] Sec. 1202(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) struck out "and" at the end of para. (8); struck out a period at the end of para. (9) and inserted "; and"; and added para. (10).

[283] Sec. 1405(a)(4) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) struck out "and" at the end of para. (9); struck out a period at the end of para. (10) and inserted "; and"; and added para. (11).

[284] Sec. 108(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522) added chapter 5.

[285] 22 U.S.C. 2795.

[286] Sec. 121(a) and (b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 204), added 51(a)(3) and amended sec. 51(b).

Sec. 114(c) of title 10 U.S.C., limits the size of the Special Defense Acquisition Fund to $1,070,000,000.

[287] Sec. 4 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1957) added para. (4). Sec. 145(b) of Public Law 104–164 (110 Stat. 1434) struck out designation for subpara. (A), and struck out subpara. (B), which had required that information relating to acquisitions under this section be included in an annual report to Congress.

small boats, planes (including helicopters), and communications equipment.

(b)[286] The Fund shall consist of—

(1) collections from sales made under letters of offer issued pursuant to section 21(a)(1)(A) of this Act representing the actual value of defense articles not intended to be replaced in stock,

(2) collections from sales representing the value of asset use charges (including contractor rental payments for United States Government-owned plant and production equipment) and charges for the proportionate recoupment of nonrecurring research, development, and production costs, and

(3) collections from sales made under letters of offer (or transfers made under the Foreign Assistance Act of 1961) of defense articles and defense services acquired under this chapter, representing the value of such items calculated in accordance with subparagraph (B) or (C) of section 21(a)(1) or section 22 of this Act or section 644(m) of the Foreign Assistance Act of 1961, as appropriate,

together with such funds as may be authorized and appropriated or otherwise made available for the purposes of the Fund.

(c)(1) The size of the Fund may not exceed such dollar amount as is prescribed in section 114(c) of title 10, United States Code.[288] For purposes of this limitation, the size of the Fund is the amounts in the Fund plus the value (in terms of acquisition cost) of the defense articles acquired under this chapter which have not been transferred from the Fund in accordance with this chapter.

(2) Amounts in the Fund shall be available for obligation in any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.[289]

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[288] Sec. 114(c) of title 10, U.S.C., was originally codified at sec. 138(g) of title 10, U.S.C., Sec. 138(g) of title 10, U.S.C., as added by sec. 109(b) of Public Law 97–113 (95 Stat. 1524) and amended by sec. 1103 of the DOD Authorization Act, 1983, (Public Law 97–252; 96 Stat. 738), provided that the Special Defense Acquisition Fund "may not exceed $300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter." The DOD Authorization Act, 1986, sec. 1403, (Public Law 99–145; 99 Stat. 743) changed the amount of the program ceiling to $1,000,000,000. Sec. 1304(a) of the DOD Authorization Act, 1987, (Public Law 99–661; 100 Stat. 3816) increased the ceiling to $1,070,000,000. Public Law 99–433, the DOD Reorganization Act of 1986, redesignated sec. 138(g) of title 10 as sec. 114(c).

[289] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1622), as amended by sec. 536 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2416), provided the following:

"SPECIAL DEFENSE ACQUISITION FUND

"Notwithstanding any provision of Public Law 102–391 as amended by Public Law 103–87, not to exceed $140,000,000 of the obligational authority provided in that Act under the heading 'Special Defense Acquisition Fund' may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act.

"Not to exceed $20,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of closing the Special Defense Acquisition Fund, to remain available for obligation until September 30, 2000: *Provided,* That the authority provided in this Act is not used to initiate new procurements.".

Amounts provided for the Fund in recent years are as follows: fiscal year 1982—$125,000,000; fiscal year 1983—$125,000,000; fiscal year 1984—$225,000,000; fiscal year 1985—$325,000,000; fiscal year 1986—$325,000,000; fiscal year 1988—$236,835,000; fiscal year 1989—$236,865,000 (available for obligation until September 30, 1991); fiscal year 1990—$280,000,000 (available for obligation until September 30, 1992—subject to conditions in Public Law 102–298); fiscal year 1991—$350,000,000 (available for obligation until September 30, 1993—subject to conditions in Public Law 102–298); fiscal year 1992—$275,000,000 (available for obligation until September 30, 1994—subject to 1% reduction pursuant to sec. 591 of H.R. 2621 as passed by the House on June 19, 1991, and subject to 1.4781% reduction pursuant to sec. 126 of Public Law 102–

Sec. 52.[290] **Use and Transfer of Items Procured by the Fund.**—(a) No defense article or defense service acquired by the Secretary of Defense under this chapter may be transferred to any foreign country or international organization unless such transfer is authorized by this Act, the Foreign Assistance Act of 1961, or other law.

(b) The President may authorize the temporary use by the United States Armed Forces of defense articles and defense services acquired under this chapter prior to their transfer to a foreign country or international organization, if such is necessary to meet national defense requirements and the United States Armed Forces bear the costs of operation and maintenance of such articles or services while in their use and the costs of restoration or replacement upon the termination of such use.

(c) Except as provided in subsection (b) of this section, the Fund may be used to pay for storage, maintenance, and other costs related to the preservation and preparation for transfer of defense articles and defense services acquired under this chapter prior to their transfer, as well as the administrative costs of the Department of Defense incurred in the acquisition of such items to the extent not reimbursed pursuant to section 43(b) of this Act.

Sec. 53.[291] * * * [Repealed—1996]

Chapter 6—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES[292]

Sec. 61.[293] **Leasing Authority.**—(a) The President may lease defense articles in the stocks of the Department of Defense to an eligible foreign country or international organization if—

(1) he determines that there are compelling foreign policy and national security reasons for providing such articles on a lease basis rather than on a sales basis under this Act;

(2) he determines that the articles are not for the time needed for public use;[294]

(3)[294] the President first considers the effects of the lease of the articles on the national technology and industrial base, particularly the extent, if any, to which the lease reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the articles are leased; and

(4)[294] the country or international organization has agreed to pay in United States dollars all costs incurred by the United

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145, as amended); fiscal year 1993—$225,000,000 (available for obligation until September 30, 1995); fiscal year 1994—$160,000,000.

[290] 22 U.S.C. 2795a.

[291] Formerly at 22 U.S.C. 2795b. Sec. 145(a) of Public Law 104–164 (110 Stat. 1434) repealed sec. 53, which had required the President to file an annual comprehensive report on acquisitions of defense articles and defense services under this chapter.

[292] Sec. 109(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1524) added chapter 6. Sec. 1003(b) of Public Law 100–456 revised the title of chapter 6. It formerly read "Leases of Defense Articles".

[293] 22 U.S.C. 2796.

[294] Sec. 731(e) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503), struck out "and" at the end of para. (2); redesignated para. (3) as para. (4); added a new para (3); and struck out "paragraph (3)" in lieu of "paragraph (4)" in the last two sentences of subsec. (a).

States Government in leasing such articles, including reimbursement for depreciation of such articles while leased, the costs of restoration or replacement if the articles are damaged while leased, and, if the articles are lost or destroyed while leased—[295]

(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.

The requirement of paragraph (4)[294] shall not apply to leases entered into for purposes of cooperative research or development, military exercises, or communications or electronics interface projects.[296] The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States.[297]

[298] The President may waive the requirement of paragraph (4)[294] with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

(A) may be exercised only if the President submits to the Committee on Foreign Affairs[299] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

(B) may be exercised only during the current fiscal year[300] and only with respect to one country, unless the Congress hereafter provides otherwise.

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[295] Sec. 146 of Public Law 104–164 (110 Stat. 1434) struck out "and the replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased." and inserted in lieu thereof "and, if the articles are lost or destroyed while leased—" and subparas. (A) and (B).

[296] Sec. 153(a)(1) of Public Law 104–164 (110 Stat. 1440) struck out ", or to any defense article which has passed three-quarters of its normal service life" at the end of the second sentence of sec. 61(a).

[297] Sec. 153(a)(2) of Public Law 104–164 (110 Stat. 1440) added this sentence. Sec. 153(b) of that Act (22 U.S.C. 2796 note) further provided: "The third sentence of section 61(a) of the Arms Export Control Act, as added by subsection (a)(2), shall apply only with respect to a defense article leased on or after the date of the enactment of this Act.".

[298] The words from this point to the end of subsec. (a) were added by sec. 147 of the Continuing Appropriations Act for Fiscal Year 1987 (Public Law 99–591; 100 Stat. 3341–354).

[299] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[300] Sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), struck out "1998" and inserted in lieu thereof "the current fiscal year". If the amendment is executed, the amended text would read "during the fiscal year the current fiscal year". It is interpreted to intend to read "the current fiscal year".

Previously, sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2412), struck out "1997" and inserted in lieu thereof "1998". Previously, sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) struck out "1996" and inserted in

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.

(b)(1) Each lease agreement[301] under this section shall be for a fixed duration which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles,[302] of not to exceed five years and shall provide that, at any time during the duration of the lease, the President may terminate the lease and require the immediate return of the leased articles.

(2)[303] In this subsection, the term "major refurbishment work" means work for which the period of performance is 6 months or more.

(c) Defense articles in the stocks of the Department of Defense may be leased or loaned to a foreign country or international organization only under the authority of this chapter or chapter 2 of part II of the Foreign Assistance Act of 1961, and may not be leased to a foreign country or international organization under the authority of section 2667 of title 10, United States Code.

Sec. 62.[304] **Reports to the Congress.**—(a) Before[305] entering into or renewing any agreement with a foreign country or international organization to lease any defense article under this chapter, or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961, for a period of one year or longer, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Armed Services of the Senate, a written certification which specifies—

(1) the country or international organization to which the defense article is to be leased or loaned;

(2) the type, quantity, and value (in terms of replacement cost) of the defense article to be leased or loaned;

(3) the terms and duration of the lease or loan; and

(4) a justification for the lease or loan, including an explanation of why the defense article is being leased or loaned rather than sold under this Act.

(b) The President may waive the requirements of this section (and in the case of an agreement described in section 63, may

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lieu thereof "1997"; sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 729), struck out "1995" and "inserted in lieu thereof "1996"; and sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1633), struck out "1994" and "inserted in lieu thereof "1995".

[301] Sec. 1233(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) struck out "(b) Each lease agreement" and inserted in lieu thereof "(b)(1) Each lease agreement".

[302] Sec. 1233(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) struck out "of not to exceed five years" and inserted in lieu thereof "which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles,".

[303] Sec. 1233(3) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added para. (2).

[304] 22 U.S.C. 2796a.

[305] Sec. 141(e)(1)(A) of Public Law 104–164 (110 Stat. 1432) struck out "Not less than 30 days before" and inserted in lieu thereof "Before".

waive the provisions of that section) if he states in his certification,[306] that an emergency exists which requires that the lease or loan be entered into immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved.[307]

(c)[308] The certification required by subsection (a) shall be transmitted)—

(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand; and

(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.

Sec. 63.[309] **Legislative Review.**—(a)[310] (1) Subject to paragraph (2), in the case of[311] any agreement involving the lease under this chapter, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961, to any foreign country or international organization for a period of one year or longer of any defense articles which are either (i) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $14,000,000 or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $50,000,000 or more, the agreement may not be entered into or renewed if the Congress, within the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,[312] enacts a joint[313] resolution prohibiting the proposed lease or loan.

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[306] Sec. 141(e)(1)(B)(i) of Public Law 104–164 (110 Stat. 1432) struck out "determines, and immediately reports to the Congress", and inserted in lieu thereof "states in his certification".

[307] Sec. 141(e)(1)(B)(ii) of Public Law 104–164 (110 Stat. 1432) added the sentence that begins "If the President states".

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[308] Sec. 141(e)(1)(C) of Public Law 104–164 (110 Stat. 1433) added subsec. (c).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[309] 22 U.S.C. 2796b.

[310] Sec. 141(e)(2) of Public Law 104–164 (110 Stat. 1433) struck out designation for para. (1), and struck out para. (2), which had provided as follows:

"(2) This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.".

[311] Sec. 1405(a)(3)(A) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "In the case of" and inserted in lieu thereof "(1) Subject to paragraph (2), in the case of".

[312] Sec. 141(e)(2) of Public Law 104–164 (110 Stat. 1433) struck out "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserted in lieu thereof "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,".

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[313] Sec. (d) of Public Law 99–247 (100 Stat. 9) struck out "concurrent" and inserted "joint".

(2)[314] In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand, the limitations in paragraph (1) shall apply only if the agreement involves a lease or loan of—

(A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $25,000,000 or more; or

(B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $100,000,000 or more.

(b) Any joint[313] resolution under subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(c) For the purpose of expediting the consideration and enactment of joint[313] resolutions under subsection (a), a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

Sec. 64.[315] **Application of Other Provisions of Law.**—Any reference to sales of defense articles under this Act in any provision of law restricting the countries or organizations to which such sales may be made shall be deemed to include a reference to leases of defense articles under this chapter.

Sec. 65.[316] **Loan of Materials, Supplies, and Equipment for Research and Development Purposes.**—(a)(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

(b) The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

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[314] Sec. 1405(a)(3)(B) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) added para. (2).

[315] 22 U.S.C. 2796c.

[316] 22 U.S.C. 2796d. Sec. 1003(a) of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2038) added sec. 65.

(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

(c) The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.

(d) For purposes of this section, the term "NATO[317] ally" means a member country of the North Atlantic Treaty Organization (other than the United States).[318]

CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY[319]

Sec. 71.[320] Licensing.—

(a) ESTABLISHMENT OF LIST OF CONTROLLED ITEMS.—The Secretary of State, in consultation with the Secretary of Defense[321] and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979.

(b) REFERRAL OF LICENSE APPLICATIONS.—(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense.[322]

(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense and the Secretary

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[317] Sec. 147(a)(3)(B)(i) of Public Law 104–164 (110 Stat. 1435) struck out "or major non-NATO" after "NATO".

[318] Sec. 147(a)(3)(B)(ii) of Public Law 104–164 (110 Stat. 1435) struck out "or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 2350a(i)(3) of title 10, United States Code" after the parentheses. Previously, sec. 705(d)(2) of Public Law 102–25 (105 Stat. 120) struck out "section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a)" and inserted in lieu thereof "section 2350a(i)(3) of title 10, United States Code". Sec. 1105 of the National Defense Authorization Act for Fiscal Year 1987 was repealed in 1989.

[319] Sec. 1703 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1745) added chapter 7, secs. 71–74.

[320] 22 U.S.C. 2797. See also sec. 1212 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2087), stating U.S. policy and the sense of Congress on the nonproliferation of ballistic missiles.

[321] Sec. 1225(a)(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out ", the Director of the Arms Control and Disarmament Agency," after "Secretary of Defense". The text had originally been added by sec. 714(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497).

[322] Sec. 1225(a)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "and the Director of the United States Arms Control and Disarmament Agency" after "Secretary of Defense". The text had originally been added by sec. 714(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497).

of Commerce[323] the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary[324] indicates the need to receive such application and documents.

(c) INFORMATION SHARING.—The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence,[325] and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

(d)[326] EXPORTS TO SPACE LAUNCH VEHICLE PROGRAMS.—Within 15 days[327] after the issuance of a license (including any brokering license) for the export of items valued at less than $50,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, the Secretary shall transmit to the Congress[328] a report describing the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were members of the MTCR as of April 17, 1987.

Sec. 72.[329, 330] Denial of the Transfer of Missile Equipment or Technology by United States Persons.

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[323] Sec. 1225(a)(6)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Secretary of Commerce". Previously, sec. 714(a)(5)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

[324] Sec. 1225(a)(6)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "or the Director" after "relevant Secretary". Previously, sec. 714(a)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

[325] Sec. 1225(a)(7) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out with the Director of the United States Arms Control and Disarmament Agency," after "Director of Central Intelligence,". Previously, sec. 714(a)(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

[326] Sec. 735(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 506), added subsec. (d).

[327] Sec. 708(c) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 863) struck out "Within 15 days after the issuance of a license for the export of items valued at less than $14,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and intended to support the design, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex," and inserted in lieu thereof "Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than $50,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex,".

[328] Sec. 704 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 861) provided the following:

"SEC. 704. MTCR REPORT TRANSMITTALS.

"For purposes of section 71(d) of the Arms Export Control Act (22 U.S.C. 2797(d)), the requirement that reports under that section shall be transmitted to the Congress shall be considered to be a requirement that such reports shall be transmitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs of the Senate.".

[329] 22 U.S.C. 2797a.

Continued

(a) SANCTIONS.—(1) If the President determines that a United States person knowingly—

(A) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 of this Act, section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405), or any regulations or orders issued under any such provisions,

(B) conspires to or attempts to engage in such export, transfer, or trade, or

(C) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in paragraph (2).

(2) The sanctions which apply to a United States person under paragraph (1) are the following:

(A) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person for a period of 2 years—

(i) United States Government contracts relating to missile equipment or technology; and

(ii) licenses for the transfer of missile equipment or technology controlled under this Act.

(B) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR, then the President shall deny to such United States person for a period of not less than 2 years—

(i) all United States Government contracts, and

(ii) all export licenses and agreements for items on the United States Munitions List.

(b) DISCRETIONARY SANCTIONS.—In the case of any determination made pursuant to subsection (a), the President may pursue any penalty provided in section 38(c) of this Act.

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[330] Executive Order 12851 of June 11, 1993 (58 F.R. 33181), provided for the administration of proliferation sanctions, Middle East Arms Control, and related congressional reporting requirements, including the following:

"**Sec. 2.** *Missile Proliferation Sanctions.* (a) *Arms Export Control Act.* The authority and duties vested in me by section 72–73 of the AECA (22 U.S.C. 2797a–2797b) are delegated to the Secretary of State, except that:

"(1) The authority and duties vested in me by section 72(a)(1) to make determinations with respect to violations by United States persons of the EAA are delegated to the Secretary of Commerce.

"(2) The authority and duties vested in me to deny certain United States Government contracts as provided in sections 73(a)(2)(A)(i) and 73(a)(2)(B)(i), pursuant to a determination made by the Secretary of State under section 73(a)(1), as well as the authority and duties vested in me to make the findings provided in sections 72(c), 73(f), and 73(g)(1), are delegated to the Secretary of Defense. The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, any waivers based upon findings made pursuant to sections 72(c) and 73(f).

"(3) The authority and duties vested in me to prohibit certain imports as provided in section 73(a)(2)(C), pursuant to a determination made by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 73(g), are delegated to the Secretary of the Treasury.".

This Executive order superceded a memorandum of the President of June 25, 1991, delegating authority regarding missile technology proliferation (56 F.R. 31041; July 8, 1991).

(c)[331] PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a United States person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

(d)[331] WAIVER.—The President may waive the imposition of sanctions under subsection (a) with respect to a product or service if the President certifies to the Congress that—

(1) the product or service is essential to the national security of the United States; and

(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

Sec. 73.[330, 332] **Transfers of Missile Equipment or Technology by Foreign Persons.**

(a) SANCTIONS.—(1)[333] Subject to subsections (c) through (g), if the President determines that a foreign person, after the date of the enactment of this chapter, knowingly—

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[331] Sec. 734(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 505), redesignated subsec. (c) as subsec. (d), and added a new subsec. (c).

[332] 22 U.S.C. 2797b.

[333] On July 22, 2004, the State Department determined that the Federal Research and Production Complex Altay (Russia) was in violation of this section (Department of State Public Notice 4771; 69 F.R. 43875). Subsequently, on November 1, 2004, the State Department determined that these sanctions against the Russian entity no longer apply (Department of State Public Notice 4902; 69 F.R. 67617), but imposed sanctions under Executive Order 12938, relating to the proliferation of weapons of mass destruction (see vol. II), against the same entity (Department of State Public Notice 4901; November 18, 2004; 69 F.R. 67617). That Public Notice also added the Russian entity to the ITAR list at 22 CFR 126.7.

On July 16, 2004, the State Department determined that the terms of sec. 73 had been violated, but concluded "that publication of the determination would be harmful to the national security of the United States." (Department of State Public Notice 4772 of July 16, 2004; 69 F.R. 43875). A similar determination was issued on September 13, 2004 (Public Notice 4834; 69 F.R. 56260).

On May 19, 2003, the State Department determined that entities in Moldova had engaged in missile technology proliferation activities in violation of this section (Department of State Public Notice 4374; 68 F.R. 31740).

On August 29, 2003, the State Department determined "that it was essential to the national security of the United States to waive for a period of one year the import sanctions described in section 73(a)(2)(C) of the Arms Export Control Act * * * against the activities of the Chinese Government * * * *i.e.*, activities of the Chinese government relating to the development or production of any missile equipment or technology and activities of the Chinese government affecting the development or production of electronics, space systems or equipment, and military aircraft" (Department of State Public Notice 4493; 68 F.R. 54930). The entity cited in that Public Notice was China North Industries Corporation. On September 13, 2004, the State Department extended the waiver for six months, once again finding it "essential to the national security of the United States" to do so (Department of State Public Notice 4835; 69 F.R. 56261).

On August 20, 2002, the State Department determined that the terms of sec. 73 had been violated, but concluded "that publication of the determination would be harmful to the national security of the United States." (Department of State Public Notice 4107 of August 20, 2002; 67 F.R. 54693). A similar determination was issued on March 27, 2003 (Public Notice 4325; 68 F.R. 16113).

On August 16, 2002, the State Department determined that Changgwang Sinyong Corporation of North Korea was in violation of this section (Department of State Public Notice 4106; 67 F.R. 54693). On April 2, 2003, another determination was made against this entity (Public Notice 4326; 68 F.R. 16113).

Continued

(A) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the acquisition,[334] design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

(B) conspires to or attempts to engage in such export, transfer, or trade, or

(C) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 11B(b)(1) of the Export Administration Act of 1979, then the President shall impose on that foreign person the applicable sanctions under paragraph (2).

(2) The sanctions which apply to a foreign person under paragraph (1) are the following:

(A)[333] If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years—

(i) United States Government contracts relating to missile equipment or technology; and

(ii) licenses for the transfer to such foreign person of missile equipment or technology controlled under this Act.

(B) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years—

(i) all United States Government contracts with such foreign person; and

(ii) licenses for the transfer to such foreign person of all items on the United States Munitions List.

(C) If, in addition to actions taken under subparagraphs (A) and (B), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(b)[335] INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

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See also sec. 620H of the Foreign Assistance Act of 1961, this volume; the Iran Nonproliferation Act of 2000, the Iran-Iraq Arms Nonproliferation Act of 1992, and Executive Order 12938, relating to the proliferation of weapons of mass destruction, in *Legislation on Foreign Relations Through 2004*, vol. II. See also the Export Administration Act of 1979, in *Legislation on Foreign Relations Through 2004*, vol. III.

[334] Sec. 323(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 711), inserted "acquisition,".

[335] Sec. 1136(b) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)): (1) redesignated paras. (1) and (2) as subparas. (A) and (B), respectively; (2) struck out "Subsection (a)" and inserted in lieu thereof "(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a)" at the beginning of subsec. (b); and (3) added para. (2).

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(2)[335] LIMITATION.—Notwithstanding paragraph (1), subsection (a) shall apply to an entity subordinate to a government that engages in exports or transfers described in section 498A(b)(3)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(b)(3)(A)).

(c) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in subsection (a) may not be imposed under this section on a person with respect to acts described in such subsection or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts, and if the President certifies to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that—

(1) for any judicial or other enforcement action taken by the MTCR adherent, such action has—

(A) been comprehensive; and

(B) been performed to the satisfaction of the United States; and

(2) with respect to any finding of innocence of wrongdoing, the United States is satisfied with the basis for such finding.[336]

(d) ADVISORY OPINIONS.—The Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce,[337] may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(e) WAIVER AND REPORT TO CONGRESS.—(1) In any case other than one in which an advisory opinion has been issued under subsection (d) stating that a proposed activity would not subject a person to sanctions under this section, the President may waive the application of subsection (a) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(2) In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the

[336] Sec. 1136(c) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added text beginning at "and if the President certifies".

[337] Sec. 1225(a)(8) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Secretary of Commerce". Previously, sec. 714(a)(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

Committee on International Relations of the House of Representatives[338] not less than 45 working days[338] before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(f)[339] PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a foreign person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

(g)[339] ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(1) the product or service is essential to the national security of the United States; and

(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(h)[339] EXCEPTIONS.—The President shall not apply the sanction under this section prohibiting the importation of the products of a foreign person—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(B) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(C) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

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[338] Sec. 1408(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) (1) struck out "the Congress" and inserted in lieu thereof "the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives"; and (2) struck out "20 working days" and inserted in lieu thereof "45 working days".

The House Committee on National Security reverted back to its former name, Committee on Armed Services, in the 106th Congress. No legislation, however, was enacted to universally amend reference to that committee in Public Law. Sec. 1067 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) did make such a change in specific pieces of legislation and 10 United States Code.

[339] Sec. 734(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 505), redesignated subsecs. (f) and (g) as subsecs. (g) and (h), and added a new subsec. (f).

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(3) to—

(A) spare parts,

(B) component parts, but not finished products, essential to United States products or production,

(C) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(D) information and technology essential to United States products or production.

SEC. 73A.[340] NOTIFICATION OF ADMITTANCE OF MTCR ADHERENTS.

(a)[341] POLICY REPORT.—Following any action by the United States that results in a country becoming a MTCR adherent, the President shall transmit promptly to the Congress a report which describes the rationale for such action, together with an assessment of that country's nonproliferation policies, practices, and commitments. Such report shall also include the text of any agreements or understandings between the United States and such country regarding the terms and conditions of the country's adherence to the MTCR.

(b)[341] INTELLIGENCE ASSESSMENT REPORT.—At such times that a report is transmitted pursuant to subsection (a), the Director of Central Intelligence shall promptly prepare and submit to the Congress a separate report containing any credible information indicating that the country described in subsection (a) has engaged in any activity identified under subparagraph (A), (B), or (C) of section 73(a)(1) within the previous two years.

SEC. 73B.[342] AUTHORITY RELATING TO MTCR ADHERENTS.

Notwithstanding section 73(b), the President may take the actions under section 73(a)(2) under the circumstances described in section 74(b)(2).

Sec. 74.[343] Definitions.

(a)[344] IN GENERAL.—For purposes of this chapter—

(1) the term "missile" means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

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[340] 22 U.S.C. 2797b–1. Sec. 735(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 506), added sec. 73A. Functions in this section are delegated to the Under Secretary of State for International Security Affairs (Department of State Public Notice 2086; Delegation of Authority No. 214; 59 F.R. 50790).

[341] Sec. 1136(d) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "Following any action" and inserted in lieu thereof "(a) POLICY REPORT.—Following any action", and added subsec. (b).

[342] 22 U.S.C. 2797b–2. Sec. 1137 of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added sec. 73B.

[343] 22 U.S.C. 2797c.

[344] Sec. 1136(a) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added subsec. designation and "IN GENERAL" before "For purposes of", and added subsec. (b).

(2) the term "Missile Technology Control Regime" or "MTCR" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

(3) the term "MTCR adherent" means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

(4) the term "MTCR Annex" means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

(5) the terms "missile equipment or technology" and "MTCR equipment or technology" mean those items listed in category I or category II of the MTCR Annex;

(6) the term "United States person" has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2));

(7) the term "foreign person" means any person other than a United States person;

(8)(A) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

(B) in the case of countries with non-market economies (excluding former members of the Warsaw Pact),[345] the term "person" means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of electronics, space systems or equipment, and military aircraft;[346] and

(9) the term "otherwise engaged in the trade of" means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

(b)[346] INTERNATIONAL UNDERSTANDING DEFINED.—For purposes of subsection (a)(3), as it relates to any international understanding concluded with the United States after January 1, 2000, the term "international understanding" means—

(1) any specific agreement by a country not to export, transfer, or otherwise engage in the trade of any MTCR equipment

[345] Popularly referred to as the Helms amendment. Sec. 323(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 711), struck out "countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A)" and inserted in lieu thereof "countries with non-market economies (excluding former members of the Warsaw Pact)".

[346] Sec. 323(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 711), struck out "aircraft, electronics, and space systems or equipment" and inserted in lieu thereof "electronics, space systems or equipment, and military aircraft".

or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act; or

(2) any specific understanding by a country that, notwithstanding section 73(b) of this Act, the United States retains the right to take the actions under section 73(a)(2) of this Act in the case of any export or transfer of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act.

CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION[347]

SEC. 81.[348, 349] SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) IMPOSITION OF SANCTIONS.—

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the

[347] Two forms of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 were enacted in 1991. Sec. 505(b) of the first Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; Public Law 102–138; 105 Stat. 727) added chapter 8, sec. 81.

Sec. 305(b) of the second Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182; 105 Stat. 1245) also inserted a new chapter 8, section 81 at this point.

Subsequently, sec. 309(a) of the second Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182; 105 Stat. 1245) repealed title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (the first Chemical and Biological Weapons Control and Warfare Elimination Act), and all amendments made therein.

[348] 22 U.S.C. 2798.

[349] Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related congressional reporting requirements, including the following:

"Section 1. *Chemical and Biological Weapons Proliferation and Use Sanctions*. (a) *Chemical and Biological Weapons Proliferation*. The authority and duties vested in me by section 81 of the Arms Export Control Act, as amended ('AECA') (22 U.S.C. 2798), and section 11C of the Export Administration Act of 1979, as amended ('EAA') (50 U.S.C. App. 2410c), are delegated to the Secretary of State, except that:

"(1) The authority and duties vested in me to deny certain United States Government contracts, as provided in section 81(c)(1)(A) of the AECA and section 11C(c)(1)(A) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, as well as the authority and duties vested in me to make the determinations provided for in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA are delegated to the Secretary of Defense. The Secretary of Defense shall notify the Secretary of the Treasury of determinations made pursuant to section 81(c)(2) of the AECA and section 11(c)(2) of the EAA).

"(2) The authority and duties vested in me to prohibit certain imports as provided in section 81(c)(1)(B) of the AECA and section 11C(c)(1)(B) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, and the obligation to implement the exceptions provided in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA, insofar as the exceptions affect imports of goods into the United States, are delegated to the Secretary of the Treasury."

On February 4, 2003, the Department of State determined that entities of Indian origin had engaged in proliferation activities that were in violation of sec. 81 of this Act and the Export Administration Act (Department of State Public Notice 4280; 68 F.R. 8068).

On July 19, 2002, the Department of State determined that numerous entities in China and one of Indian origin had engaged in proliferation activities that were in violation of sec. 81 of this Act, the Export Administration Act, and the Iran-Iraq Arms Nonproliferation Act of 1992 (Department of State Public Notice 4071; 67 F.R. 48696).

sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section,[350] has knowingly and materially contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after January 1, 1980—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

[350] Sec. 309(a)(2) of Public Law 102–182 (105 Stat. 1258) provides that "the 'date of the enactment of this section' * * * shall be deemed to refer to the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138)", which was enacted on October 28, 1991.

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12–month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

CHAPTER 9—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS[351]

SEC. 91.[352] PURPOSE.

The purpose of this chapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

(1) enhance NATO's forces,

(2) increase NATO standardization and interoperability, and

(3) better distribute defense burdens within the NATO alliance.

SEC. 92.[353] CFE TREATY OBLIGATIONS.

The authorities provided in this chapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

SEC. 93.[354] AUTHORITIES.

(a)[355] GENERAL AUTHORITY.—The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

(1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty's definition of "conventional armaments and equipment limited by the Treaty";

(2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Department of Defense and located in the CFE Treaty's area of application; and

(3) that the President determines are not needed by United States military forces within the CFE Treaty's area of application.

(b) ACCEPTANCE OF NATO ASSISTANCE IN ELIMINATING DIRECT COSTS OF TRANSFERS.—In order to eliminate direct costs of facilitating transfers of defense articles under subsection (a), the United States may utilize services provided by NATO or any NATO/CFE country, including inspection, repair, or transportation services with respect to defense articles so transferred.

(c) ACCEPTANCE OF NATO ASSISTANCE IN MEETING CERTAIN UNITED STATES OBLIGATIONS.—In order to facilitate United States compliance with the CFE Treaty-mandated obligations for destruction of conventional armaments and equipment limited by the CFE Treaty, the United States may utilize services or funds provided by NATO or any NATO/CFE country.

(d) AUTHORITY TO TRANSFER ON A GRANT BASIS.—Defense articles may be transferred under subsection (a) without cost to the recipient country.

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[351] Sec. 2 of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102–228; 105 Stat. 1691) added chapter 9, secs. 91–95.

[352] 22 U.S.C. 2799.

[353] 22 U.S.C. 2799a.

[354] 22 U.S.C. 2799b.

[355] In a Memorandum of February 13, 1992, the President delegated "to the Secretary of Defense the functions vested in me by section 93(a) and section 94 of the Arms Export Control Act, as amended ('the Act'), and to the Secretary of State the functions vested in me by section 93(f) of the Act. Consistent with section 2 of the Act, transfers of defense articles under section 93(a) shall be subject to the policy direction of the Secretary of State, including the determination of whether such transfers shall occur." (57 F.R. 6663; February 27, 1992).

(e) THIRD COUNTRY TRANSFERS RESTRICTIONS.—For purposes of sections 3(a)(2), 3(a)(3), 3(c), and 3(d) of this Act, defense articles transferred under subsection (a) of this section shall be deemed to have been sold under this Act.

(f)[355] MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.—The President shall ensure that transfers by the United States under subsection (a), taken together with transfers by other NATO/CFE countries in implementing the CFE Treaty, are of such valuations so as to be consistent with the United States policy, embodied in section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the Eastern Mediterranean.

(g) EXPIRATION OF AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the authority of subsection (a) expires at the end of the 40–month period beginning on the date on which the CFE Treaty enters into force.

(2) TRANSITION RULE.—Paragraph (1) does not apply with respect to a transfer of defense articles for which notification under section 94(a) is submitted before the end of the period described in that paragraph.

SEC. 94.[355, 356] NOTIFICATIONS AND REPORTS TO CONGRESS.

(a) NOTIFICATIONS.—Not less than 15 days before transferring any defense articles pursuant to section 93(a), the President shall notify the Committee on Foreign Affairs[357] of the House of Representatives and the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of the Foreign Assistance Act of 1961.

(b) ANNUAL REPORTS.—Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs[357] and the Committee on Armed Services[358] of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

(1) lists all transfers made to each recipient NATO/CFE country by the United States under section 93(a) during the preceding calendar year;

(2) describes how those transfers further the purposes described in paragraphs (1) through (3) of section 91; and

(3) lists, on a country-by-country basis, all transfers to another country of conventional armaments and equipment limited by the CFE Treaty—

(A) by each NATO/CFE country (other than the United States) in implementing the CFE Treaty, and

(B) by each country of the Eastern Group of States Parties[359] in implementing the CFE Treaty.

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[356] 22 U.S.C. 2799c.

[357] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[358] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[359] Sec. 402(1) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Warsaw Pact country" and inserted in lieu thereof "country of the Eastern Group of States Parties".

SEC. 95.[360] **DEFINITIONS.**

As used in this chapter—

(1) the term "CFE Treaty" means the Treaty on Conventional Armed Forces in Europe (signed at Paris, November 19, 1990);

(2) the term "conventional armaments and equipment limited by the CFE Treaty" has the same meaning as the term "conventional armaments and equipment limited by the Treaty" does under paragraph 1(J) of article II of the CFE Treaty;

(3) the term "NATO" means the North Atlantic Treaty Organization;

(4) the term "NATO/CFE country" means a member country of NATO that is a party to the CFE Treaty and is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949 (the North Atlantic Treaty); and

(5) the term "country of the Eastern Group of States Parties"[361] means a country that is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955 or a successor state to such a country.[362]

CHAPTER 10—NUCLEAR NONPROLIFERATION CONTROLS[363]

SEC. 101.[364,365] **NUCLEAR ENRICHMENT TRANSFERS.**

(a) PROHIBITIONS; SAFEGUARDS AND MANAGEMENT.—Except as provided in subsection (b) of this section, no funds made available

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[360] 22 U.S.C. 2799d.

[361] Sec. 402(2)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Warsaw Pact country" and inserted in lieu thereof "country of the Eastern Group of States Parties".

[362] Sec. 402(2)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) inserted "or a successor state to such a country".

[363] Sec. 826(a) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 515) added chapter 10, sections 101, 102, and 103.

[364] 22 U.S.C. 2799aa. See determinations set out in footnotes in sec. 102(b)(1).

Popularly referred to as the Symington amendment. Similar language was originally enacted as sec. 669 of the Foreign Assistance Act of 1961, and codified at 22 U.S.C. 2429, by sec. 305 of Public Law 94–329. Sec. 669 was amended and restated by sec. 12 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 620), further amended by secs. 10(b)(4) and 12 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 735, 737); and further amended by sec. 737(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562). Secs. 669 and 670 were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

[365] On September 10, 2004, the President determined:

"* * * that Libya received nuclear enrichment equipment, material, or technology after August 4, 1977. I hereby determine and certify that the continued termination of assistance, as required by this section, would have a serious adverse effect on vital United States interests and that I have received reliable assurances that Libya will not acquire or develop nuclear weapons or assist other nations in doing so.

"Pursuant to section 102(b) of the Arms Export Control Act, I hereby determine that Libya, a non-nuclear weapon state, sought and received design information that I determine to be important to, and intended by Libya for use in, the development or manufacture of a nuclear explosive device. I hereby determine and certify that the application of sanctions, as required by this section, would have a serious adverse effect on vital United States interests.

Continued

to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines delivers nuclear enrichment equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977, unless before such delivery—

(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

(b) CERTIFICATION BY PRESIDENT OF NECESSITY OF CONTINUED ASSISTANCE; DISAPPROVAL BY CONGRESS.—(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within thirty calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"Pursuant to section 2(b)(4) of the Export-Import Bank Act of 1945, as amended, I hereby determine and certify that it is in the national interest for the Export-Import Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to Libya.". (Presidential Determination No. 2004–44; September 10, 2004; 69 F.R. 56153).

SEC. 102.[363, 366] **NUCLEAR REPROCESSING TRANSFERS, ILLEGAL EXPORTS FOR NUCLEAR EXPLOSIVE DEVICES, TRANSFERS OF NUCLEAR EXPLOSIVE DEVICES, AND NUCLEAR DETONATIONS.**

(a) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OF NUCLEAR REPROCESSING EQUIPMENT, MATERIALS, OR TECHNOLOGY; EXCEPTIONS; PROCEDURES APPLICABLE.—(1) Except as provided in paragraph (2) of this subsection, no funds made available to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines—

(A) delivers nuclear reprocessing equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977 (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing), or

(B) is a non-nuclear-weapon state which, on or after August 8, 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device.

For purposes of clause (B), an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export (or attempted export) by that country.

(2)[367] Notwithstanding paragraph (1) of this subsection, the President in any fiscal year may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing during that fiscal year to the Speaker of the House of Representatives and the Committee on Foreign Relations

[366] 22 U.S.C. 2799aa–1. Popularly referred to as the Glenn amendment. Similar language was originally enacted as sec. 670 of the Foreign Assistance Act of 1961, and codified at 22 U.S.C. 2429a, by sec. 12 of Public Law 95–92 (91 Stat. 620); amended and restated by sec. 737(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562); and further amended by sec. 1204 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 277). Sec. 670 (and sec. 669) were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

[367] The President delegated the functions authorized in sec. 101(a)(2) to the Secretary State in sec. 1(a)(iii) of Executive Order 13346 of July 8, 2004 (69 F.R. 41905).

of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(b) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES; EXCEPTIONS; PROCEDURES APPLICABLE.—(1)[368] Except as provided in paragraphs (4), (5), and (6), in the event that the President determines

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[368] On September 10, 2004, the President determined:

"* * * that Libya received nuclear enrichment equipment, material, or technology after August 4, 1977. I hereby determine and certify that the continued termination of assistance, as required by this section, would have a serious adverse effect on vital United States interests and that I have received reliable assurances that Libya will not acquire or develop nuclear weapons or assist other nations in doing so.

"Pursuant to section 102(b) of the Arms Export Control Act, I hereby determine that Libya, a non-nuclear weapon state, sought and received design information that I determine to be important to, and intended by Libya for use in, the development or manufacture of a nuclear explosive device. I hereby determine and certify that the application of sanctions, as required by this section, would have a serious adverse effect on vital United States interests.

"Pursuant to section 2(b)(4) of the Export-Import Bank Act of 1945, as amended, I hereby determine and certify that it is in the national interest for the Export-Import Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to Libya.". (Presidential Determination No. 2004–44; September 10, 2004; 69 F.R. 56153).

On May 13, 1998, the President determined "that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998. The relevant agencies and instrumentalities of the United States Government are hereby directed to take the necessary actions to impose the sanctions described in section 102(b)(2) * * *" (Presidential Determination 98–22 of May 13, 1998; 63 F.R. 27665). In support of that determination, the Department of State issued Public Notice 2825 (63 F.R. 27781; May 15, 1998), to revoke all "licenses and other approvals to export or otherwise transfer defense articles and defense services from the United States to India, or transfer U.S. origin defense articles and defense services from a foreign destination to India, or temporarily import defense articles from India pursuant to Section 38 of the Arms Export Control Act * * *".

On May 30, 1998, the President determined "that Pakistan, a non-nuclear-weapon state, detonated a nuclear explosive device on May 28, 1998. The relevant agencies and instrumentalities of the United States Government are hereby directed to take the necessary actions to impose the sanctions described in section 102(b)(2) * * *" (Presidential Determination 98–25 of May 30, 1998; 63 F.R. 31881). In support of that determination, the Department of State issued Public Notice 2835 (63 F.R. 33122; May 30, 1998), to revoke all "licenses and other approvals to export or otherwise transfer defense articles and defense services from the United States to Pakistan, or transfer U.S. origin defense articles and defense services from a foreign destination to Pakistan, or temporarily import defense articles from Pakistan pursuant to Section 38 of the Arms Export Control Act * * *".

The India-Pakistan Relief Act, enacted as title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(a) of Public Law 105–277; 112 Stat. 2681), however, authorized the President to waive the application of sanctions against India and Pakistan for one year. The President issued such a determination as referred to in sec. 902 of the India-Pakistan Relief Act on December 1, 1998, that provided: "I hereby waive until October 21, 1999, the sanctions and prohibitions contained in section 101 and 102 of the Arms Export Control Act, section 620E(e) of the Foreign Assistance

Act of 1961, and section 2(b)(4)of the Export-Import Bank Act of 1945, insofar as such sanctions and prohibitions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency with respect to Pakistan and India; assistance to Pakistan and India under the 'International Military Education and Training' program; the making of any loan or financial or technical assistance to Pakistan by any international financial institution in support of the assistance program that Pakistan is negotiating with the International Monetary Fund." (Presidential Determination No. 99–7; *Weekly Compilation of Presidential Documents,*vol. 34, no. 49, December 7, 1998, p. 2402).

The President extended the waiver on September 30, 1999 (Presidential Determination No. 99–44; 64 F.R. 54503).

In 1999, the President exercised authority pursuant to the India-Pakistan Relief Act of 1998 in Presidential Determination No. 99–38 of September 21, 1999 (64 F.R. 53573); Presidential Determination No. 99–44 of September 30, 1999 (64 F.R. 54503); and Presidential Determination No. 2000–4 of October 27, 1999 (64 F.R. 60649).

Title IX of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1283) repealed the India-Pakistan Relief Act, effective October 21, 1999. In its place, title IX of that Act, as amended, provided the following:

"TITLE IX

"WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

"SEC. 9001. (a) WAIVER AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the President may waive, with respect to India and Pakistan, the application of any sanction contained in section 101 or 102 of the Arms Export Control Act (22 U.S.C. 2799aa or 22 U.S.C. 2799aa–1), section 2(b)(4) of the Export Import Bank Act of 1945 (12 U.S.C. 635(b)(4)), or section 620E(e) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2375(e)).

"(b) EXCEPTION.—The authority to waive the application of a sanction or prohibition (or portion thereof) under subsection (a) shall not apply with respect to a sanction or prohibition contained in subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines, and so certifies to the Congress, that the application of the restriction would not be in the national security interests of the United States.

"(c) TERMINATAION OF WAIVER.—The President may not exercise the authority of subsection (a), and any waiver previously issued under subsection (a) shall cease to apply, with respect to India or Pakistan, if that country detonates a nuclear explosive device after the date of the enactment of this Act or otherwise takes such action which would cause the President to report pursuant to section 102(b)(1) of the Arms Export Control Act.

"(d) TARGETED SANCTIONS.—

"(1) SENSE OF THE CONGRESS.—

"(A) it is the sense of the Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that this control list requires refinement; and

"(B) export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.

"(2) REPORTING REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit both a classified and unclassified report to the appropriate congressional committees listing those Indian and Pakistani entities whose activities contribute to missile programs or weapons of mass destruction programs.

"(e) CONGRESSIONAL NOTIFICATION.—The issuance of a license for export of a defense article, defense service, or technology under the authority of this section shall be subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), including the transmittal of information and the application of congressional review procedures. The application of these requirements shall be subject to the dollar amount thresholds specified in that section.

"(f) REPEAL.—The India-Pakistan Relief Act (title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, as contained in section 101(a) of Public Law 105–277) is repealed effective October 21, 1999.".

The President waived the application of sanctions under the new law on October 27, 1999 (Presidential Determination No. 2000–4; 64 F.R. 60649), to the following extent:

"(1) with respect to India, insofar as such sanctions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency; assistance under the 'International Military Education and Training' program; the making of any loan or the providing of any credit to the Government of India by any U.S. bank; assistance to the Asian elephant Conservation Fund, the Rhinoceros and Tiger conservation Fund, and the Indo-American Environmental Leadership program; and any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and

"(2) with respect to Pakistan, insofar as such sanctions would otherwise apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and the making of any loan or the providing of any credit to the Government of Pakistan by any U.S. bank." (Presidential Determination No. 2000–4; October 27, 1999; 64 F.R. 60649).

The President and executive branch agencies subsequently waived or adjusted sanctions against particular Indian and Pakistani entities: see Presidential Determination No. 2000–18

Continued

that any country, after the effective date of part B of the Nuclear Proliferation Prevention Act of 1994—

(A) transfers to a non-nuclear-weapon state a nuclear explosive device,

(B) is a non-nuclear-weapon state and either—

(i) receives a nuclear explosive device, or

(ii) detonates a nuclear explosive device,

(C) transfers to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

(D) is a non-nuclear-weapon state and seeks and receives any design information or component which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

then the President shall forthwith report in writing his determination to the Congress and shall forthwith impose the sanctions described in paragraph (2) against that country.

(2) The sanctions referred to in paragraph (1) are as follows:

(A) The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for humanitarian assistance or food or other agricultural commodities.

(B) The United States Government shall terminate—

(i) sales to that country under this Act of any defense articles, defense services, or design and construction services, and

(ii) licenses for the export to that country of any item on the United States Munitions List.

(C) The United States Government shall terminate all foreign military financing for that country under this Act.

(D) The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, except that the sanction of this subparagraph shall not apply—

(March 18, 2000; 65 F.R. 16297); Bureau of Export Administration, 15 CFR Part 744 (March 17, 2000; 65 F.R. 14444); and Presidential Determination No. 2001–11 (January 19, 2001; 66 F.R. 8503).

On September 22, 2001, the President lifted all nuclear test-related sanctions against India and Pakistan, under the authority granted him in the Defense Appropriations Act, FY 2000 (Presidential Determination No. 2001–28; 66 F.R. 50095).

On October 27, 2001, the President signed Public Law 107–57 (115 Stat. 403), authorizing the waiver of remaining sanctions imposed against Pakistan for debt arrearage and the military overthrow of its democratically elected government. On March 14, 2003, the President determined that a waiver of the coup-related sanctions imposed against Pakistan "would facilitate the transition to democratic rule in Pakistan; and is important to United States efforts to respond to, deter, or prevent acts of international terrorism" and thus waived the sanctions for FY 2003 (Presidential Determination No. 2003–16; 68 F.R. 13803). The President waived the sanctions for 2004 in Presidential Determination No. 2004–26 of March 24, 2004 (69 F.R. 21675). Sec. 7103(c) of Public Law 108–458 extended the applicability of Public Law 107–57 through Fiscal Year 2006.

(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities),[369]

(ii) to medicines, medical equipment, and[370] humanitarian assistance, or[369]

(iii)[369] to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity.

(E) The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by any international financial institution.

(F) The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities, which includes fertilizer.[371]

(G) The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of specific goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

(3) As used in this subsection—

(A) the term "design information" means specific information that relates to the design of a nuclear explosive device and that is not available to the public; and

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[369] Sec. 2(a) of the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627) struck out "or" at the end of clause (i); struck out a period at the end of clause (ii) and inserted in lieu thereof ", or"; and added clause (iii). Subsecs. (d) and (e) of that section further provided:

"(d) APPLICATION OF AMENDMENTS.—The amendment made by subsection (a)(3) shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act through September 30, 1999.

"(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.".

[370] Sec. 2(c) of the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627) inserted "medicines, medical equipment, and" after "to". Subsec. (e) of that section further provided:

"(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.".

[371] Sec. 2(b) of the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627) struck out the period at the end of subpara. (F) and inserted in lieu thereof ", which includes fertilizer.". Subsec. (e) of that section also provided the following:

"(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.".

(B) the term "component" means a specific component of a nuclear explosive device.

(4)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, delay the imposition of sanctions which would otherwise be required under paragraph (1)(A) or (1)(B) of this subsection if the President first transmits to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate imposition of sanctions on that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (5) of this subsection shall, if introduced in either House within thirty days of continuous session after the Congress receives this certification, be considered in the Senate in accordance with subparagraph (C) of this paragraph.

(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(D) For purposes of this paragraph, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress having received on ____ a certification by the President under section 102(b)(4) of the Arms Export Control Act with respect to ____, the Congress hereby authorizes the President to exercise the waiver authority contained in section 102(b)(5) of that Act.", with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

(5) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (4) of this subsection, the President may waive any sanction which would otherwise be required under paragraph (1)(A) or (1)(B) if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the imposition of such sanction would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(6)(A) In the event the President is required to impose sanctions against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform such country and shall impose the required sanctions beginning 30 days after submitting to the Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of such sanctions.

(B) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs[372] of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(7) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(8) The President may not delegate or transfer his power, authority, or discretion to make or modify determinations under this subsection.

(c) NON-NUCLEAR-WEAPON STATE DEFINED.—As used in this section, the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

SEC. 103.[363, 373] DEFINITION OF NUCLEAR EXPLOSIVE DEVICE.

As used in this chapter, the term "nuclear explosive device" has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994.

[372] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[373] 22 U.S.C. 2799aa–2.

c. North Korean Human Rights Act of 2004

Public Law 108–333 [H.R. 4011], 118 Stat. 1287, approved October 18, 2004; as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 [division D of Public Law 108–447; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT To promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "North Korean Human Rights Act of 2004".

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SEC. 3.[2] FINDINGS.

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is "a dictatorship under the absolute rule of Kim Jong Il" that continues to commit numerous, serious human rights abuses.

[1] 22 U.S.C. 7801 note.
[2] 22 U.S.C. 7801.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, "[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter".

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, "[g]enuine religious freedom does not exist in North Korea" and, according to the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities" with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea

suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total

number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

SEC. 4.[3] PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

SEC. 5.[4] DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term "China" means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term "North Korea" means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term "North Koreans" means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term "South Korea" means the Republic of Korea.

[3] 22 U.S.C. 7802.
[4] 22 U.S.C. 7803.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

SEC. 101.[5] SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

SEC. 102.[6] SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 103.[7] RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

SEC. 104.[8] ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of receiving broadcasting from outside North Korea.

(b) AUTHORIZATION OF APPROPRIATIONS.—

[5] 22 U.S.C. 7811.
[6] 22 U.S.C. 7812.
[7] 22 U.S.C. 7813.
[8] 22 U.S.C. 7814.

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

SEC. 105.[9] UNITED NATIONS COMMISSION ON HUMAN RIGHTS.

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

SEC. 106.[10] ESTABLISHMENT OF REGIONAL FRAMEWORK.

(a) FINDINGS.—The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United Sates should explore the possibility of a regional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

SEC. 107.[11] SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH KOREA.

(a) SPECIAL ENVOY.—The President shall appoint a special envoy for human rights in North Korea within the Department of State (hereafter in this section referred to as the "Special Envoy"). The Special Envoy should be a person of recognized distinction in the field of human rights.

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[9] 22 U.S.C. 7815.
[10] 22 U.S.C. 7816.
[11] 22 U.S.C. 7817.

(b) CENTRAL OBJECTIVE.—The central objective of the Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea.

(c) DUTIES AND RESPONSIBILITIES.—The Special Envoy shall—

(1) engage in discussions with North Korean officials regarding human rights;

(2) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dialogue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(3) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(4) make recommendations regarding the funding of activities authorized in section 102;

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

(d) REPORT ON ACTIVITIES.—Not later than 180 days after the date of the enactment of this Act, and annually for the subsequent 5 year-period, the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

TITLE II—ASSISTING NORTH KOREANS IN NEED

SEC. 201.[12] REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in subparagraphs (A) through (D) of section 202(b);[13] and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) FORM.—The information required by subsection (a)(1) may be provided in classified form if necessary.

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[12] 22 U.S.C. 7831.

[13] Sec. 534(j) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "paragraphs (1) through (4) of section 202(b)" and inserted in lieu thereof "subparagraphs (A) through (D) of section 202(b)".

SEC. 202.[14] **ASSISTANCE PROVIDED INSIDE NORTH KOREA.**

(a) HUMANITARIAN ASSISTANCE THROUGH NONGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) UNITED STATES ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms to independent international monitoring; and

[14] 22 U.S.C. 7832.

(F) decriminalizing political expression and activity.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

SEC. 203.[15] ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.

(a) ASSISTANCE.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

SEC. 301.[16] UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) CONTENTS.—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

[15] 22 U.S.C. 7833.
[16] 22 U.S.C. 7841.

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past 5 years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) FORM.—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

SEC. 302.[17] ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.

(a) PURPOSE.—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) TREATMENT OF NATIONALS OF NORTH KOREA.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SEC. 303.[18] FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).

SEC. 304.[19] UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) ACTIONS IN CHINA.—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading

[17] 22 U.S.C. 7842.
[18] 22 U.S.C. 7843.
[19] 22 U.S.C. 7844.

of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) ARBITRATION PROCEEDINGS.—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

SEC. 305.[20] ANNUAL REPORTS.

(a) IMMIGRATION INFORMATION.—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

[20] 22 U.S.C. 7845.

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

d. Millennium Challenge Act of 2003

Title VI of division D of Public Law 108–199 [H.R. 2673], 118 Stat. 3 at 211, approved January 23, 2004; as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 [division D of Public Law 108–447; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

TITLE VI—MILLENNIUM CHALLENGE ACT OF 2003

SEC. 601.[1] SHORT TITLE.

This title may be cited as the "Millennium Challenge Act of 2003".

SEC. 602.[2] PURPOSES.

The purposes of this title are—

(1) to provide United States assistance for global development through the Millennium Challenge Corporation, as described in section 604; and

(2) to provide such assistance in a manner that promotes economic growth and the elimination of extreme poverty and strengthens good governance, economic freedom, and investments in people.

SEC. 603.[3] DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) BOARD.—The term "Board" means the Board of Directors of the Corporation established pursuant to section 604(c).

(3) CANDIDATE COUNTRY.—The term "candidate country" means a country that meets the requirements of section 606.

(4) CHIEF EXECUTIVE OFFICER.—The term "Chief Executive Officer" means the chief executive officer of the Corporation appointed pursuant to section 604(b).

(5) COMPACT.—The term "Compact" means a Millennium Challenge Compact described in section 609.

(6) CORPORATION.—The term "Corporation" means the Millennium Challenge Corporation established by section 604(a).

(7) ELIGIBLE COUNTRY.—The term "eligible country" means a candidate country that is determined, under section 607, to be an eligible country to receive assistance under section 605.

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[1] 22 U.S.C. 7701 note.
[2] 22 U.S.C. 7701.
[3] 22 U.S.C. 7702.

(8)[4] INVESTMENTS IN THE PEOPLE.—The term "investments in the people" means government policies or programs of an eligible country that promote the health, education, and other factors which contribute to the well-being and productivity of their people, such as decent, affordable housing for all.

SEC. 604.[5] ESTABLISHMENT AND MANAGEMENT OF THE MILLENNIUM CHALLENGE CORPORATION.

(a) ESTABLISHMENT.—There is established in the executive branch a corporation to be known as the "Millennium Challenge Corporation" that shall be responsible for carrying out this title. The Corporation shall be a government corporation, as defined in section 103 of title 5, United States Code.

(b) CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—There shall be in the Corporation a Chief Executive Officer who shall be responsible for the management of the Corporation.

(2) APPOINTMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chief Executive Officer shall be appointed by the President, by and with the advice and consent of the Senate.

(B) INTERIM CEO.—The members of the Board of Directors described in subsection (c)(3)(A) may designate by unanimous consent in writing an individual who is an officer within any Federal department or agency (and who has been appointed to such position by the President, by and with the advice and consent of the Senate) to carry out the duties described in this subsection until the Chief Executive Officer is appointed pursuant to subparagraph (A).

(3) RELATIONSHIP TO BOARD.—The Chief Executive Officer shall report to and be under the direct authority of the Board.

(4) COMPENSATION AND RANK.—

(A) IN GENERAL.—The Chief Executive Officer shall be compensated at the rate provided for level II of the Executive Schedule[6] under section 5313 of title 5, United States Code, and shall have the equivalent rank of Deputy Secretary.

(B) AMENDMENT.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Chief Executive Officer, Millennium Challenge Corporation.".

(5) AUTHORITIES AND DUTIES.—The Chief Executive Officer shall be responsible for the management of the Corporation and shall exercise the powers and discharge the duties of the Corporation.

(6) AUTHORITY TO APPOINT OFFICERS.—In consultation and with approval of the Board, the Chief Executive Officer shall appoint all officers of the Corporation.

(c) BOARD OF DIRECTORS.—

[4] Sec. 534(q) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809) added para. (8).

[5] 22 U.S.C. 7703.

[6] The current rate of compensation at level II of the Executive Schedule is $162,100 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

(1) ESTABLISHMENT.—There shall be in the Corporation a Board of Directors.

(2) DUTIES.—The Board shall perform the functions specified to be carried out by the Board in this title and may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to it by law may be exercised.

(3) MEMBERSHIP.—The Board shall consist of—

(A) the Secretary of State, the Secretary of the Treasury, the Administrator of the United States Agency for International Development, the Chief Executive Officer of the Corporation, and the United States Trade Representative; and

(B) four other individuals with relevant international experience who shall be appointed by the President, by and with the advice and consent of the Senate, of which—

(i) one individual should be appointed from among a list of individuals submitted by the majority leader of the House of Representatives;

(ii) one individual should be appointed from among a list of individuals submitted by the minority leader of the House of Representatives;

(iii) one individual should be appointed from among a list of individuals submitted by the majority leader of the Senate; and

(iv) one individual should be appointed from among a list of individuals submitted by the minority leader of the Senate.

(4) TERMS.—

(A) OFFICERS OF THE FEDERAL GOVERNMENT.—Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency.

(B) OTHER MEMBERS.—Each member of the Board described in paragraph (3)(B) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 2 years.

(C) VACANCIES.—A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(5) CHAIRPERSON.—There shall be a Chairperson of the Board. The Secretary of State shall serve as the Chairperson.

(6) QUORUM.—A majority of the members of the Board shall constitute a quorum, which, except with respect to a meeting of the Board during the 135-day period beginning on the date of the enactment of this Act, shall include at least one member of the Board described in paragraph (3)(B).

(7) MEETINGS.—The Board shall meet at the call of the Chairperson.

(8) COMPENSATION.—

(A) OFFICERS OF THE FEDERAL GOVERNMENT.—

(i) IN GENERAL.—A member of the Board described in paragraph (3)(A) may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

(ii) TRAVEL EXPENSES.—Each such member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(B) OTHER MEMBERS.—

(i) IN GENERAL.—Except as provided in clause (ii), a member of the Board described in paragraph (3)(B)—

(I) shall be paid compensation out of funds made available for the purposes of this title at the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board; and

(II) while away from the member's home or regular place of business on necessary travel in the actual performance of duties as a member of the Board, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5, United States Code.

(ii) LIMITATION.—A member of the Board may not be paid compensation under clause (i)(II) for more than 90 days in any calendar year.

SEC. 605.[7] AUTHORIZATION OF ASSISTANCE.

(a) ASSISTANCE.—Notwithstanding any other provision of law (other than a provision of this title), the Board, acting through the Chief Executive Officer, is authorized to provide assistance under this section for each country that enters into a Millennium Challenge Compact with the United States pursuant to section 609 to support policies and programs that advance the progress of the country in achieving lasting economic growth and poverty reduction and are in furtherance of the purposes of this title.

(b) FORM OF ASSISTANCE.—Assistance under this section may be provided in the form of grants, cooperative agreements, or contracts to or with eligible entities described in subsection (c). Assistance under this section may not be provided in the form of loans.

(c) ELIGIBLE ENTITIES.—An eligible entity referred to in subsection (b) is—

(1) the national government of the eligible country;

(2) regional or local governmental units of the country; or

(3) a nongovernmental organization or a private entity.

(d) APPLICATION.—The Chief Executive Officer, in consultation with the Board and working with eligible countries selected by the Board for negotiation of Compacts, should develop and recommend procedures for considering solicited and unsolicited proposals in Compacts prior to an approval of the Compacts by the Board.

[7] 22 U.S.C. 7704.

(e) LIMITATIONS.—

(1) PROHIBITION ON MILITARY ASSISTANCE AND TRAINING.—Assistance under this section may not include military assistance or military training for a country.

(2) PROHIBITION ON ASSISTANCE RELATING TO UNITED STATES JOB LOSS OR PRODUCTION DISPLACEMENT.—Assistance under this section may not be provided for any project that is likely to cause a substantial loss of United States jobs or a substantial displacement of United States production.

(3) PROHIBITION ON ASSISTANCE RELATING TO ENVIRONMENTAL, HEALTH, OR SAFETY HAZARDS.—Assistance under this section may not be provided for any project that is likely to cause a significant environmental, health, or safety hazard.

(4) PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—The prohibitions on use of funds contained in paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)–(3)) shall apply to funds made available to carry out this section to the same extent and in the same manner as such prohibitions apply to funds made available to carry out part I of such Act. The prohibition on use of funds contained in any provision of law comparable to the eleventh and fourteenth provisos under the heading "Child Survival and Health Programs Fund" of division E of Public Law 108–7 (117 Stat. 162) shall apply to funds made available to carry out this section for fiscal year 2004.

(f) COORDINATION.—The provision of assistance under this section shall be coordinated with other United States foreign assistance programs.

SEC. 606.[8] CANDIDATE COUNTRIES.

(a) LOW INCOME COUNTRIES.—

(1) FISCAL YEAR 2004.—A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2004 if—

(A) the country is eligible for assistance from the International Development Association, and the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for that year, as defined by the International Bank for Reconstruction and Development; and

(B) subject to paragraph (3), the country is not ineligible to receive United States economic assistance under part I of the Foreign Assistance Act of 1961 by reason of the application of any provision of the Foreign Assistance Act of 1961 or any other provision of law.

(2) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2005 or a subsequent fiscal year if—

[8] 22 U.S.C. 7705.

The Millennium Challenge Corporation identified candidate countries in Department of State Public Notice 4617 (69 F.R. 5887; February 3, 2004); Millennium Challenge Corporation Notice FR 04–06 (69 F.R. 26897; May 11, 2004); and Millennium Challenge Corporation Notice FR 04–08 (69 F.R. 44549; July 21, 2004).

(A) the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the fiscal year involved, as defined by the International Bank for Reconstruction and Development; and

(B) the country meets the requirements of paragraph (1)(B).

(3) RULE OF CONSTRUCTION.—For the purposes of determining whether a country is eligible for receiving assistance under section 605 pursuant to paragraph (1)(B), the exercise by the President, the Secretary of State, or any other officer or employee of the United States of any waiver or suspension of any provision of law referred to in such paragraph, and notification to the appropriate congressional committees in accordance with such provision of law, shall be construed as satisfying the requirement of such paragraph.

(b) LOWER MIDDLE INCOME COUNTRIES.—

(1) IN GENERAL.—In addition to countries described in subsection (a), a country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2006 or a subsequent fiscal year if the country—

(A) is classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved; and

(B) meets the requirements of subsection (a)(1)(B).

(2) LIMITATION.—The total amount of assistance provided to countries described in paragraph (1) for fiscal year 2006 or any subsequent fiscal year may not exceed 25 percent of the total amount of assistance provided to all countries under section 605 for fiscal year 2006 or the subsequent fiscal year, as the case may be.

(c) IDENTIFICATION BY THE BOARD.—The Board shall identify whether a country is a candidate country for purposes of this section.

SEC. 607.[9] ELIGIBLE COUNTRIES.

(a) DETERMINATION BY THE BOARD.—The Board shall determine whether a candidate country is an eligible country for purposes of this section. Such determination shall be based, to the maximum extent possible, upon objective and quantifiable indicators of a country's demonstrated commitment to the criteria in subsection (b), and shall, where appropriate, take into account and assess the role of women and girls.

(b) CRITERIA.—A candidate country should be considered to be an eligible country for purposes of this section if the Board determines that the country has demonstrated a commitment to—

(1) just and democratic governance, including a demonstrated commitment to—

[9] 22 U.S.C. 7706.

(A) promote political pluralism, equality, and the rule of law;

(B) respect human and civil rights, including the rights of people with disabilities;

(C) protect private property rights;

(D) encourage transparency and accountability of government; and

(E) combat corruption;

(2) economic freedom, including a demonstrated commitment to economic policies that—

(A) encourage citizens and firms to participate in global trade and international capital markets;

(B) promote private sector growth and the sustainable management of natural resources;

(C) strengthen market forces in the economy; and

(D) respect worker rights, including the right to form labor unions; and

(3) investments in the people of such country, particularly women and children, including programs that—

(A) promote broad-based primary education; and

(B) strengthen and build capacity to provide quality public health and reduce child mortality.

(c) SELECTION BY THE BOARD.—

(1) IN GENERAL.—At the time the Board determines eligible countries under this section for a fiscal year, the Board shall select those eligible countries with respect to which the United States will initially seek to enter into a Millennium Challenge Compact pursuant to section 609.

(2) FACTORS.—In selecting eligible countries under paragraph (1), the Board shall consider the following factors:

(A) The extent to which the country clearly meets or exceeds the eligibility criteria.

(B) The opportunity to reduce poverty and generate economic growth in the country.

(C) The availability of amounts to carry out this title.

(d) ESTABLISHMENT OF CRITERIA AND METHODOLOGY.—The criteria and methodology submitted by the Board to Congress and published in the Federal Register under section 608(b)(2) with respect to a fiscal year shall remain fixed for purposes of eligibility determinations for such year.

(e) ANNUAL MODIFICATION OF CRITERIA AND METHODOLOGY.—As appropriate, the Board, acting through the Chief Executive Officer, shall review the eligibility criteria and methodology and modify such criteria and methodology in subsequent years consistent with section 608(b).

SEC. 608.[10] CONGRESSIONAL AND PUBLIC NOTIFICATION OF CANDIDATE COUNTRIES, ELIGIBILITY CRITERIA, AND ELIGIBLE COUNTRIES.

(a) IDENTIFICATION OF CANDIDATE COUNTRIES.—Not later than 90 days prior to the date on which the Board determines eligible countries under section 607 for a fiscal year, the Chief Executive Officer—

[10] 22 U.S.C. 7707.

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all candidate countries identified under section 606, and all countries that would be candidate countries if the countries met the requirement contained in section 606(a)(1)(B), for the fiscal year; and

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

(b) IDENTIFICATION OF ELIGIBILITY CRITERIA AND METHODOLOGY.—Not later than 60 days prior to the date on which the Board determines eligible countries under section 607 for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of the criteria and methodology described in subsections (a) and (b) of section 607 that will be used to determine eligibility for each candidate country identified under subsection (a);

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1); and

(3) may conduct one or more public hearings on the eligibility criteria and methodology.

(c) PUBLIC COMMENT AND CONGRESSIONAL CONSULTATION.—

(1) PUBLIC COMMENT.—The Chief Executive Officer shall, for the 30-day period beginning on the date of publication in the Federal Register of the information contained in the report described in subsection (b)(1), accept public comment and consider such comment for purposes of determining eligible countries under section 607.

(2) CONGRESSIONAL CONSULTATION.—The Chief Executive Officer shall consult with the appropriate congressional committees on the extent to which the candidate countries meet the criteria described in section 607(b).

(d) IDENTIFICATION OF ELIGIBLE COUNTRIES.—Not later than 5 days after the date on which the Board determines eligible countries under section 607 for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all such eligible countries, an identification of those countries on such list with respect to which the Board will seek to enter into a Compact under section 609, and a justification for such eligibility determination and selection for Compact negotiation; and

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

SEC. 609.[11] MILLENNIUM CHALLENGE COMPACT.

(a) COMPACT.—The Board, acting through the Chief Executive Officer of the Corporation, may provide assistance for an eligible country only if the country enters into an agreement with the United States, to be known as a "Millennium Challenge Compact",

The Millennium Challenge Corporation reported on the criteria and methodology for identifying candidate countries in Department of State Public Notice 4646 (69 F.R. 10497; March 2, 2004); and Millennium Challenge Corporation Notice FR 04–09 (69 F.R. 53090; August 26, 2004).

[11] 22 U.S.C. 7708.

that establishes a multi-year plan for achieving shared development objectives in furtherance of the purposes of this title.

(b) ELEMENTS.—

(1) IN GENERAL.—The Compact should take into account the national development strategy of the eligible country and shall contain—

(A) the specific objectives that the country and the United States expect to achieve during the term of the Compact;

(B) the responsibilities of the country and the United States in the achievement of such objectives;

(C) regular benchmarks to measure, where appropriate, progress toward achieving such objectives;

(D) an identification of the intended beneficiaries, disaggregated by income level, gender, and age, to the maximum extent practicable;

(E) a multi-year financial plan, including the estimated amount of contributions by the Corporation and the country and proposed mechanisms to implement the plan and provide oversight, that describes how the requirements of subparagraphs (A) through (D) will be met, including identifying the role of civil society in the achievement of such requirements;

(F) where appropriate, a description of the current and potential participation of other donors in the achievement of such objectives;

(G) a plan to ensure appropriate fiscal accountability for the use of assistance provided under section 605;

(H) where appropriate, a process or processes for consideration of solicited proposals under the Compact as well as a process for consideration of unsolicited proposals by the Corporation and national, regional, or local units of government;

(I) a requirement that open, fair, and competitive procedures are used in a transparent manner in the administration of grants or cooperative agreements or the procurement of goods and services for the accomplishment of objectives under the Compact;

(J) the strategy of the eligible country to sustain progress made toward achieving such objectives after expiration of the Compact; and

(K) a description of the role of the United States Agency for International Development in any design, implementation, and monitoring of programs and activities funded under the Compact.

(2) LOWER MIDDLE INCOME COUNTRIES.—In addition to the elements described in subparagraphs (A) through (K) of paragraph (1), with respect to a lower middle income country described in section 606(b), the Compact shall identify a contribution, as appropriate, from the country relative to its national budget, taking into account the prevailing economic conditions,

toward meeting the objectives of the Compact. Any such contribution should be in addition to government spending allocated for such purposes in the country's budget for the year immediately preceding the establishment of the Compact and should continue for the duration of the Compact.

(3) DEFINITION.—In this subsection, the term "national development strategy" means any strategy to achieve market-driven economic growth and eliminate extreme poverty that has been developed by the government of the country in consultation with a wide variety of civic participation, including nongovernmental organizations, private and voluntary organizations, academia, women's and student organizations, local trade and labor unions, and the business community.

(c) ADDITIONAL PROVISION RELATING TO PROHIBITION ON TAXATION.—In addition to the elements described in subsection (c), each Compact shall contain a provision that states that assistance provided by the United States under the Compact shall be exempt from taxation by the government of the eligible country.

(d) LOCAL INPUT.—In entering into a Compact, the United States shall seek to ensure that the government of an eligible country—

(1) takes into account the local-level perspectives of the rural and urban poor, including women, in the eligible country; and

(2) consults with private and voluntary organizations, the business community, and other donors in the eligible country.

(e) CONSULTATION.—During any discussions with a country for the purpose of entering into a Compact with the country, officials of the Corporation participating in such discussions shall, at a minimum, consult with appropriate officials of the United States Agency for International Development, particularly with those officials responsible for the appropriate region or country on development issues related to the Compact.

(f) COORDINATION WITH OTHER DONORS.—To the maximum extent feasible, activities undertaken to achieve the objectives of the Compact shall be undertaken in coordination with the assistance activities of other donors.

(g) ASSISTANCE FOR DEVELOPMENT OF COMPACT.—Notwithstanding subsection (a), the Chief Executive Officer may enter into contracts or make grants for any eligible country for the purpose of facilitating the development and implementation of the Compact between the United States and the country.

(h) REQUIREMENT FOR APPROVAL BY THE BOARD.—Each Compact shall be approved by the Board before the United States enters into the Compact.

(i) INCREASE OR EXTENSION OF ASSISTANCE UNDER A COMPACT.—Not later than 15 days after making a determination to increase or extend assistance under a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall prepare and transmit to the appropriate congressional committees a written report and justification that contains a detailed summary of the proposed increase in or extension of assistance under the Compact and a copy of the full text of the amendment to the Compact; and

(2) shall publish a detailed summary, full text, and justification of the proposed increase in or extension of assistance

under the Compact in the Federal Register and on the Internet website of the Corporation.

(j) DURATION OF COMPACT.—The duration of a Compact shall not exceed 5 years.

(k) SUBSEQUENT COMPACTS.—An eligible country and the United States may enter into and have in effect only one Compact at any given time under this section. An eligible country and the United States may enter into one or more subsequent Compacts in accordance with the requirements of this title after the expiration of the existing Compact.

SEC. 610.[12] CONGRESSIONAL AND PUBLIC NOTIFICATION OF COMPACT.

(a) CONGRESSIONAL CONSULTATION PRIOR TO COMPACT NEGOTIATIONS.—Not later than 15 days prior to the start of negotiations of a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall consult with the appropriate congressional committees with respect to the proposed Compact negotiation; and

(2) shall identify the objectives and mechanisms to be used for the negotiation of the Compact.

(b) CONGRESSIONAL AND PUBLIC NOTIFICATION AFTER ENTERING INTO A COMPACT.—Not later than 10 days after entering into a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall provide notification of the Compact to the appropriate congressional committees, including a detailed summary of the Compact and a copy of the text of the Compact; and

(2) shall publish such detailed summary and the text of the Compact in the Federal Register and on the Internet website of the Corporation.

SEC. 611.[13] SUSPENSION AND TERMINATION OF ASSISTANCE.

(a) SUSPENSION AND TERMINATION OF ASSISTANCE.—After consultation with the Board, the Chief Executive Officer may suspend or terminate assistance in whole or in part for a country or entity under section 605 if the Chief Executive Officer determines that—

(1) the country or entity is engaged in activities which are contrary to the national security interests of the United States;

(2) the country or entity has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of the country or entity, as the case may be; or

(3) the country or entity has failed to adhere to its responsibilities under the Compact.

(b) REINSTATEMENT.—The Chief Executive Officer may reinstate assistance for a country or entity under section 605 only if the Chief Executive Officer determines that the country or entity has demonstrated a commitment to correcting each condition for which assistance was suspended or terminated under subsection (a).

(c) CONGRESSIONAL NOTIFICATION.—Not later than 3 days after the date on which the Chief Executive Officer suspends or terminates assistance under subsection (a) for a country or entity, or reinstates assistance under subsection (b) for a country or entity, the

[12] 22 U.S.C. 7709.
[13] 22 U.S.C. 7710.

Chief Executive Officer shall submit to the appropriate congressional committees a report that contains the determination of the Chief Executive Officer under subsection (a) or subsection (b), as the case may be.

(d) RULE OF CONSTRUCTION.—The authority to suspend or terminate assistance under this section includes the authority to suspend or terminate obligations and sub-obligations.

SEC. 612.[14] DISCLOSURE.

(a) REQUIREMENT FOR DISCLOSURE.—The Corporation shall make available to the public on at least a quarterly basis, the following information:

(1) For assistance provided under section 605—

(A) the name of each entity to which assistance is provided;

(B) the amount of assistance provided to the entity; and

(C) a description of the program or project, including—

(i) a description of whether the program or project was solicited or unsolicited; and

(ii) a detailed description of the objectives and measures for results of the program or project.

(2) For funds allocated or transferred under section 619(b)—

(A) the name of each United States Government agency to which such funds are transferred or allocated;

(B) the amount of funds transferred or allocated to such agency; and

(C) a description of the program or project to be carried out by such agency with such funds.

(b) DISSEMINATION.—The information required to be disclosed under subsection (a) shall be made available to the public by means of publication in the Federal Register and on the Internet website of the Corporation, as well as by any other methods that the Board determines appropriate.

SEC. 613.[15] ANNUAL REPORT.

(a) REPORT.—Not later than March 31, 2005, and each March 31 thereafter, the President shall submit to Congress a report on the assistance provided under section 605 during the prior fiscal year.

(b) CONTENTS.—The report shall include the following:

(1) The amount of obligations and expenditures for assistance provided to each eligible country during the prior fiscal year.

(2) For each eligible country, an assessment of—

(A) the progress made during each year by the country toward achieving the objectives set out in the Compact entered into by the country; and

(B) the extent to which assistance provided under section 605 has been effective in helping the country to achieve such objectives.

(3) A description of the coordination of assistance provided under section 605 with other United States foreign assistance and related trade policies.

[14] 22 U.S.C. 7711.
[15] 22 U.S.C. 7712.

(4) A description of the coordination of assistance provided under section 605 with assistance provided by other donor countries.

(5) Any other information the President considers relevant with respect to assistance provided under section 605.

(a) POWERS.—The Corporation—

SEC. 614.[16] POWERS OF THE CORPORATION; RELATED PROVISIONS.

(1) shall have perpetual succession unless dissolved by a law enacted after the date of the enactment of this Act;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may make and perform such contracts, grants, and other agreements with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation;

(4) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(5) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(6) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the provisions of this title;

(7) may use the United States mails in the same manner and on the same conditions as the executive departments;

(8) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(9) may hire or obtain passenger motor vehicles; and

(10) shall have such other powers as may be necessary and incident to carrying out this title.

(b) PRINCIPAL OFFICE.—The Corporation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

(c) POSITIONS WITH FOREIGN GOVERNMENTS.—When approved by the Chief Executive Officer, for purposes of implementing a Compact, employees of the Corporation (including individuals detailed to the Corporation) may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries or with international organizations.

(d) OTHER AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities contained in the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) and the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) shall apply to the implementation of this title to the same extent and in the same manner as such authorities apply to the implementation of those Acts.

(e) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—

[16] 22 U.S.C. 7713.

(1) IN GENERAL.—The Corporation shall be subject to chapter 91 of subtitle VI of title 31, United States Code, except that the Corporation shall not be authorized to issue obligations or offer obligations to the public.

(2) CONFORMING AMENDMENT.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

"(Q) the Millennium Challenge Corporation.".

(f) INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the United States Agency for International Development shall serve as Inspector General of the Corporation, and, in acting in such capacity, may conduct reviews, investigations, and inspections of all aspects of the operations and activities of the Corporation.

(2) AUTHORITY OF THE BOARD.—In carrying out the responsibilities under this subsection, the Inspector General shall report to and be under the general supervision of the Board.

(3) REIMBURSEMENT AND AUTHORIZATION OF SERVICES.—

(A) REIMBURSEMENT.—The Corporation shall reimburse the United States Agency for International Development for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

(B) AUTHORIZATION FOR SERVICES.—Of the amount authorized to be appropriated under section 619(a) for a fiscal year, up to $5,000,000 is authorized to be made available to the Inspector General of the United States Agency for International Development to conduct reviews, investigations, and inspections of operations and activities of the Corporation.

(g) SPECIAL ASSISTANCE.—

(1) IN GENERAL.—The Chief Executive Officer is authorized to contract with any nongovernmental organization (including a university, independent foundation, or other organization) in the United States or in a candidate country, and, where appropriate, directly with a governmental agency of any such country, that is undertaking research aimed at improving data related to eligibility criteria under this title with respect to the country.

(2) FUNDING.—Of the amount authorized to be appropriated under section 619(a) for a fiscal year, up to $5,000,000 is authorized to be made available to carry out paragraph (1).

SEC. 615.[17] COORDINATION WITH UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) REQUIREMENT FOR COORDINATION.—The Chief Executive Officer shall consult with the Administrator of the United States Agency for International Development in order to coordinate the activities of the Corporation with the activities of the Agency.

(b) USAID PROGRAMS.—The Administrator of the United States Agency for International Development shall seek to ensure that appropriate programs of the Agency play a primary role in preparing candidate countries to become eligible countries.

[17] 22 U.S.C. 7714.

SEC. 616.[18] ASSISTANCE TO CERTAIN CANDIDATE COUNTRIES.

(a) AUTHORIZATION.—The Board, acting through the Chief Executive Officer, is authorized to provide assistance to a candidate country described in subsection (b) for the purpose of assisting such country to become an eligible country.

(b) CANDIDATE COUNTRY DESCRIBED.—A candidate country referred to in subsection (a) is a candidate country that—

(1) satisfies the requirements contained in subparagraphs (A) and (B) of section 606(a)(1); and

(2) demonstrates a significant commitment to meet the requirements of section 607(b) but fails to meet such requirements (including by reason of the absence or unreliability of data).

(c) ADMINISTRATION.—Assistance under this section may be provided through the United States Agency for International Development.

(d) FUNDING.—Not more than 10 percent of the amount appropriated pursuant to the authorization of appropriations under section 619(a) for fiscal year 2004 is authorized to be made available to carry out this section.

SEC. 617.[19] GENERAL PERSONNEL AUTHORITIES.

(a) DETAIL OF PERSONNEL.—Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Corporation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee's allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

(b) REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Corporation, is entitled to be reemployed in such employee's former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Corporation for any reason, other than misconduct, neglect of duty, or malfeasance; and

(B) applies for reemployment not later than 90 days after the date of separation from the Corporation.

(2) SPECIFIC RIGHTS.—An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

(c) HIRING AUTHORITY.—Of persons employed by the Corporation, not to exceed 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

(d) BASIC PAY.—The Chief Executive Officer may fix the rate of basic pay of employees of the Corporation without regard to the provisions of chapter 51 of title 5, United States Code (relating to

[18] 22 U.S.C. 7715.
[19] 22 U.S.C. 7716.

the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Corporation may receive a rate of basic pay that exceeds the rate for level II of the Executive Schedule under section 5313 of such title.[20]

(e) DEFINITIONS.—In this section—

(1) the term "agency" means an executive agency, as defined by section 105 of title 5, United States Code; and

(2) the term "detail" means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Corporation.

SEC. 618.[21] PERSONNEL OUTSIDE THE UNITED STATES.

(a) ASSIGNMENT TO UNITED STATES EMBASSIES.—An employee of the Corporation, including an individual detailed to or contracted by the Corporation, may be assigned to a United States diplomatic mission or consular post or a United States Agency for International Development field mission.

(b) PRIVILEGES AND IMMUNITIES.—The Secretary of State shall seek to ensure that an employee of the Corporation, including an individual detailed to or contracted by the Corporation, and the members of the family of such employee, while the employee is performing duties in any country or place outside the United States, enjoy the privileges and immunities that are enjoyed by a member of the Foreign Service, or the family of a member of the Foreign Service, as appropriate, of comparable rank and salary of such employee, if such employee or a member of the family of such employee is not a national of or permanently resident in such country or place.

(c) RESPONSIBILITY OF CHIEF OF MISSION.—An employee of the Corporation, including an individual detailed to or contracted by the Corporation, and a member of the family of such employee, shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) in the same manner as United States Government employees while the employee is performing duties in any country or place outside the United States if such employee or member of the family of such employee is not a national of or permanently resident in such country or place.

SEC. 619.[22] AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 2004 and 2005.

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[20] The current rate of compensation at level II of the Executive Schedule is $162,100 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

[21] 22 U.S.C. 7717.

[22] 22 U.S.C. 7718.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809) provided the following:

"MILLENNIUM CHALLENGE CORPORATION

"For necessary expenses for the 'Millennium Challenge Corporation', $1,500,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, up to $50,000,000 may be available for administrative expenses of the Millennium Challenge Corporation: *Provided further,* That none of the funds appropriated under this heading may be

Continued

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Corporation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this title. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this title or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

(2) NOTIFICATION.—The Corporation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1).

made available for the provision of assistance until the Chief Executive Officer of the Millennium Challenge Corporation provides a written budget justification to the Committees on Appropriations: *Provided further,* That up to 10 percent of the funds appropriated under this heading may be made available to carry out the purposes of section 616 of the Millennium Challenge Act of 2003: *Provided further,* That none of the funds available to carry out section 616 of such Act may be made available until the Chief Executive Officer of the Millennium Challenge Corporation provides a report to the Committees on Appropriations listing the candidate countries that will be receiving assistance under section 616 of such Act, the level of assistance proposed for each such country, a description of the proposed programs, projects and activities, and the implementing agency or agencies of the United States Government: *Provided further,* That section 605(e)(4) of the Millennium Challenge Act of 2003 shall apply to funds appropriated under this heading: *Provided further,* That funds appropriated under this heading, and funds appropriated under this heading in division D of Public Law 108–199, may be made available for a Millennium Challenge Compact entered into pursuant to section 609 of the Millennium Challenge Act of 2003 only if such Compact obligates, or contains a commitment to obligate subject to the availability of funds and the mutual agreement of the parties to the Compact to proceed, the entire amount of the United States Government funding anticipated for the duration of the Compact: *Provided further,* That the previous proviso shall be effective on the date of enactment of this Act.".

e. HELP Commission Act

Section 637 of Division B of Public Law 108–199 [Consolidated Appropriations Act, 2004; H.R. 2673], 118 Stat. 3 at 101, approved January 23, 2004

SEC. 637.[1] (a) This section may be cited as the "HELP Commission Act".

(b)(1) The Congress finds that, despite the long-standing efforts and resources of the United States dedicated to helping needy people around the world, despair remains and in many areas is growing.

(2) Therefore, a commission should be established to bring together the best minds associated with development and humanitarian assistance to make a comprehensive review of—

(A) policy decisions, including why certain development projects are funded and others are not, successes, and best practices, including their applicability to other existing programs and projects;

(B) delivery obstacles, including the roles of United States agencies and other governmental and nongovernmental organizations;

(C) methodology, including whether the delivery of United States development assistance always represents best practices and whether it can be improved; and

(D) results, including measuring improvements in human capacity instead of in purely economic terms.

(3) An examination of these issues should present new approaches and ideas to ensure that United States development assistance reaches and benefits its intended recipients.

(c)(1)[2] There is established the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission (in this section referred to as the "Commission").

(2) The Commission shall—

(A) identify the past and present objectives of United States development assistance, identify cases in which those objectives have been met, identify the beneficiaries of such assistance, and what percentage of the funds provided actually reached the intended beneficiaries;

(B) identify cases in which United States development assistance has been most successful, and analyze how such successes may be transferable to other countries or areas;

(C) study ways to expand educational opportunities and investments in people, and assess infrastructure needs;

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[1] 22 U.S.C. 2394b.

[2] Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (division B of Public Law 108–199; 118 Stat. 89) provided $3,000,000, to remain available until expended, for necessary expenses of the HELP Commission. Title V of the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B of Public Law 108–447; 118 Stat. 2809) provided $1,000,000, to remain available until expended.

(D) analyze how the United States could place conditions on governments in countries receiving United States development assistance, in light of and notwithstanding the objectives of the Millennium Challenge Account;

(E) analyze ways in which the United States can coordinate its development assistance programs with those of other donor countries and international organizations;

(F) analyze ways in which the safety of development assistance workers can be ensured, particularly in the midst of conflicts;

(G) compare the effectiveness of increased and open trade with development assistance, and analyze the advantages and disadvantages of such trade and whether such trade could be a more effective alternative to United States development assistance;

(H) analyze ways in which the United States can strengthen the capacity of indigenous nongovernmental organizations to be more effective in grassroots development;

(I) analyze ways in which decisions on providing development assistance can involve more of the people of the recipient countries;

(J) analyze ways in which results can be measured if United States development assistance is targeted to the least developed countries;

(K) recommend standards that should be set for "graduating" recipient countries from United States development assistance;

(L) analyze whether United States development assistance should be used as a means to achieve United States foreign policy objectives;

(M) analyze how the United States can evaluate the performance of its development assistance programs not only against economic indicators, but in other ways, including how to measure the success of United States development assistance in democratization efforts; and evaluate the existing foreign assistance framework to ascertain the degree of coordination or lack thereof, of the disparate foreign development programs as administered by the various Federal agencies, to identify and assess the redundancies of programs and organizational structures engaged in foreign assistance, and to recommend revisions to authorizing legislation for foreign assistance that would seek to reconcile competing foreign policy and foreign aid goals; and

(N) study any other areas that the Commission considers necessary relating to United States development assistance.

(d)(1) The Commission shall be composed of 21 members as follows:

(A) Six members shall be appointed by the President, of whom at least two shall be representatives of nongovernmental organizations.

(B) Four members shall be appointed by the majority leader of the Senate, and three members shall be appointed by the minority leader of the Senate.

(C) Four members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the minority leader of the House of Representatives.

(D) The Administrator of the United States Agency for International Development shall serve as a member of the Commission, ex officio.

(2) Members under subparagraphs (A) through (C) of paragraph (1) shall be appointed for the life of the Commission.

(3) Members of the Commission shall be selected from among individuals noted for their knowledge and experience in foreign assistance, particularly development and humanitarian assistance.

(4) The appointments under paragraph (1) shall be made not later than 60 days after the date of the enactment of this section.

(5) The President shall designate one of the members of the Commission not currently in Government service as the Chair of the Commission.

(6) In order to facilitate the workload of the Commission, the Commission shall divide the membership of the Commission into three subcommittees representing the different regions of the world to which the United States provides development assistance, the membership of each subcommittee to be proportional to the percentage of United States development assistance provided to the region represented by the subcommittee. Each subcommittee shall elect one of its members as Chair of the subcommittee.

(7)(A) Eleven members of the Commission shall constitute a quorum for purposes of transacting the business of the Commission. The Commission shall meet at the call of the Chair.

(B) A majority of the members of each regional subcommittee shall constitute a quorum for purposes of transacting the business of the subcommittee. Each subcommittee shall meet at the call of the Chair of the subcommittee.

(8) Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(9) The Administrator of General Services shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this section.

(10)(A) Subject to subparagraph (B), members of the Commission shall serve without pay.

(B) Members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(11) Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(12)(A) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) To the extent or in the amounts provided in advance in appropriations Acts—

(i) the executive director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; [3] and

(ii) the Chairman of the Commission may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.[3]

(e)(1) The Commission may, for the purpose of carrying out its functions under this section, hold hearings, sit and act at times and places in the United States and in countries that receive United States development assistance, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this section.

(2) The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out the provisions of this section.

(5) The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purposes of this section. Each trip must be approved by a majority of the Commission.

(6) Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its functions under this section. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(f)(1) Not later than 2 years after the members of the Commission are appointed under subsection (d)(1), the Commission shall

[3] The current rate of compensation at level V of the Executive Schedule is $131,400 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

submit a report to the President, the Secretary of State, the Committee on Appropriations and the Committee on International Relations of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, setting forth its findings and recommendations under section (c)(2).

(2) The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this section.

(3) Each members of the Commission may include the individual or dissenting views of the member.

(g) The Federal Advisory Committee (5 U.S.C. App.) shall not apply to the Commission.

(h) In this section, the term "United States development assistance" means—

(1) assistance provided under any other provision of law to carry out purposes comparable to those set forth in the provisions referred to in paragraph (1).

(2) assistance provided under any other provision of law to carry out purposes comparable to those set forth in the provisions referred to in paragraph (1).

(i)(1) There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended, but not later than the date of termination of the Commission.

(j) The Commission shall terminate 30 days after the submission of its report under subsection (f).

(k)(1) Not later than April 1, 2004, and April 1 of each third year thereafter, the President shall transmit to the Congress a report that analyzes, on a country-by-country basis, the impact and effectiveness of United States economic assistance furnished to each country during the preceding 3 fiscal years. The report shall include the following for each recipient country:

(A) An analysis of the impact of United States economic assistance during the preceding 3 fiscal years on economic development in that country, with a discussion of the United States interests that were served by the assistance. The analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms that were promoted by the assistance. The analysis shall—

(i) include a description, quantified to the extent practicable, of the specific objectives the Untied States sought to achieve in providing economic assistance for that country; and

(ii) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

(B) A description of the amount and nature of economic assistance provided by other donors during the preceding 3 fiscal years, set forth by development sector to the extent possible.

(C) A discussion of the commitment of the host government to addressing the country's needs in each development sector,

including a description of the resources devoted by that government to each development sector during the preceding 3 fiscal years.

(D) A description of the trends, both favorable and unfavorable, in each development sector.

(E) Statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country.

(F) A comparison of the analysis provided in the report with relevant analyses by international financial institutions, other international organizations, other donor countries, or nongovernmental organizations.

(2) The report required by this section shall identify—

(A) each country in which United States economic assistance has been most successful, as indicated by the extent to which the specific objectives the United States sought to achieve in providing the assistance for the country, as referred to in paragraph (1)(A)(i), were achieved; and

(B) each country in which United States economic assistance has been least successful, as indicated by the extent to which the specific objectives the United States sought to achieve in providing the assistance for the country, as referred to in paragraph (1)(A)(i), were not achieved; and, for each such country, an explanation of why the assistance was not more successful and a specification of what the United States has done as a result.

(3) Information under paragraphs (1) and (2) for a fiscal year shall not be required with respect to a country for which United States economic assistance for the country for the fiscal year is less than $5,000,000.

(4) In this subsection, the term "United States economic assistance" means any bilateral economic assistance, from any budget functional category, that is provided by any department or agency of the United States to a foreign country, including such assistance that is intended—

(A) to assist the development and economic advancement of friendly foreign countries and peoples;

(B) to promote the freedom, aspirations, or sustenance of friendly peoples under oppressive rule by unfriendly governments;

(C) to promote international trade and foreign direct investment as a means of aiding economic growth;

(D) to save lives and alleviate suffering of foreign peoples during or following wars, natural disasters, or complex crises;

(E) to assist in recovery and rehabilitation of countries or peoples following disaster or war;

(F) to protect refugees and promote durable solutions to aid refugees;

(G) to promote sound environmental practices;

(H) to assist in development of democratic institutions and good governance by the people of foreign countries;

(I) to promote peace and reconciliation or prevention of conflict;

(J) to improve the technical capacities of governments to reduce production of and demand for illicit narcotics; and

(K) to otherwise promote through bilateral foreign economic assistance the national objectives of the United States.

f. Syria Accountability and Lebanese Sovereignty Restoration Act of 2003

Public Law 108–175 [H.R. 1828], 117 Stat. 2482, approved December 12, 2003

AN ACT To halt Syrian support for terrorism, end its occupation of Lebanon, and stop its development of weapons of mass destruction, and by so doing hold Syria accountable for the serious international security problems it has caused in the Middle East, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Syria Accountability and Lebanese Sovereignty Restoration Act of 2003".

SEC. 2.[1] FINDINGS.

Congress makes the following findings:

(1) On June 24, 2002, President Bush stated "Syria must choose the right side in the war on terror by closing terrorist camps and expelling terrorist organizations".

(2) United Nations Security Council Resolution 1373 (September 28, 2001) mandates that all states "refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts", take "the necessary steps to prevent the commission of terrorist acts", and "deny safe haven to those who finance, plan, support, or commit terrorist acts".

(3) The Government of Syria is currently prohibited by United States law from receiving United States assistance because it has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) and other relevant provisions of law.

(4) Although the Department of State lists Syria as a state sponsor of terrorism and reports that Syria provides "safe haven and support to several terrorist groups", fewer United States sanctions apply with respect to Syria than with respect to any other country that is listed as a state sponsor of terrorism.

(5) Terrorist groups, including Hizballah, Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine—General Command, maintain offices, training camps, and other facilities on Syrian territory, and operate in areas of Lebanon

[1] 22 U.S.C. 2151 note. On May 11, 2004, the President issued Executive Order 13338 (69 F.R. 26751) to block property of certain persons and to prohibit the export of certain goods to Syria, as authorized by this Act (sec. 5), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). See also Supplement No. 1 to 15 CFR Part 736, in which the Department of Commerce implements this Act (69 F.R. 26766).

occupied by the Syrian armed forces and receive supplies from Iran through Syria.

(6) United Nations Security Council Resolution 520 (September 17, 1982) calls for "strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese Army throughout Lebanon".

(7) Approximately 20,000 Syrian troops and security personnel occupy much of the sovereign territory of Lebanon exerting undue influence upon its government and undermining its political independence.

(8) Since 1990 the Senate and House of Representatives have passed seven bills and resolutions which call for the withdrawal of Syrian armed forces from Lebanon.

(9) On March 3, 2003, Secretary of State Colin Powell declared that it is the objective of the United States to "let Lebanon be ruled by the Lebanese people without the presence of [the Syrian] occupation army".

(10) Large and increasing numbers of the Lebanese people from across the political spectrum in Lebanon have mounted peaceful and democratic calls for the withdrawal of the Syrian Army from Lebanese soil.

(11) Israel has withdrawn all of its armed forces from Lebanon in accordance with United Nations Security Council Resolution 425 (March 19, 1978), as certified by the United Nations Secretary General.

(12) Even in the face of this United Nations certification that acknowledged Israel's full compliance with Security Council Resolution 425, Syrian- and Iranian-supported Hizballah continues to attack Israeli outposts at Shebaa Farms, under the pretense that Shebaa Farms is territory from which Israel was required to withdraw by Security Counsel Resolution 425, and Syrian- and Iranian-supported Hizballah and other militant organizations continue to attack civilian targets in Israel.

(13) Syria will not allow Lebanon—a sovereign country—to fulfill its obligation in accordance with Security Council Resolution 425 to deploy its troops to southern Lebanon.

(14) As a result, the Israeli-Lebanese border and much of southern Lebanon is under the control of Hizballah, which continues to attack Israeli positions, allows Iranian Revolutionary Guards and other militant groups to operate freely in the area, and maintains thousands of rockets along Israel's northern border, destabilizing the entire region.

(15) On February 12, 2003, Director of Central Intelligence George Tenet stated the following with respect to the Syrian- and Iranian-supported Hizballah: "[A]s an organization with capability and worldwide presence [it] is [al Qaeda's] equal if not a far more capable organization * * * [T]hey're a notch above in many respects, in terms of in their relationship with the Iranians and the training they receive, [which] puts them in a state-sponsored category with a potential for lethality that's quite great.".

(16) In the State of the Union address on January 29, 2002, President Bush declared that the United States will "work

closely with our coalition to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver weapons of mass destruction".

(17) The Government of Syria continues to develop and deploy short- and medium-range ballistic missiles.

(18) According to the December 2001 unclassified Central Intelligence Agency report entitled "Foreign Missile Developments and the Ballistic Missile Threat through 2015", "Syria maintains a ballistic missile and rocket force of hundreds of FROG rockets, Scuds, and SS–21 SRBMs [and] Syria has developed [chemical weapons] warheads for its Scuds".

(19) The Government of Syria is pursuing the development and production of biological and chemical weapons and has a nuclear research and development program that is cause for concern.

(20) According to the Central Intelligence Agency's "Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions", released January 7, 2003: "[Syria] already holds a stockpile of the nerve agent sarin but apparently is trying to develop more toxic and persistent nerve agents. Syria remains dependent on foreign sources for key elements of its [chemical weapons] program, including precursor chemicals and key production equipment. It is highly probable that Syria also is developing an offensive [biological weapons] capability.".

(21) On May 6, 2002, the Under Secretary of State for Arms Control and International Security, John Bolton, stated: "The United States also knows that Syria has long had a chemical warfare program. It has a stockpile of the nerve agent sarin and is engaged in research and development of the more toxic and persistent nerve agent VX. Syria, which has signed but not ratified the [Biological Weapons Convention], is pursuing the development of biological weapons and is able to produce at least small amounts of biological warfare agents.".

(22) According to the Central Intelligence Agency's "Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions", released January 7, 2003: "Russia and Syria have approved a draft cooperative program on cooperation on civil nuclear power. In principal, broader access to Russian expertise provides opportunities for Syria to expand its indigenous capabilities, should it decide to pursue nuclear weapons.".

(23) Under the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483), which entered force on March 5, 1970, and to which Syria is a party, Syria has undertaken not to acquire or produce nuclear weapons and has accepted full scope safeguards of the International Atomic Energy Agency to detect diversions of nuclear materials from peaceful activities to the production of nuclear weapons or other nuclear explosive devices.

(24) Syria is not a party to the Chemical Weapons Convention or the Biological Weapons Convention, which entered into force on April 29, 1997, and on March 26, 1975, respectively.

(25) Syrian President Bashar Assad promised Secretary of State Powell in February 2001 to end violations of Security Council Resolution 661, which restricted the sale of oil and other commodities by Saddam Hussein's regime, except to the extent authorized by other relevant resolutions, but this pledge was never fulfilled.

(26) Syria's illegal imports and transshipments of Iraqi oil during Saddam Hussein's regime earned Syria $50,000,000 or more per month as Syria continued to sell its own Syrian oil at market prices.

(27) Syria's illegal imports and transshipments of Iraqi oil earned Saddam Hussein's regime $2,000,000 per day.

(28) On March 28, 2003, Secretary of Defense Donald Rumsfeld warned: "[W]e have information that shipments of military supplies have been crossing the border from Syria into Iraq, including night-vision goggles * * * These deliveries pose a direct threat to the lives of coalition forces. We consider such trafficking as hostile acts, and will hold the Syrian government accountable for such shipments.".

(29) According to Article 23(1) of the United Nations Charter, members of the United Nations are elected as nonpermanent members of the United Nations Security Council with "due regard being specially paid, in the first instance to the contribution of members of the United Nations to the maintenance of international peace and security and to other purposes of the Organization".

(30) Despite Article 23(1) of the United Nations Charter, Syria was elected on October 8, 2001, to a 2-year term as a nonpermanent member of the United Nations Security Council beginning January 1, 2002, and served as President of the Security Council during June 2002 and August 2003.

(31) On March 31, 2003, the Syrian Foreign Minister, Farouq al-Sharra, made the Syrian regime's intentions clear when he explicitly stated that "Syria's interest is to see the invaders defeated in Iraq".

(32) On April 13, 2003, Secretary of Defense Donald Rumsfeld charged that "busloads" of Syrian fighters entered Iraq with "hundreds of thousands of dollars" and leaflets offering rewards for dead American soldiers.

(33) On September 16, 2003, the Under Secretary of State for Arms Control and International Security, John Bolton, appeared before the Subcommittee on the Middle East and Central Asia of the Committee on International Relations of the House of Representatives, and underscored Syria's "hostile actions" toward coalition forces during Operation Iraqi Freedom. Under Secretary Bolton added that: "Syria allowed military equipment to flow into Iraq on the eve of and during the war. Syria permitted volunteers to pass into Iraq to attack and kill our service members during the war, and is still doing so * * * [Syria's] behavior during Operation Iraqi Freedom underscores the importance of taking seriously reports and information on Syria's WMD capabilities.".

(34) During his appearance before the Committee on International Relations of the House of Representatives on September 25, 2003, Ambassador L. Paul Bremer, III, Administrator of the Coalition Provisional Authority in Iraq, stated that out of the 278 third-country nationals who were captured by coalition forces in Iraq, the "single largest group are Syrians".

SEC. 3.[1] SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Government of Syria should immediately and unconditionally halt support for terrorism, permanently and openly declare its total renunciation of all forms of terrorism, and close all terrorist offices and facilities in Syria, including the offices of Hamas, Hizballah, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine—General Command;

(2) the Government of Syria should—

(A) immediately and unconditionally stop facilitating transit from Syria to Iraq of individuals, military equipment, and all lethal items, except as authorized by the Coalition Provisional Authority or a representative, internationally recognized Iraqi government;

(B) cease its support for "volunteers" and terrorists who are traveling from and through Syria into Iraq to launch attacks; and

(C) undertake concrete, verifiable steps to deter such behavior and control the use of territory under Syrian control;

(3) the Government of Syria should immediately declare its commitment to completely withdraw its armed forces, including military, paramilitary, and security forces, from Lebanon, and set a firm timetable for such withdrawal;

(4) the Government of Lebanon should deploy the Lebanese armed forces to all areas of Lebanon, including South Lebanon, in accordance with United Nations Security Council Resolution 520 (September 17, 1982), in order to assert the sovereignty of the Lebanese state over all of its territory, and should evict all terrorist and foreign forces from southern Lebanon, including Hizballah and the Iranian Revolutionary Guards;

(5) the Government of Syria should halt the development and deployment of medium- and long-range surface-to-surface missiles and cease the development and production of biological and chemical weapons;

(6) the Governments of Lebanon and Syria should enter into serious unconditional bilateral negotiations with the Government of Israel in order to realize a full and permanent peace;

(7) the United States should continue to provide humanitarian and educational assistance to the people of Lebanon only through appropriate private, nongovernmental organizations and appropriate international organizations, until such time as the Government of Lebanon asserts sovereignty and control over all of its territory and borders and achieves full

political independence, as called for in United Nations Security Council Resolution 520; and

(8) as a violator of several key United Nations Security Council resolutions and as a nation that pursues policies which undermine international peace and security, Syria should not have been permitted to join the United Nations Security Council or serve as the Security Council's President, and should be removed from the Security Council.

SEC. 4.[1] STATEMENT OF POLICY.

It is the policy of the United States that—

(1) Syria should bear responsibility for attacks committed by Hizballah and other terrorist groups with offices, training camps, or other facilities in Syria, or bases in areas of Lebanon occupied by Syria;

(2) the United States will work to deny Syria the ability to support acts of international terrorism and efforts to develop or acquire weapons of mass destruction;

(3) the Secretary of State will continue to list Syria as a state sponsor of terrorism until Syria ends its support for terrorism, including its support of Hizballah and other terrorist groups in Lebanon and its hosting of terrorist groups in Damascus, and comes into full compliance with United States law relating to terrorism and United Nations Security Council Resolution 1373 (September 28, 2001);

(4) the full restoration of Lebanon's sovereignty, political independence, and territorial integrity is in the national security interest of the United States;

(5) Syria is in violation of United Nations Security Council Resolution 520 (September 17, 1982) through its continued occupation of Lebanese territory and its encroachment upon Lebanon's political independence;

(6) Syria's obligation to withdraw from Lebanon is not conditioned upon progress in the Israeli-Syrian or Israeli-Lebanese peace process but derives from Syria's obligation under Security Council Resolution 520;

(7) Syria's acquisition of weapons of mass destruction and ballistic missile programs threaten the security of the Middle East and the national security interests of the United States;

(8) Syria will be held accountable for any harm to Coalition armed forces or to any United States citizen in Iraq if the government of Syria is found to be responsible due to its facilitation of terrorist activities and its shipments of military supplies to Iraq; and

(9) the United States will not provide any assistance to Syria and will oppose multilateral assistance for Syria until Syria ends all support for terrorism, withdraws its armed forces from Lebanon, and halts the development and deployment of weapons of mass destruction and medium- and long-range surface-to-surface ballistic missiles.

SEC. 5.[1] PENALTIES AND AUTHORIZATION.

(a) PENALTIES.—Until the President makes the determination that Syria meets all the requirements described in paragraphs (1)

through (4) of subsection (d) and certifies such determination to Congress in accordance with such subsection—

(1) the President shall prohibit the export to Syria of any item, including the issuance of a license for the export of any item, on the United States Munitions List or Commerce Control List of dual-use items in the Export Administration Regulations (15 CFR part 730 et seq.); and

(2) the President shall impose two or more of the following sanctions:

(A) Prohibit the export of products of the United States (other than food and medicine) to Syria.

(B) Prohibit United States businesses from investing or operating in Syria.

(C) Restrict Syrian diplomats in Washington, D.C., and at the United Nations in New York City, to travel only within a 25-mile radius of Washington, D.C., or the United Nations headquarters building, respectively.

(D) Prohibit aircraft of any air carrier owned or controlled by Syria to take off from, land in, or overfly the United States.

(E) Reduce United States diplomatic contacts with Syria (other than those contacts required to protect United States interests or carry out the purposes of this Act).

(F) Block transactions in any property in which the Government of Syria has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States.

(b) WAIVER.—The President may waive the application of subsection (a)(1), (a)(2), or both if the President determines that it is in the national security interest of the United States to do so and submits to the appropriate congressional committees a report containing the reasons for the determination.

(c) AUTHORITY TO PROVIDE ASSISTANCE TO SYRIA.—If the President—

(1) makes the determination that Syria meets the requirements described in paragraphs (1) through (4) of subsection (d) and certifies such determination to Congress in accordance with such subsection;

(2) determines that substantial progress has been made both in negotiations aimed at achieving a peace agreement between Israel and Syria and in negotiations aimed at achieving a peace agreement between Israel and Lebanon; and

(3) determines that the Government of Syria is strictly respecting the sovereignty, territorial integrity, unity, and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese army throughout Lebanon, as required under paragraph (4) of United Nations Security Council Resolution 520 (1982),

then the President is authorized to provide assistance to Syria under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance).

(d) CERTIFICATION.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that—

(1) the Government of Syria has ceased providing support for international terrorist groups and does not allow terrorist groups, such as Hamas, Hizballah, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine—General Command to maintain facilities in territory under Syrian control;

(2) the Government of Syria ended its occupation of Lebanon described in section 2(7) of this Act;

(3) the Government of Syria has ceased the development and deployment of medium- and long-range surface-to-surface ballistic missiles, is not pursuing or engaged in the research, development, acquisition, production, transfer, or deployment of biological, chemical, or nuclear weapons, has provided credible assurances that such behavior will not be undertaken in the future, and has agreed to allow United Nations and other international observers to verify such actions and assurances; and

(4) the Government of Syria has ceased all support for, and facilitation of, all terrorist activities inside of Iraq, including preventing the use of territory under its control by any means whatsoever to support those engaged in terrorist activities inside of Iraq.

SEC. 6.[1] REPORT.

(a) REPORT.—Not later than 6 months after the date of the enactment of this Act, and every 12 months thereafter until the conditions described in paragraphs (1) through (4) of section 5(d) are satisfied, the Secretary of State shall submit to the appropriate congressional committees a report on—

(1) Syria's progress toward meeting the conditions described in paragraphs (1) through (4) of section 5(d);

(2) connections, if any, between individual terrorists and terrorist groups which maintain offices, training camps, or other facilities on Syrian territory, or operate in areas of Lebanon occupied by the Syrian armed forces, and terrorist attacks on the United States or its citizens, installations, or allies; and

(3) how the United States is increasing its efforts against Hizballah and other terrorist organizations supported by Syria.

(b) FORM.—The report submitted under subsection (a) shall be in unclassified form but may include a classified annex.

SEC. 7.[1] DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

In this Act, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

g. Microenterprise

(1) Microenterprise Results and Accountability Act of 2004

Partial text of Public Law 108–484 [H.R. 3818], 118 Stat. 3922, approved December 23, 2004

AN ACT To amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Microenterprise Results and Accountability Act of 2004".

SEC. 2.[2] FINDINGS AND POLICY.

Congress finds and declares the following:

(1) Congress has demonstrated its support for microenterprise development assistance programs through the enactment of two comprehensive microenterprise laws:

(A) The Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1082).[3]

(B) Public Law 108–31 (an Act entitled "An Act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance program under those Acts, and for other purposes", approved June 17, 2003).

(2) The report on the effectiveness of the United States Agency for International Development's microfinance program, prepared by the Consultative Group to Assist the Poor, rated the Agency in the top tier of the 17 donors in this field.

(3) The Comptroller General, in a report dated November 2003, found that the United States Agency for International Development has met some, but not all, of the key objectives of such microenterprise development assistance programs.

(4) The Comptroller General's report found, among other things, the following:

(A) Microenterprise development assistance generally can help alleviate some impacts of poverty, improve income levels and quality of life for borrowers and provide

[1] 22 U.S.C. 2151 note.

[2] 22 U.S.C. 2211 note.

[3] For text of freestanding sections of Public Law 106–309, see *Legislation on Foreign Relations Through 2004*, vol. I–B. Public Law 106–309, in part, amended the Foreign Assistance Act of 1961 at secs. 108, 131, 132 to establish microenterprise development grant assistance, micro- and small enterprise development credits, and the U.S. Microfinance Loan Facility. Secs. 4 and 5 of this Act redesignate secs. 108 and 132 of the Foreign assistance Act of 1961 as secs. 256 and 257, respectively, and sec. 8(a) of this Act repeals sec. 132, replacing the text with a new sec. 258, enacted in sec. 8 of this Act. See also sec. 9 of this Act.

poor individuals, workers, and their families with an important coping mechanism.

(B) Microenterprise development assistance programs of the United States Agency for International Development have encouraged women's participation in microfinance projects and, according to data of the Agency, women have comprised two-thirds or more of the micro-loan clients in Agency-funded microenterprise projects since 1997.

(5)(A) The Comptroller General's report recommends that the Administrator of the United States Agency for International Development review the Agency's 'microenterprise results reporting' system with the goal of ensuring that its annual reporting is complete and accurate.

(B) Specifically, the Administrator should review and reconsider the methodologies used for the collection, analysis, and reporting of data on annual spending targets, outreach to the very poor, sustainability of microfinance institutions, and the contribution of Agency's funding to the institutions it supports.

SEC. 3. MICROENTERPRISE DEVELOPMENT ASSISTANCE.

Chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2166 et seq.) is amended by inserting after title V the following new title: * * *[4]

SEC. 4. MICROENTERPRISE DEVELOPMENT CREDITS. * * *[5]

SEC. 5. UNITED STATES MICROFINANCE LOAN FACILITY. * * *[6]

SEC. 6. MISCELLANEOUS PROVISIONS. * * *[7]

SEC. 7.[8] SENSE OF CONGRESS.

It is the sense of Congress that, in carrying out title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 (as added by section 3 of this Act and amended by sections 4 through 6 of this Act), the Administrator of the United States Agency for International Development—

(1) where applicable, should ensure that microenterprise development assistance provided under such title is matched by recipients with an equal amount of assistance from non-United States Government sources, including private donations, multilateral funding, commercial and concessional borrowing, savings, and program income;

(2) should include in the report required by section 258 of the Foreign Assistance Act of 1961 (as added by section 6 of this Act) a description of all matching assistance (as described in paragraph (1)) provided for the prior year by recipients of microenterprise development assistance under such title;

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[4] Sec. 3 added a new title VI, relating to Microenterprise Development Assistance, to chapter 2 of part I of the Foreign Assistance Act of 1961. For text, see beginning at page 138.

[5] Sec. 4 redesignated sec. 108 of the Foreign Assistance Act of 1961 as sec. 256 of the newly formed title VI of chapter 2 of part I of that Act. Sec. 4 also inserted subtitle headings A and B in title VI of chapter 2 of part I of that Act and provided authorization levels for Microenterprise Development Credits for fiscal years 2005 through 2009.

[6] Sec. 5 redesignated sec. 132 of the Foreign Assistance Act of 1961 as sec. 257 of the newly formed title VI of chapter 2 of part I of that Act. Sec. 5 also inserted subtitle heading C in title VI of chapter 2 of part I of that Act and provided authorization levels for the U.S. Microfinance Loan Facility for fiscal years 2005 through 2009.

[7] Sec. 6 added a new subtitle D to title VI of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to miscellaneous provisions.

[8] 22 U.S.C. 2211 note.

(3) should ensure that recipients of microenterprise development assistance under such title do not expend an unreasonably large percentage of such assistance on administrative costs;

(4) should not use recipients of microenterprise development assistance under such title to carry out critical management functions of the Agency, including functions such as strategy development or overall management of programs in a country; and

(5) should consult with the appropriate congressional committees with respect to the implementation of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 not later than 90 days after the date of the enactment of this Act.

SEC. 8. REPEALS.

(a) FOREIGN ASSISTANCE ACT OF 1961.—Section 131 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a) is hereby repealed.

(b) PUBLIC LAW 108–31.—

(1) IN GENERAL.—Section 4 of Public Law 108–31 (22 U.S.C. 2151f note) is amended by striking subsection (b).

(2) CONFORMING AMENDMENT.—Section 4 of Public Law 108–31 is amended by striking "(a)" and all that follows through "Not later" and inserting "Not later".

SEC. 9.[9] REFERENCES.

Any reference in a law, regulation, agreement, or other document of the United States to section 108, 131, or 132 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to subtitle B of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961, subtitle A of title VI of chapter 2 of part I of such Act, or subtitle C of title VI of chapter 2 of part I of such Act, respectively.

[9] 22 U.S.C. 2211 note.

(2) Microenterprise Report to Congress

Partial text of Public Law 108–31 [H.R. 192], 117 Stat. 775, approved June 17, 2003; amended by Public Law 108–484 [Microenterprise Results and Accountability Act of 2004; H.R. 3818], 118 Stat. 3922, approved December 23, 2004

AN ACT To amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000. * * *[1]

SEC. 2. AMENDMENTS TO THE MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961. * * *[2]

SEC. 3. AMENDMENTS TO THE MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961. * * *[2]

SEC. 4.[3] REPORT TO CONGRESS.

Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.

[1] Sec. 1 amendments have been incorporated into the Microenterprise for Self-Reliance Act of 2000; see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[2] Secs. 2 and 3 amendments have been incorporated into the Foreign Assistance Act of 1961.

[3] 22 U.S.C. 2151f note. Sec. 8(b) of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) struck out subsec. (b) and removed subsec. designation "(a)". Subsec. (b) required an annual report of the Administrator of USAID on compliance with the Microenterprise for Self-Reliance Act of 2000.

h. United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003

Public Law 108–25 [H.R. 1298], 117 Stat. 711, approved May 27, 2003; amended by Public Law 108–199 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004; H.R. 2673], 118 Stat. 3 at 143, approved January 23, 2004

AN ACT To provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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[1] 22 U.S.C. 7601 note.

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SEC. 2.[2] FINDINGS.

Congress makes the following findings:

(1) During the last 20 years, HIV/AIDS has assumed pandemic proportions, spreading from the most severely affected regions, sub-Saharan Africa and the Caribbean, to all corners of the world, and leaving an unprecedented path of death and devastation.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 65,000,000 individuals worldwide have been infected with HIV since the epidemic began, more than 25,000,000 of these individuals have lost their lives to the disease, and more than 14,000,000 children have been orphaned by the disease. HIV/AIDS is the fourth-highest cause of death in the world.

(3)(A) At the end of 2002, an estimated 42,000,000 individuals were infected with HIV or living with AIDS, of which more than 75 percent live in Africa or the Caribbean. Of these individuals, more than 3,200,000 were children under the age of 15 and more than 19,200,000 were women.

(B) Women are four times more vulnerable to infection than are men and are becoming infected at increasingly high rates, in part because many societies do not provide poor women and young girls with the social, legal, and cultural protections against high risk activities that expose them to HIV/AIDS.

(C) Women and children who are refugees or are internally displaced persons are especially vulnerable to sexual exploitation and violence, thereby increasing the possibility of HIV infection.

(4) As the leading cause of death in sub-Saharan Africa, AIDS has killed more than 19,400,000 individuals (more than 3 times the number of AIDS deaths in the rest of the world) and will claim the lives of one-quarter of the population, mostly adults, in the next decade.

(5) An estimated 2,000,000 individuals in Latin America and the Caribbean and another 7,100,000 individuals in Asia and the Pacific region are infected with HIV or living with AIDS. Infection rates are rising alarmingly in Eastern Europe (especially in the Russian Federation), Central Asia, and China.

[2] 22 U.S.C. 7601.

(6) HIV/AIDS threatens personal security by affecting the health, lifespan, and productive capacity of the individual and the social cohesion and economic well-being of the family.

(7) HIV/AIDS undermines the economic security of a country and individual businesses in that country by weakening the productivity and longevity of the labor force across a broad array of economic sectors and by reducing the potential for economic growth over the long term.

(8) HIV/AIDS destabilizes communities by striking at the most mobile and educated members of society, many of whom are responsible for security at the local level and governance at the national and subnational levels as well as many teachers, health care personnel, and other community workers vital to community development and the effort to combat HIV/AIDS. In some countries the overwhelming challenges of the HIV/AIDS epidemic are accelerating the outward migration of critically important health care professionals.

(9) HIV/AIDS weakens the defenses of countries severely affected by the HIV/AIDS crisis through high infection rates among members of their military forces and voluntary peacekeeping personnel. According to UNAIDS, in sub-Saharan Africa, many military forces have infection rates as much as five times that of the civilian population.

(10) HIV/AIDS poses a serious security issue for the international community by—

(A) increasing the potential for political instability and economic devastation, particularly in those countries and regions most severely affected by the disease;

(B) decreasing the capacity to resolve conflicts through the introduction of peacekeeping forces because the environments into which these forces are introduced pose a high risk for the spread of HIV/AIDS; and

(C) increasing the vulnerability of local populations to HIV/AIDS in conflict zones from peacekeeping troops with HIV infection rates significantly higher than civilian populations.

(11) The devastation wrought by the HIV/AIDS pandemic is compounded by the prevalence of tuberculosis and malaria, particularly in developing countries where the poorest and most vulnerable members of society, including women, children, and those individuals living with HIV/AIDS, become infected. According to the World Health Organization (WHO), HIV/AIDS, tuberculosis, and malaria accounted for more than 5,700,000 deaths in 2001 and caused debilitating illnesses in millions more.

(12) Together, HIV/AIDS, tuberculosis, malaria and related diseases are undermining agricultural production throughout Africa. According to the United Nations Food and Agricultural Organization, 7,000,000 agricultural workers throughout 25 African countries have died from AIDS since 1985. Countries with poorly developed agricultural systems, which already face chronic food shortages, are the hardest hit, particularly in sub-Saharan Africa, where high HIV prevalence rates are

compounding the risk of starvation for an estimated 14,400,000 people.

(13) Tuberculosis is the cause of death for one out of every three people with AIDS worldwide and is a highly communicable disease. HIV infection is the leading threat to tuberculosis control. Because HIV infection so severely weakens the immune system, individuals with HIV and latent tuberculosis infection have a 100 times greater risk of developing active tuberculosis diseases thereby increasing the risk of spreading tuberculosis to others. Tuberculosis, in turn, accelerates the onset of AIDS in individuals infected with HIV.

(14) Malaria, the most deadly of all tropical parasitic diseases, has been undergoing a dramatic resurgence in recent years due to increasing resistance of the malaria parasite to inexpensive and effective drugs. At the same time, increasing resistance of mosquitoes to standard insecticides makes control of transmission difficult to achieve. The World Health Organization estimates that between 300,000,000 and 500,000,000 new cases of malaria occur each year, and annual deaths from the disease number between 2,000,000 and 3,000,000. Persons infected with HIV are particularly vulnerable to the malaria parasite. The spread of HIV infection contributes to the difficulties of controlling resurgence of the drug resistant malaria parasite.

(15) HIV/AIDS is first and foremost a health problem. Successful strategies to stem the spread of the HIV/AIDS pandemic will require clinical medical interventions, the strengthening of health care delivery systems and infrastructure, and determined national leadership and increased budgetary allocations for the health sector in countries affected by the epidemic as well as measures to address the social and behavioral causes of the problem and its impact on families, communities, and societal sectors.

(16) Basic interventions to prevent new HIV infections and to bring care and treatment to people living with AIDS, such as voluntary counseling and testing and mother-to-child transmission programs, are achieving meaningful results and are cost-effective. The challenge is to expand these interventions from a pilot program basis to a national basis in a coherent and sustainable manner.

(17) Appropriate treatment of individuals with HIV/AIDS can prolong the lives of such individuals, preserve their families, prevent children from becoming orphans, and increase productivity of such individuals by allowing them to lead active lives and reduce the need for costly hospitalization for treatment of opportunistic infections caused by HIV.

(18) Nongovernmental organizations, including faith-based organizations, with experience in health care and HIV/AIDS counseling, have proven effective in combating the HIV/AIDS pandemic and can be a resource in assisting indigenous organizations in severely affected countries in their efforts to provide treatment and care for individuals infected with HIV/AIDS.

(19) Faith-based organizations are making an important contribution to HIV prevention and AIDS treatment programs

around the world. Successful HIV prevention programs in Uganda, Jamaica, and elsewhere have included local churches and faith-based groups in efforts to promote behavior changes to prevent HIV, to reduce stigma associated with HIV infection, to treat those afflicted with the disease, and to care for orphans. The Catholic Church alone currently cares for one in four people being treated for AIDS worldwide. Faith-based organizations possess infrastructure, experience, and knowledge that will be needed to carry out these programs in the future and should be an integral part of United States efforts.

(20)(A) Uganda has experienced the most significant decline in HIV rates of any country in Africa, including a decrease among pregnant women from 20.6 percent in 1991 to 7.9 percent in 2000.

(B) Uganda made this remarkable turnaround because President Yoweri Museveni spoke out early, breaking long-standing cultural taboos, and changed widespread perceptions about the disease. His leadership stands as a model for ways political leaders in Africa and other developing countries can mobilize their nations, including civic organizations, professional associations, religious institutions, business and labor to combat HIV/AIDS.

(C) Uganda's successful AIDS treatment and prevention program is referred to as the ABC model: "Abstain, Be faithful, use Condoms", in order of priority. Jamaica, Zambia, Ethiopia and Senegal have also successfully used the ABC model. Beginning in 1986, Uganda brought about a fundamental change in sexual behavior by developing a low-cost program with the message: "Stop having multiple partners. Be faithful. Teenagers, wait until you are married before you begin sex.".

(D) By 1995, 95 percent of Ugandans were reporting either one or zero sexual partners in the past year, and the proportion of sexually active youth declined significantly from the late 1980s to the mid-1990s. The greatest percentage decline in HIV infections and the greatest degree of behavioral change occurred in those 15 to 19 years old. Uganda's success shows that behavior change, through the use of the ABC model, is a very successful way to prevent the spread of HIV.

(21) The magnitude and scope of the HIV/AIDS crisis demands a comprehensive, long-term, international response focused upon addressing the causes, reducing the spread, and ameliorating the consequences of the HIV/AIDS pandemic, including—

(A) prevention and education, care and treatment, basic and applied research, and training of health care workers, particularly at the community and provincial levels, and other community workers and leaders needed to cope with the range of consequences of the HIV/AIDS crisis;

(B) development of health care infrastructure and delivery systems through cooperative and coordinated public efforts and public and private partnerships;

(C) development and implementation of national and community-based multisector strategies that address the impact of HIV/AIDS on the individual, family, community,

and nation and increase the participation of at-risk populations in programs designed to encourage behavioral and social change and reduce the stigma associated with HIV/AIDS; and

(D) coordination of efforts between international organizations such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the World Health Organization (WHO), national governments, and private sector organizations, including faith-based organizations.

(22) The United States has the capacity to lead and enhance the effectiveness of the international community's response by—

(A) providing substantial financial resources, technical expertise, and training, particularly of health care personnel and community workers and leaders;

(B) promoting vaccine and microbicide research and the development of new treatment protocols in the public and commercial pharmaceutical research sectors;

(C) making available pharmaceuticals and diagnostics for HIV/AIDS therapy;

(D) encouraging governments and faith-based and community-based organizations to adopt policies that treat HIV/AIDS as a multisectoral public health problem affecting not only health but other areas such as agriculture, education, the economy, the family and society, and assisting them to develop and implement programs corresponding to these needs;

(E) promoting healthy lifestyles, including abstinence, delaying sexual debut, monogamy, marriage, faithfulness, use of condoms, and avoiding substance abuse; and

(F) encouraging active involvement of the private sector, including businesses, pharmaceutical and biotechnology companies, the medical and scientific communities, charitable foundations, private and voluntary organizations and nongovernmental organizations, faith-based organizations, community-based organizations, and other nonprofit entities.

(23) Prostitution and other sexual victimization are degrading to women and children and it should be the policy of the United States to eradicate such practices. The sex industry, the trafficking of individuals into such industry, and sexual violence are additional causes of and factors in the spread of the HIV/AIDS epidemic. One in nine South Africans is living with AIDS, and sexual assault is rampant, at a victimization rate of one in three women. Meanwhile in Cambodia, as many as 40 percent of prostitutes are infected with HIV and the country has the highest rate of increase of HIV infection in all of Southeast Asia. Victims of coercive sexual encounters do not get to make choices about their sexual activities.

(24) Strong coordination must exist among the various agencies of the United States to ensure effective and efficient use of financial and technical resources within the United States

Government with respect to the provision of international HIV/AIDS assistance.

(25) In his address to Congress on January 28, 2003, the President announced the Administration's intention to embark on a five-year emergency plan for AIDS relief, to confront HIV/AIDS with the goals of preventing 7,000,000 new HIV/AIDS infections, treating at least 2,000,000 people with life-extending drugs, and providing humane care for millions of people suffering from HIV/AIDS, and for children orphaned by HIV/AIDS.

(26) In this address to Congress, the President stated the following: "Today, on the continent of Africa, nearly 30,000,000 people have the AIDS virus—including 3,000,000 children under the age of 15. There are whole countries in Africa where more than one-third of the adult population carries the infection. More than 4,000,000 require immediate drug treatment. Yet across that continent, only 50,000 AIDS victims—only 50,000—are receiving the medicine they need.".

(27) Furthermore, the President focused on care and treatment of HIV/AIDS in his address to Congress, stating the following: "Because the AIDS diagnosis is considered a death sentence, many do not seek treatment. Almost all who do are turned away. A doctor in rural South Africa describes his frustration. He says, 'We have no medicines. Many hospitals tell people, you've got AIDS, we can't help you. Go home and die.' In an age of miraculous medicines, no person should have to hear those words. AIDS can be prevented. Anti-retroviral drugs can extend life for many years * * * Ladies and gentlemen, seldom has history offered a greater opportunity to do so much for so many.".

(28) Finally, the President stated that "[w]e have confronted, and will continue to confront, HIV/AIDS in our own country", proposing now that the United States should lead the world in sparing innocent people from a plague of nature, and asking Congress "to commit $15,000,000,000 over the next five years, including nearly $10,000,000,000 in new money, to turn the tide against AIDS in the most afflicted nations of Africa and the Caribbean".

SEC. 3.[3] DEFINITIONS.

In this Act:

(1) AIDS.—The term "AIDS" means the acquired immune deficiency syndrome.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) GLOBAL FUND.—The term "Global Fund" means the public-private partnership known as the Global Fund to Fight AIDS, Tuberculosis and Malaria established pursuant to Article 80 of the Swiss Civil Code.

(4) HIV.—The term "HIV" means the human immunodeficiency virus, the pathogen that causes AIDS.

[3] 22 U.S.C. 7602.

(5) HIV/AIDS.—The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(6) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term "relevant executive branch agencies" means the Department of State, the United States Agency for International Development, and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or the Foreign Assistance Act of 1961.

SEC. 4.[4] PURPOSE.

The purpose of this Act is to strengthen United States leadership and the effectiveness of the United States response to certain global infectious diseases by—

(1) establishing a comprehensive, integrated five-year, global strategy to fight HIV/AIDS that encompasses a plan for phased expansion of critical programs and improved coordination among relevant executive branch agencies and between the United States and foreign governments and international organizations;

(2) providing increased resources for multilateral efforts to fight HIV/AIDS;

(3) providing increased resources for United States bilateral efforts, particularly for technical assistance and training, to combat HIV/AIDS, tuberculosis, and malaria;

(4) encouraging the expansion of private sector efforts and expanding public-private sector partnerships to combat HIV/AIDS; and

(5) intensifying efforts to support the development of vaccines and treatment for HIV/AIDS, tuberculosis, and malaria.

SEC. 5.[5] AUTHORITY TO CONSOLIDATE AND COMBINE REPORTS.

With respect to the reports required by this Act to be submitted by the President, to ensure an efficient use of resources, the President may, in his discretion and notwithstanding any other provision of this Act, consolidate or combine any of these reports, except for the report required by section 101 of this Act, so long as the required elements of each report are addressed and reported within a 90-day period from the original deadline date for submission of the report specified in this Act. The President may also enter into contracts with organizations with relevant expertise to develop, originate, or contribute to any of the reports required by this Act to be submitted by the President.

TITLE I—POLICY PLANNING AND COORDINATION

SEC. 101.[6] DEVELOPMENT OF A COMPREHENSIVE, FIVE-YEAR, GLOBAL STRATEGY.

(a) STRATEGY.—The President shall establish a comprehensive, integrated, five-year strategy to combat global HIV/AIDS that

[4] 22 U.S.C. 7603.
[5] 22 U.S.C. 7604.
[6] 22 U.S.C. 7611. In a memorandum of February 23, 2004 (69 F.R. 9509), the President delegated authority under secs. 202(c), 305 and 313 to the Secretary of State. The President, further,

Continued

strengthens the capacity of the United States to be an effective leader of the international campaign against HIV/AIDS. Such strategy shall maintain sufficient flexibility and remain responsive to the ever-changing nature of the HIV/AIDS pandemic and shall—

(1) include specific objectives, multisectoral approaches, and specific strategies to treat individuals infected with HIV/AIDS and to prevent the further spread of HIV infections, with a particular focus on the needs of families with children (including the prevention of mother-to-child transmission), women, young people, and children (such as unaccompanied minor children and orphans);

(2) as part of the strategy, implement a tiered approach to direct delivery of care and treatment through a system based on central facilities augmented by expanding circles of local delivery of care and treatment through local systems and capacity;

(3) assign priorities for relevant executive branch agencies;

(4) provide that the reduction of HIV/AIDS behavioral risks shall be a priority of all prevention efforts in terms of funding, educational messages, and activities by promoting abstinence from sexual activity and substance abuse, encouraging monogamy and faithfulness, promoting the effective use of condoms, and eradicating prostitution, the sex trade, rape, sexual assault and sexual exploitation of women and children;

(5) improve coordination and reduce duplication among relevant executive branch agencies, foreign governments, and international organizations;

(6) project general levels of resources needed to achieve the stated objectives;

(7) expand public-private partnerships and the leveraging of resources;

(8) maximize United States capabilities in the areas of technical assistance and training and research, including vaccine research;

(9) establish priorities for the distribution of resources based on factors such as the size and demographics of the population with HIV/AIDS, tuberculosis, and malaria and the needs of that population and the existing infrastructure or funding levels that may exist to cure, treat, and prevent HIV/AIDS, tuberculosis, and malaria; and

(10) include initiatives describing how the President will maximize the leverage of private sector dollars in reduction and treatment of HIV/AIDS, tuberculosis, and malaria.

(b) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report setting forth the strategy described in subsection (a).

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delegated the authority under sec. 101 to the Secretary of State to establish a comprehensive, integrated, 5-year strategy to combat global HIV/AIDS and to report to Congress. In a memorandum for the Global AIDS Coordinator, issued on July 29, 2004 (Delegation of Authority No. 145–18; 69 F.R. 45880), the Secretary of State delegated the authority in these sections to the Global AIDS Coordinator.

(2) REPORT CONTENTS.—The report required by paragraph (1) shall include a discussion of the elements described in paragraph (3) and may include a discussion of additional elements relevant to the strategy described in subsection (a). Such discussion may include an explanation as to why a particular element described in paragraph (3) is not relevant to such strategy.

(3) REPORT ELEMENTS.—The elements referred to in paragraph (2) are the following:

(A) The objectives, general and specific, of the strategy.

(B) A description of the criteria for determining success of the strategy.

(C) A description of the manner in which the strategy will address the fundamental elements of prevention and education, care, and treatment (including increasing access to pharmaceuticals and to vaccines), the promotion of abstinence, monogamy, avoidance of substance abuse, and use of condoms, research (including incentives for vaccine development and new protocols), training of health care workers, the development of health care infrastructure and delivery systems, and avoidance of substance abuse.

(D) A description of the manner in which the strategy will promote the development and implementation of national and community-based multisectoral strategies and programs, including those designed to enhance leadership capacity particularly at the community level.

(E) A description of the specific strategies developed to meet the unique needs of women, including the empowerment of women in interpersonal situations, young people and children, including those orphaned by HIV/AIDS and those who are victims of the sex trade, rape, sexual abuse, assault, and exploitation.

(F) A description of the specific strategies developed to encourage men to be responsible in their sexual behavior, child rearing and to respect women including the reduction of sexual violence and coercion.

(G) A description of the specific strategies developed to increase women's access to employment opportunities, income, productive resources, and microfinance programs.

(H) A description of the programs to be undertaken to maximize United States contributions in the areas of technical assistance, training (particularly of health care workers and community-based leaders in affected sectors), and research, including the promotion of research on vaccines and microbicides.

(I) An identification of the relevant executive branch agencies that will be involved and the assignment of priorities to those agencies.

(J) A description of the role of each relevant executive branch agency and the types of programs that the agency will be undertaking.

(K) A description of the mechanisms that will be utilized to coordinate the efforts of the relevant executive branch agencies, to avoid duplication of efforts, to enhance on-site

coordination efforts, and to ensure that each agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

(L) A description of the mechanisms that will be utilized to ensure greater coordination between the United States and foreign governments and international organizations including the Global Fund, UNAIDS, international financial institutions, and private sector organizations.

(M) The level of resources that will be needed on an annual basis and the manner in which those resources would generally be allocated among the relevant executive branch agencies.

(N) A description of the mechanisms to be established for monitoring and evaluating programs, promoting successful models, and for terminating unsuccessful programs.

(O) A description of the manner in which private, nongovernmental entities will factor into the United States Government-led effort and a description of the type of partnerships that will be created to maximize the capabilities of these private sector entities and to leverage resources.

(P) A description of the ways in which United States leadership will be used to enhance the overall international response to the HIV/AIDS pandemic and particularly to heighten the engagement of the member states of the G–8 and to strengthen key financial and coordination mechanisms such as the Global Fund and UNAIDS.

(Q) A description of the manner in which the United States strategy for combating HIV/AIDS relates to and supports other United States assistance strategies in developing countries.

(R) A description of the programs to be carried out under the strategy that are specifically targeted at women and girls to educate them about the spread of HIV/AIDS.

(S) A description of efforts being made to address the unique needs of families with children with respect to HIV/AIDS, including efforts to preserve the family unit.

(T) An analysis of the emigration of critically important medical and public health personnel, including physicians, nurses, and supervisors from sub-Saharan African countries that are acutely impacted by HIV/AIDS, including a description of the causes, effects, and the impact on the stability of health infrastructures, as well as a summary of incentives and programs that the United States could provide, in concert with other private and public sector partners and international organizations, to stabilize health institutions by encouraging critical personnel to remain in their home countries.

(U) A description of the specific strategies developed to promote sustainability of HIV/AIDS pharmaceuticals (including antiretrovirals) and the effects of drug resistance on HIV/AIDS patients.

(V) A description of the specific strategies to ensure that the extraordinary benefit of HIV/AIDS pharmaceuticals (especially antiretrovirals) are not diminished through the illegal counterfeiting of pharmaceuticals and black market sales of such pharmaceuticals.

(W) An analysis of the prevalence of Human Papilloma Virus (HPV) in sub-Saharan Africa and the impact that condom usage has upon the spread of HPV in sub-Saharan Africa.

(c) STUDY; DISTRIBUTION OF RESOURCES.—

(1) STUDY.—Not later than 3 years after the date of the enactment of this Act, the Institute of Medicine shall publish findings comparing the success rates of the various programs and methods used under the strategy described in subsection (a) to reduce, prevent, and treat HIV/AIDS, tuberculosis, and malaria.

(2) DISTRIBUTION OF RESOURCES.— In prioritizing the distribution of resources under the strategy described in subsection (a), the President shall consider the findings published by the Institute of Medicine under this subsection.

SEC. 102.[7] HIV/AIDS RESPONSE COORDINATOR.

(a) ESTABLISHMENT OF POSITION.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 265(a)) is amended—[8]

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) HIV/AIDS RESPONSE COORDINATOR.—

"(1) IN GENERAL.—There shall be established within the Department of State in the immediate office of the Secretary of State a Coordinator of United States Government Activities to Combat HIV/AIDS Globally, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary.

"(2) AUTHORITIES AND DUTIES; DEFINITIONS.—

"(A) AUTHORITIES.—The Coordinator, acting through such nongovernmental organizations (including faith-based and community-based organizations) and relevant executive branch agencies as may be necessary and appropriate to effect the purposes of this section, is authorized—

"(i) to operate internationally to carry out prevention, care, treatment, support, capacity development, and other activities for combatting HIV/AIDS;

"(ii) to transfer and allocate funds to relevant executive branch agencies; and

"(iii) to provide grants to, and enter into contracts with, nongovernmental organizations (including faith-based and community-based organizations) to carry out the purposes of section.

"(B) DUTIES.—

[7] 22 U.S.C. 7612.

[8] For the State Department Basic Authorities Act of 1956, see *Legislation on Foreign Relations Through 2004*, vol. II.

"(i) IN GENERAL.—The Coordinator shall have primary responsibility for the oversight and coordination of all resources and international activities of the United States Government to combat the HIV/AIDS pandemic, including all programs, projects, and activities of the United States Government relating to the HIV/AIDS pandemic under the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 or any amendment made by that Act.

"(ii) SPECIFIC DUTIES.—The duties of the Coordinator shall specifically include the following:

"(I) Ensuring program and policy coordination among the relevant executive branch agencies and nongovernmental organizations, including auditing, monitoring, and evaluation of all such programs.

"(II) Ensuring that each relevant executive branch agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

"(III) Avoiding duplication of effort.

"(IV) Ensuring coordination of relevant executive branch agency activities in the field.

"(V) Pursuing coordination with other countries and international organizations.

"(VI) Resolving policy, program, and funding disputes among the relevant executive branch agencies.

"(VII) Directly approving all activities of the United States (including funding) relating to combatting HIV/AIDS in each of Botswana, Cote d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Zambia, and other countries designated by the President, which other designated countries may include those countries in which the United States is implementing HIV/AIDS programs as of the date of the enactment of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.

"(VIII) Establishing due diligence criteria for all recipients of funds section and all activities subject to the coordination and appropriate monitoring, evaluation, and audits carried out by the Coordinator necessary to assess the measurable outcomes of such activities.

"(C) DEFINITIONS.—In this paragraph:

"(i) AIDS.—The term 'AIDS' means acquired immune deficiency syndrome.

"(ii) HIV.—The term 'HIV' means the human immunodeficiency virus, the pathogen that causes AIDS.

"(iii) HIV/AIDS.—The term 'HIV/AIDS' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

"(iv) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term 'relevant executive branch agencies' means the Department of State, the United States Agency for International

Development, the Department of Health and Human Services (including the Public Health Service), and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or this Act.".

(b) RESOURCES.—Not later than 90 days after the date of enactment of this Act, the President shall specify the necessary financial and personnel resources, from funds appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance, that shall be assigned to and under the direct control of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally to establish and maintain the duties and supporting activities assigned to the Coordinator by this Act and the amendments made by this Act.

(c) ESTABLISHMENT OF SEPARATE ACCOUNT.—There is established in the general fund of the Treasury a separate account which shall be known as the "Activities to Combat HIV/AIDS Globally Fund" and which shall be administered by the Coordinator of United States Government Activities to Combat HIV/AIDS Globally. There shall be deposited into the Fund all amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance, except for amounts appropriated for United States contributions to the Global Fund.

TITLE II—SUPPORT FOR MULTILATERAL FUNDS, PROGRAMS, AND PUBLIC-PRIVATE PARTNERSHIPS

SEC. 201.[9] SENSE OF CONGRESS ON PUBLIC-PRIVATE PARTNERSHIPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Innovative partnerships between governments and organizations in the private sector (including foundations, universities, corporations, faith-based and community-based organizations, and other nongovernmental organizations) have proliferated in recent years, particularly in the area of health.

(2) Public-private sector partnerships multiply local and international capacities to strengthen the delivery of health services in developing countries and to accelerate research for vaccines and other pharmaceutical products that are essential to combat infectious diseases decimating the populations of these countries.

(3) These partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which neither the public nor the private sector can achieve alone.

(4) Sustaining existing public-private partnerships and building new ones are critical to the success of the international community's efforts to combat HIV/AIDS and other infectious diseases around the globe.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships should be a priority element of the strategy pursued by

[9] 22 U.S.C. 7621.

the United States to combat the HIV/AIDS pandemic and other global health crises; and

(2) the United States should systematically track the evolution of these partnerships and work with others in the public and private sector to profile and build upon those models that are most effective.

SEC. 202.[10] PARTICIPATION IN THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA.

(a) FINDINGS.—The Congress finds as follows:

(1) The establishment of the Global Fund in January 2002 is consistent with the general principles for an international AIDS trust fund first outlined by the Congress in the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264).

(2) Section 2, Article 5 of the bylaws of the Global Fund provides for the International Bank for Reconstruction and Development to serve as the initial collection trustee for the Global Fund.

(3) The trustee agreement signed between the Global Fund and the International Bank for Reconstruction and Development narrows the range of duties to include receiving and investing funds from donors, disbursing the funds upon the instruction of the Global Fund, reporting on trust fund resources to donors and the Global Fund, and providing an annual external audit report to the Global Fund.

(b) AUTHORITY FOR UNITED STATES PARTICIPATION.—

(1) UNITED STATES PARTICIPATION.—The United States is hereby authorized to participate in the Global Fund.

(2) PRIVILEGES AND IMMUNITIES.—The Global Fund shall be considered a public international organization for purposes of section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

(c)[11] REPORTS TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the duration of the Global Fund, the President shall submit to the appropriate congressional committees a report on the Global Fund, including contributions pledged to, contributions (including donations from the private sector) received by, and projects funded by the Global Fund, and the mechanisms established for transparency and accountability in the grant-making process.

(d) UNITED STATES FINANCIAL PARTICIPATION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds authorized to be appropriated for bilateral or multilateral HIV/AIDS, tuberculosis, or malaria programs, of the amounts authorized to be appropriated under section 401, there are authorized to be appropriated to the President up to $1,000,000,000 for the period of fiscal year 2004 beginning on January 1, 2004, and such sums as may be necessary for the fiscal years 2005–2008, for contributions to the Global Fund.

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[10] 22 U.S.C. 7622.

[11] In a memorandum of February 23, 2004 (69 F.R. 9509), the President delegated authority under secs. 202(c), 305 and 313 to the Secretary of State. The President, further, delegated the authority under sec. 101 to the Secretary of State to establish a comprehensive, integrated, 5-year strategy to combat global HIV/AIDS and to report to Congress.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) REPROGRAMMING OF FISCAL YEAR 2001 FUNDS.—Funds made available for fiscal year 2001 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000—

(A) are authorized to remain available until expended; and

(B) shall be transferred to, merged with, and made available for the same purposes as, funds made available for fiscal years 2004 through 2008 under paragraph (1).

(4) LIMITATION.—

(A)(i) At any time during fiscal years 2004 through 2008, no United States contribution to the Global Fund may cause the total amount of United States Government contributions to the Global Fund to exceed 33 percent of the total amount of funds contributed to the Global Fund from all sources. Contributions to the Global Fund from the International Bank for Reconstruction and Development and the International Monetary Fund shall not be considered in determining compliance with this paragraph.

(ii) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the Global Fund has provided assistance to a country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has repeatedly provided support for acts of international terrorism, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the amount expended by the Fund to the government of each such country.

(iii) If at any time the President determines that the expenses of the Governing, Administrative, and Advisory Bodies (including the Partnership Forum, the Foundation Board, the Secretariat, and the Technical Review Board) of the Global Fund exceed 10 percent of the total expenditures of the Fund for any 2-year period, the United States shall withhold from its contribution for the next fiscal year an amount equal the to the average annual amount expended by the Fund for such 2-year period for the expenses of the Governing, Administrative, and Advisory Bodies in excess of 10 percent of the total expenditures of the Fund.

(iv) The President may waive the application of clause (iii) if the President determines that extraordinary circumstances warrant such a waiver. No waiver under this clause may be for any period that exceeds 1 year.

(v) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the salary of any individual employed by the Global Fund exceeds the salary of the Vice President of the United States (as determined under section 104 of title 3, United States Code) for that fiscal year, then the United States shall withhold from its contribution for the next fiscal year an amount

equal to the aggregate amount by which the salary of each such individual exceeds the salary of the Vice President of the United States.

(vi)[12] for the purposes of clause (i), "funds contributed to the Global Fund from all sources" means funds contributed to the Global Fund at any time during fiscal years 2004 through 2008 that are not contributed to fulfill a commitment made for a fiscal year prior to fiscal year 2004.

(B)(i) Any amount made available under this subsection that is withheld by reason of subparagraph (A)(i) shall be contributed to the Global Fund as soon as practicable, subject to subparagraph (A)(i), after additional contributions to the Global Fund are made from other sources.

(ii) Any amount made available under this subsection that is withheld by reason of subparagraph (A)(iii) shall be transferred to the Activities to Combat HIV/AIDS Globally Fund and shall remain available under the same terms and conditions as funds appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance.

(iii) Any amount made available under this subsection that is withheld by reason of clause (ii) or (iii) of subparagraph (A) is authorized to be made available to carry out section 104A of the Foreign Assistance Act of 1961 (as added by section 301 of this Act). Amounts made available under the preceding sentence are in addition to amounts appropriated pursuant to the authorization of appropriations under section 401 of this Act for HIV/AIDS assistance.

(iv)[13] Notwithstanding clause (i), after July 31 of each of the fiscal years 2004 through 2008, any amount made available under this subsection that is withheld by reason of subparagraph(A)(i) is authorized to be made available to carry out sections 104A, 104B, and 104C of the Foreign Assistance Act of 1961 (as added by title III of this Act).

(C)(i) The President may suspend the application of subparagraph (A) with respect to a fiscal year if the President determines that an international health emergency threatens the national security interests of the United States.

(ii) The President shall notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 5 days before making a determination under clause (i) with respect to the application of subparagraph (A)(i) and shall include in the notification—

(I) a justification as to why increased United States Government contributions to the Global Fund is preferable to increased United States assistance to combat HIV/AIDS, tuberculosis, and malaria on a bilateral basis; and

[12] Sec. 595(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 117 Stat. 209), added clause (vi).

[13] Sec. 595(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 117 Stat. 209), added clause (iv).

(II) an explanation as to why other government donors to the Global Fund are unable to provide adequate contributions to the Fund.

(e) INTERAGENCY TECHNICAL REVIEW PANEL.—

(1) ESTABLISHMENT.—The Coordinator of United States Government Activities to Combat HIV/AIDS Globally, established in section 1(f)(1) of the State Department Basic Authorities Act of 1956 (as added by section 102(a) of this Act), shall establish in the executive branch an interagency technical review panel.

(2) DUTIES.—The interagency technical review panel shall serve as a "shadow" panel to the Global Fund by—

(A) periodically reviewing all proposals received by the Global Fund; and

(B) providing guidance to the United States persons who are representatives on the panels, committees, and boards of the Global Fund, on the technical efficacy, suitability, and appropriateness of the proposals, and ensuring that such persons are fully informed of technical inadequacies or other aspects of the proposals that are inconsistent with the purposes of this or any other Act relating to the provision of foreign assistance in the area of AIDS.

(3) MEMBERSHIP.—The interagency technical review panel shall consist of qualified medical and development experts who are officers or employees of the Department of Health and Human Services, the Department of State, and the United States Agency for International Development.

(4) CHAIR.—The Coordinator referred to in paragraph (1) shall chair the interagency technical review panel.

(f) MONITORING BY COMPTROLLER GENERAL.—

(1) MONITORING.—The Comptroller General shall monitor and evaluate projects funded by the Global Fund.

(2) REPORT.—The Comptroller General shall on a biennial basis shall prepare and submit to the appropriate congressional committees a report that contains the results of the monitoring and evaluation described in paragraph (1) for the preceding 2-year period.

(g) PROVISION OF INFORMATION TO CONGRESS.—The Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall make available to the Congress the following documents within 30 days of a request by the Congress for such documents:

(1) All financial and accounting statements for the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, including administrative and grantee statements.

(2) Reports provided to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by organizations contracted to audit recipients of funds.

(3) Project proposals submitted by applicants for funding from the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, but which were not funded.

(4) Progress reports submitted to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by grantees.

(h) SENSE OF THE CONGRESS REGARDING ENCOURAGEMENT OF PRIVATE CONTRIBUTIONS TO THE GLOBAL FUND.—It is the sense of the Congress that the President should—

(1) conduct an outreach campaign that is designed to—

(A) inform the public of the existence of—

(i) the Global Fund; and

(ii) any entity that will accept private contributions intended for use by the Global Fund; and

(B) encourage private contributions to the Global Fund; and

(2) encourage private contributions intended for use by the Global Fund by—

(A) establishing and operating an Internet website, and publishing information about the website; and

(B) making public service announcements on radio and television.

SEC. 203. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL VACCINE FUNDS.

(a) VACCINE FUND.—Section 302(k) of the Foreign Assistance Act of 1961 (22 U.S.C. 2222(k)) is amended—* * *

TITLE III—BILATERAL EFFORTS

Subtitle A—General Assistance and Programs

SEC. 301.[14] ASSISTANCE TO COMBAT HIV/AIDS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 104(c) (22 U.S.C. 2151b(c)), by striking paragraphs (4) through (7); and

(2) by inserting after section 104 the following new section:

"SEC. 104A. ASSISTANCE TO COMBAT HIV/AIDS. * * *"

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out section 104A of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated by paragraph (1) for the fiscal years 2004 through

[14] 22 U.S.C. 7631.

The President issued a Memorandum on March 28, 2001, relating to family planning, to the Administrator of the U.S. Agency for International Development, restoring the Mexico City Policy (66 F.R. 17303).

In a memorandum of August 29, 2003 (68 F.R. 52323), the President extended "the requirements of the March 28, 2001 memorandum to all assistance for voluntary population planning furnished to foreign nongovernmental organizations and appropriated pursuant to the Foreign Assistance Act, whether such assistance is furnished by USAID or any other bureau, office, or component of the Department of State. As set forth in the March 28, 2001, memorandum, this policy applies to certain assistance provided to foreign nongovernmental organizations. Such organizations do not include multilateral organizations that are associations of governments. This policy shall not apply to foreign assistance furnished pursuant to the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–125).".

2008, such sums as may be necessary are authorized to be appropriated to carry out section 104A(d)(4) of the Foreign Assistance Act of 1961 (as added by subsection (a)), relating to the procurement and distribution of HIV/AIDS pharmaceuticals.

(c) RELATIONSHIP TO ASSISTANCE PROGRAMS TO ENHANCE NUTRITION.—In recognition of the fact that malnutrition may hasten the progression of HIV to AIDS and may exacerbate the decline among AIDS patients leading to a shorter life span, the Administrator of the United States Agency for International Development shall, as appropriate—

(1) integrate nutrition programs with HIV/AIDS activities, generally;

(2) provide, as a component of an anti-retroviral therapy program, support for food and nutrition to individuals infected with and affected by HIV/AIDS; and

(3) provide support for food and nutrition for children affected by HIV/AIDS and to communities and households caring for children affected by HIV/AIDS.

(d) ELIGIBILITY FOR ASSISTANCE.—An organization that is otherwise eligible to receive assistance under section 104A of the Foreign Assistance Act of 1961 (as added by subsection (a)) or under any other provision of this Act (or any amendment made by this Act) to prevent, treat, or monitor HIV/AIDS shall not be required, as a condition of receiving the assistance, to endorse or utilize a multisectoral approach to combatting HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the organization has a religious or moral objection.

(e) LIMITATION.—No funds made available to carry out this Act, or any amendment made by this Act, may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(f) LIMITATION.—No funds made available to carry out this Act, or any amendment made by this Act, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking, except that this subsection shall not apply to the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization, the International AIDS Vaccine Initiative or to any United Nations agency.[15]

(g) SENSE OF CONGRESS RELATING TO FOOD ASSISTANCE FOR INDIVIDUALS LIVING WITH HIV/AIDS.—

(1) FINDINGS.—Congress finds the following:

(A) The United States provides more than 60 percent of all food assistance worldwide.

[15] Sec. 595(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 117 Stat. 209), added ", except that this subsection shall not apply to the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization, the International AIDS Vaccine Initiative or to any United Nations agency".

(B) According to the United Nations World Food Program and other United Nations agencies, food insecurity of individuals infected or living with HIV/AIDS is a major problem in countries with large populations of such individuals, particularly in African countries.

(C) Although the United States is willing to provide food assistance to these countries in need, a few of the countries object to part or all of the assistance because of fears of benign genetic modifications to the foods.

(D) Healthy and nutritious foods for individuals infected or living with HIV/AIDS are an important complement to HIV/AIDS medicines for such individuals.

(E) Individuals infected with HIV have higher nutritional requirements than individuals who are not infected with HIV, particularly with respect to the need for protein. Also, there is evidence to suggest that the full benefit of therapy to treat HIV/AIDS may not be achieved in individuals who are malnourished, particularly in pregnant and lactating women.

(2) SENSE OF CONGRESS.—It is therefore the sense of Congress that United States food assistance should be accepted by countries with large populations of individuals infected or living with HIV/AIDS, particularly African countries, in order to help feed such individuals.

SEC. 302. ASSISTANCE TO COMBAT TUBERCULOSIS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by section 301 of this Act, is further amended by inserting after section 104A the following new section:

"SEC. 104B. ASSISTANCE TO COMBAT TUBERCULOSIS. * * *"

(b)[16] AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out section 104B of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for fiscal year 2001, 2002, or 2003 under section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7) (as in effect immediately before the date of enactment of this Act) shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal years 2004 through 2008 under paragraph (1).

[16] 22 U.S.C. 7632.

SEC. 303. ASSISTANCE TO COMBAT MALARIA.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by sections 301 and 302 of this Act, is further amended by inserting after section 104B the following new section:

"SEC. 104C. ASSISTANCE TO COMBAT MALARIA. * * *"

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for fiscal years 2004 through 2008 to carry out section 104C of the Foreign Assistance Act of 1961, as added by subsection (a), including for the development of anti-malarial pharmaceuticals by theMedicines for Malaria Venture.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for fiscal year 2001, 2002, or 2003 under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c) (as in effect immediately before the date of enactment of this Act) and made available for the control of malaria shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal years 2004 through 2008 under paragraph (1).

(c) CONFORMING AMENDMENT.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)), as amended by section 301 of this Act, is further amended by adding after paragraph (3) the following: * * *

SEC. 304.[17] PILOT PROGRAM FOR THE PLACEMENT OF HEALTH CARE PROFESSIONALS IN OVERSEAS AREAS SEVERELY AFFECTED BY HIV/AIDS, TUBERCULOSIS, AND MALARIA.

(a) IN GENERAL.—The President should establish a program to demonstrate the feasibility of facilitating the service of United States health care professionals in those areas of sub-Saharan Africa and other parts of the world severely affected by HIV/AIDS, tuberculosis, and malaria.

(b) REQUIREMENTS.—Participants in the program shall—

(1) provide basic health care services for those infected and affected by HIV/AIDS, tuberculosis, and malaria in the area in which they are serving;

(2) provide on-the-job training to medical and other personnel in the area in which they are serving to strengthen the basic health care system of the affected countries;

(3) provide health care educational training for residents of the area in which they are serving;

(4) serve for a period of up to 3 years; and

(5) meet the eligibility requirements in subsection (d).

[17] 22 U.S.C. 7634.

(c) ELIGIBILITY REQUIREMENTS.—To be eligible to participate in the program, a candidate shall—

(1) be a national of the United States who is a trained health care professional and who meets the educational and licensure requirements necessary to be such a professional such as a physician, nurse, physician assistant, nurse practitioner, pharmacist, other type of health care professional, or other individual determined to be appropriate by the President; or

(2) be a retired commissioned officer of the Public Health Service Corps.

(d) RECRUITMENT.—The President shall ensure that information on the program is widely distributed, including the distribution of information to schools for health professionals, hospitals, clinics, and nongovernmental organizations working in the areas of international health and aid.

(e) PLACEMENT OF PARTICIPANTS.—

(1) IN GENERAL.—To the maximum extent practicable, participants in the program shall serve in the poorest areas of the affected countries, where health care needs are likely to be the greatest. The decision on the placement of a participant should be made in consultation with relevant officials of the affected country at both the national and local level as well as with local community leaders and organizations.

(2) COORDINATION.—Placement of participants in the program shall be coordinated with the United States Agency for International Development in countries in which that Agency is conducting HIV/AIDS, tuberculosis, or malaria programs. Overall coordination of placement of participants in the program shall be made by the Coordinator of United States Government Activities to Combat HIV/AIDS Globally (as described in section 1(f) of the State Department Basic Authorities Act of 1956 (as added by section 102(a) of this Act)).

(f) INCENTIVES.—The President may offer such incentives as the President determines to be necessary to encourage individuals to participate in the program, such as partial payment of principal, interest, and related expenses on government and commercial loans for educational expenses relating to professional health training and, where possible, deferment of repayments on such loans, the provision of retirement benefits that would otherwise be jeopardized by participation in the program, and other incentives.

(g) REPORT.—Not later than 18 months after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report on steps taken to establish the program, including—

(1) the process of recruitment, including the venues for recruitment, the number of candidates recruited, the incentives offered, if any, and the cost of those incentives;

(2) the process, including the criteria used, for the selection of participants;

(3) the number of participants placed, the countries in which they were placed, and why those countries were selected; and

(4) the potential for expansion of the program.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out the program.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 305.[18] REPORT ON TREATMENT ACTIVITIES BY RELEVANT EXECUTIVE BRANCH AGENCIES.

(a) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, the President shall submit to appropriate congressional committees a report on the programs and activities of the relevant executive branch agencies that are directed to the treatment of individuals in foreign countries infected with HIV or living with AIDS.

(b) REPORT ELEMENTS.—The report shall include—

(1) a description of the activities of relevant executive branch agencies with respect to—

(A) the treatment of opportunistic infections;

(B) the use of antiretrovirals;

(C) the status of research into successful treatment protocols for individuals in the developing world;

(D) technical assistance and training of local health care workers (in countries affected by the pandemic) to administer antiretrovirals, manage side effects, and monitor patients' viral loads and immune status;

(E) the status of strategies to promote sustainability of HIV/AIDS pharmaceuticals (including antiretrovirals) and the effects of drug resistance on HIV/AIDS patients; and

(F) the status of appropriate law enforcement officials working to ensure that HIV/AIDS pharmaceutical treatment is not diminished through illegal counterfeiting and black market sales of such pharmaceuticals;

(2) information on existing pilot projects, including a discussion of why a given population was selected, the number of people treated, the cost of treatment, the mechanisms established to ensure that treatment is being administered effectively and safely, and plans for scaling up pilot projects (including projected timelines and required resources); and

(3) an explanation of how those activities relate to efforts to prevent the transmission of the HIV infection.

SEC. 306. STRATEGIES TO IMPROVE INJECTION SAFETY.

Section 307 of the Public Health Service Act (42 U.S.C. 242l) is amended by adding at the end the following:

"(d) In carrying out immunization programs and other programs in developing countries for the prevention, treatment, and control

[18] 22 U.S.C. 7635. In a memorandum of February 23, 2004 (69 F.R. 9509), the President delegated authority under secs. 202(c), 305 and 313 to the Secretary of State. The President, further, delegated the authority under sec. 101 to the Secretary of State to establish a comprehensive, integrated, 5-year strategy to combat global HIV/AIDS and to report to Congress.

of infectious diseases, including HIV/AIDS, tuberculosis, and malaria, the Director of the Centers for Disease Control and Prevention, in coordination with the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, the National Institutes of Health, national and local government, and other organizations, such as the World Health Organization and the United Nations Children's Fund, shall develop and implement effective strategies to improve injection safety, including eliminating unnecessary injections, promoting sterile injection practices and technologies, strengthening the procedures for proper needle and syringe disposal, and improving the education and information provided to the public and to health professionals.".

SEC. 307.[19] STUDY ON ILLEGAL DIVERSIONS OF PRESCRIPTION DRUGS.

Not later than 180 days after enactment of this Act, the Secretary of Health and Human Services, in coordination with other agencies, shall submit a report to the Congress that includes the following:

(1) A thorough accounting of evidence indicating illegal diversion into the United States of prescription drugs donated or sold for humanitarian efforts, and an estimate of the extent of such diversion.

(2) Recommendations to increase the administrative and enforcement powers of the United States to identify, monitor, and prevent the illegal diversion into the United States of prescription drugs donated or sold for humanitarian efforts.

(3) Recommendations and guidelines to advise and provide technical assistance to developing countries on how to implement a program that minimizes diversion into the United States of prescription drugs donated or sold for humanitarian efforts.

Subtitle B—Assistance for Children and Families

SEC. 311.[20] FINDINGS.

Congress makes the following findings:

(1) Approximately 2,000 children around the world are infected each day with HIV through mother-to-child transmission. Transmission can occur during pregnancy, labor, and delivery or through breast feeding. Over 90 percent of these cases are in developing nations with little or no access to public health facilities.

(2) Mother-to-child transmission is largely preventable with the proper application of pharmaceuticals, therapies, and other public health interventions.

(3) Certain antiretroviral drugs reduce mother-to-child transmission by nearly 50 percent. Universal availability of this drug could prevent up to 400,000 infections per year and dramatically reduce the number of AIDS-related deaths.

(4) At the United Nations Special Session on HIV/AIDS in June 2001, the United States committed to the specific goals with respect to the prevention of mother-to-child transmission,

[19] 22 U.S.C. 7636.
[20] 22 U.S.C. 7651.

including the goals of reducing the proportion of infants infected with HIV by 20 percent by the year 2005 and by 50 percent by the year 2010, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

(5) Several United States Government agencies including the United States Agency for International Development and the Centers for Disease Control are already supporting programs to prevent mother-to-child transmission in resource-poor nations and have the capacity to expand these programs rapidly by working closely with foreign governments and nongovernmental organizations.

(6) Efforts to prevent mother-to-child transmission can provide the basis for a broader response that includes care and treatment of mothers, fathers, and other family members who are infected with HIV or living with AIDS.

(7) HIV/AIDS has devastated the lives of countless children and families across the globe. Since the epidemic began, an estimated 13,200,000 children under the age of 15 have been orphaned by AIDS, that is they have lost their mother or both parents to the disease. The Joint United Nations Program on HIV/AIDS (UNAIDS) estimates that this number will double by the year 2010.

(8) HIV/AIDS also targets young people between the ages of 15 to 24, particularly young women, many of whom carry the burden of caring for family members living with HIV/AIDS. An estimated 10,300,000 young people are now living with HIV/AIDS. One-half of all new infections are occurring among this age group.

SEC. 312.[21] POLICY AND REQUIREMENTS.

(a) POLICY.—The United States Government's response to the global HIV/AIDS pandemic should place high priority on the prevention of mother-to-child transmission, the care and treatment of family members and caregivers, and the care of children orphaned by AIDS. To the maximum extent possible, the United States Government should seek to leverage its funds by seeking matching contributions from the private sector, other national governments, and international organizations.

(b) REQUIREMENTS.—The 5-year United States Government strategy required by section 101 of this Act shall—

(1) provide for meeting or exceeding the goal to reduce the rate of mother-to-child transmission of HIV by 20 percent by 2005 and by 50 percent by 2010;

(2) include programs to make available testing and treatment to HIV-positive women and their family members, including drug treatment and therapies to prevent mother-to-child transmission; and

(3) expand programs designed to care for children orphaned by AIDS.

[21] 22 U.S.C. 7652.

SEC. 313.[22] ANNUAL REPORTS ON PREVENTION OF MOTHER-TO-CHILD TRANSMISSION OF THE HIV INFECTION.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for a period of 5 years, the President shall submit to appropriate congressional committees a report on the activities of relevant executive branch agencies during the reporting period to assist in the prevention of mother-to-child transmission of the HIV infection.

(b) REPORT ELEMENTS.—Each report shall include—

(1) a statement of whether or not all relevant executive branch agencies have met the goal described in section 312(b)(1); and

(2) a description of efforts made by the relevant executive branch agencies to expand those activities, including—

(A) information on the number of sites supported for the prevention of mother-to-child transmission of the HIV infection;

(B) the specific activities supported;

(C) the number of women tested and counseled; and

(D) the number of women receiving preventative drug therapies.

(c) REPORTING PERIOD DEFINED.—In this section, the term "reporting period" means, in the case of the initial report, the period since the date of enactment of this Act and, in the case of any subsequent report, the period since the date of submission of the most recent report.

SEC. 314.[23] PILOT PROGRAM OF ASSISTANCE FOR CHILDREN AND FAMILIES AFFECTED BY HIV/AIDS.

(a) IN GENERAL.—The President, acting through the United States Agency for International Development, should establish a program of assistance that would demonstrate the feasibility of the provision of care and treatment to orphans and other children and young people affected by HIV/AIDS in foreign countries.

(b) PROGRAM REQUIREMENTS.—The program should—

(1) build upon and be integrated into programs administered as of the date of enactment of this Act by the relevant executive branch agencies for children affected by HIV/AIDS;

(2) work in conjunction with indigenous community-based programs and activities, particularly those that offer proven services for children;

(3) reduce the stigma of HIV/AIDS to encourage vulnerable children infected with HIV or living with AIDS and their family members and caregivers to avail themselves of voluntary counseling and testing, and related programs, including treatments;

(4) ensure the importance of inheritance rights of women, particularly women in African countries, due to the exponential growth in the number of young widows, orphaned girls,

[22] 22 U.S.C. 7653. In a memorandum of February 23, 2004 (69 F.R. 9509), the President delegated authority under secs. 202(c), 305 and 313 to the Secretary of State. The President, further, delegated the authority under sec. 101 to the Secretary of State to establish a comprehensive, integrated, 5-year strategy to combat global HIV/AIDS and to report to Congress.

[23] 22 U.S.C. 7654.

and grandmothers becoming heads of households as a result of the HIV/AIDS pandemic;

(5) provide, in conjunction with other relevant executive branch agencies, the range of services for the care and treatment, including the provision of antiretrovirals and other necessary pharmaceuticals, of children, parents, and caregivers infected with HIV or living with AIDS;

(6) provide nutritional support and food security, and the improvement of overall family health;

(7) work with parents, caregivers, and community-based organizations to provide children with educational opportunities; and

(8) provide appropriate counseling and legal assistance for the appointment of guardians and the handling of other issues relating to the protection of children.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the President should submit a report on the implementation of this section to the appropriate congressional committees. Such report should include a description of activities undertaken to carry out subsection (b)(4).

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out the program. A significant percentage of the amount appropriated pursuant to the authorization of appropriations under the preceding sentence for a fiscal year should be made available to carry out subsection (b)(4).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 315.[24] PILOT PROGRAM ON FAMILY SURVIVAL PARTNERSHIPS.

(a) PURPOSE.—The purpose of this section is to authorize the President to establish a program, through a public-private partnership, for the provision of medical care and support services to HIV positive parents and their children identified through existing programs to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries.

(b) GRANTS.—

(1) IN GENERAL.—The President is authorized to establish a program for the award of grants to eligible administrative organizations to enable such organizations to award subgrants to eligible entities to expand activities to prevent the mother-to-child transmission of HIV by providing medical care and support services to HIV infected parents and their children.

(2) USE OF FUNDS.—Amounts provided under a grant awarded under paragraph (1) shall be used—

(A) to award subgrants to eligible entities to enable such entities to carry out activities described in subsection (c);

[24] 22 U.S.C. 7655.

(B) for administrative support and subgrant management;

(C) for administrative data collection and reporting concerning grant activities;

(D) for the monitoring and evaluation of grant activities;

(E) for training and technical assistance for subgrantees; and

(F) to promote sustainability.

(c) SUBGRANTS.—

(1) IN GENERAL.—An organization awarded a grant under subsection (b) shall use amounts received under the grant to award subgrants to eligible entities.

(2) ELIGIBILITY.—To be eligible to receive a subgrant under paragraph (1), an entity shall—

(A) be a local health organization, an international organization, or a partnership of such organizations; and

(B) demonstrate to the awarding organization that such entity—

(i) is currently administering a proven intervention to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the President;

(ii) has demonstrated support for the proposed program from relevant government entities; and

(iii) is able to provide HIV care, including antiretroviral treatment when medically indicated, to HIV positive women, men, and children with the support of the project funding.

(3) LOCAL HEALTH AND INTERNATIONAL ORGANIZATIONS.—For purposes of paragraph (2)(A)—

(A) the term "local health organization" means a public sector health system, nongovernmental organization, institution of higher education, community-based organization, or nonprofit health system that provides directly, or has a clear link with a provider for the indirect provision of, primary health care services; and

(B) the term "international organization" means—

(i) a nonprofit international entity;

(ii) an international charitable institution;

(iii) a private voluntary international entity; or

(iv) a multilateral institution.

(4) PRIORITY REQUIREMENT.—In awarding subgrants under this subsection, the organization shall give priority to eligible applicants that are currently administering a program of proven intervention to HIV positive individuals to prevent mother-to-child transmission in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, and who are currently administering a program to HIV positive women, men, and children to provide life-long care in family-centered care programs using non-Federal funds.

(5) SELECTION OF SUBGRANT RECIPIENTS.—In awarding subgrants under this subsection, the organization should—

(A) consider applicants from a range of health care settings, program approaches, and geographic locations; and

(B) if appropriate, award not less than 1 grant to an applicant to fund a national system of health care delivery to HIV positive families.

(6) USE OF SUBGRANT FUNDS.—An eligible entity awarded a subgrant under this subsection shall use subgrant funds to expand activities to prevent mother-to-child transmission of HIV by providing medical treatment and care and support services to parents and their children, which may include—

(A) providing treatment and therapy, when medically indicated, to HIV-infected women, their children, and families;

(B) the hiring and training of local personnel, including physicians, nurses, other health care providers, counselors, social workers, outreach personnel, laboratory technicians, data managers, and administrative support personnel;

(C) paying laboratory costs, including costs related to necessary equipment and diagnostic testing and monitoring (including rapid testing), complete blood counts, standard chemistries, and liver function testing for infants, children, and parents, and costs related to the purchase of necessary laboratory equipment;

(D) purchasing pharmaceuticals for HIV-related conditions, including antiretroviral therapies;

(E) funding support services, including adherence and psychosocial support services;

(F) operational support activities; and

(G) conducting community outreach and capacity building activities, including activities to raise the awareness of individuals of the program carried out by the subgrantee, other communications activities in support of the program, local advisory board functions, and transportation necessary to ensure program participation.

(d) REPORTS.—The President shall require that each organization awarded a grant under subsection (b)(1) to submit an annual report that includes—

(1) the progress of programs funded under this section;

(2) the benchmarks of success of programs funded under this section; and

(3) recommendations of how best to proceed with the programs funded under this section upon the expiration of funding under subsection (e).

(e) FUNDING.—There are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out the program.

(f) LIMITATION ON ADMINISTRATIVE EXPENSES.—An organization shall ensure that not more than 7 percent of the amount of a grant received under this section by the organization is used for administrative expenses.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401.[25] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this Act and the amendments made by this Act $3,000,000,000 for each of the fiscal years 2004 through 2008.

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[25] 22 U.S.C. 7671.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"(INCLUDING TRANSFER OF FUNDS)

"For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,550,000,000, to remain available until September 30, 2006: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $345,000,000 for child survival and maternal health; $30,000,000 for vulnerable children; $350,000,000 for HIV/AIDS including not less than $30,000,000 to support the development of microbicides as a means for combating HIV/AIDS; $200,000,000 for other infectious diseases; and $375,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: *Provided further,* That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the 'Global Fund'), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That of the funds appropriated under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, that were withheld from obligation to the Global Fund, not less than $87,800,000 shall be made available to the Global Fund, notwithstanding section 202(d)(4) of Public Law 108–25 which required such withholding from the Global Fund in fiscal year 2004: *Provided further,* That the funds made available in the previous proviso shall be subject to any withholding required by section 202(d)(4) of Public Law 108–25 for contributions made to the Global Fund in fiscal year 2005: *Provided further,* That up to 5 percent of the aggregate amount of funds made available to the Global Fund in fiscal year 2005 may be made available to the United States Agency for International Development for technical assistance related to the activities of the Global Fund: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, not less than $27,000,000 should be made available for the International AIDS Vaccine Initiative: *Provided further,* That of the funds appropriated under this heading, $65,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the United States Agency for International Development' for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: * * *.

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"DEPARTMENT OF STATE

"GLOBAL HIV/AIDS INITIATIVE

"For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, $1,385,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, not more than $8,818,000 may be made available for administrative expenses of the Office of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally of the Department of State: *Provided further,* That of the funds appropriated under this heading, not less than $27,000,000 should be made available for a United States contribution to UNAIDS.".

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) are authorized to remain available until expended.

(c) AVAILABILITY OF AUTHORIZATIONS.—Authorizations of appropriations under subsection (a) shall remain available until the appropriations are made.

SEC. 402.[26] SENSE OF CONGRESS.

(a) INCREASE IN HIV/AIDS ANTIRETROVIRAL TREATMENT.—It is a sense of the Congress that an urgent priority of United States assistance programs to fight HIV/AIDS should be the rapid increase in distribution of antiretroviral treatment so that—

(1) by the end of fiscal year 2004, at least 500,000 individuals with HIV/AIDS are receiving antiretroviral treatment through United States assistance programs;

(2) by the end of fiscal year 2005, at least 1,000,000 such individuals are receiving such treatment; and

(3) by the end of fiscal year 2006, at least 2,000,000 such individuals are receiving such treatment.

(b) EFFECTIVE DISTRIBUTION OF HIV/AIDS FUNDS.—It is the sense of Congress that, of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance, an effective distribution of such amounts would be—

(1) 55 percent of such amounts for treatment of individuals with HIV/AIDS;

(2) 15 percent of such amounts for palliative care of individuals with HIV/AIDS;

(3) 20 percent of such amounts for HIV/AIDS prevention consistent with section 104A(d) of the Foreign Assistance Act of 1961 (as added by section 301 of this Act), of which such amount at least 33 percent should be expended for abstinence-until-marriage programs; and

(4) 10 percent of such amounts for orphans and vulnerable children.

SEC. 403.[27] ALLOCATION OF FUNDS.

(a) THERAPEUTIC MEDICAL CARE.—For fiscal years 2006 through 2008, not less than 55 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for therapeutic medical care of individuals infected with HIV, of which such amount at least 75 percent should be expended for the purchase and distribution of antiretroviral pharmaceuticals and at least 25 percent should be expended for related care. For fiscal years 2006 through 2008, not less than 33 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS prevention consistent with section 104A(d) of the Foreign Assistance Act of 1961 (as added by section

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See also in that Act, in title II: subsec. (c) of para. on assistance for the independent state of the former Soviet Union; and in title V: sec. 515—notification requirements, sec. 522—child survival and health activities, sec. 525—HIV/AIDS, sec. 553—authorization requirement, sec. 554—Cambodia, and sec. 562—user fees.

[26] 22 U.S.C. 7672.

[27] 22 U.S.C. 7673.

301 of this Act) for each such fiscal year shall be expended for abstinence-until-marriage programs.

(b) ORPHANS AND VULNERABLE CHILDREN.—For fiscal years 2006 through 2008, not less than 10 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for assistance for orphans and vulnerable children affected by HIV/AIDS, of which such amount at least 50 percent shall be provided through non-profit, nongovernmental organizations, including faith-based organizations, that implement programs on the community level.

SEC. 404.[28] ASSISTANCE FROM THE UNITED STATES PRIVATE SECTOR TO PREVENT AND REDUCE HIV/AIDS IN SUB-SAHARAN AFRICA.

It is the sense of Congress that United States businesses should be encouraged to provide assistance to sub-Saharan African countries to prevent and reduce the incidence of HIV/AIDS in sub-Saharan Africa. In providing such assistance, United States businesses should be encouraged to consider the establishment of an HIV/AIDS Response Fund in order to provide for coordination among such businesses in the collection and distribution of the assistance to sub-Saharan African countries.

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–7) is amended by adding at the end the following new section:

"SEC. 1625.[29] MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary of the Treasury should immediately commence efforts within the Paris Club of Official Creditors, the International Bank for Reconstruction and Development, the International Monetary Fund, and other appropriate multilateral development institutions to modify the Enhanced HIPC Initiative so that the amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for each of the first 3 years after the date of enactment of this section or the Decision Point, whichever is later—

"(A) the net present value of the outstanding public and publicly guaranteed debt of the country—

"(i) as of the decision point if the country has already reached its decision point; or

"(ii) as of the date of enactment of this Act, if the country has not reached its decision point,

to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

[28] 22 U.S.C. 7674.
[29] 22 U.S.C. 262p–8.

"(B) the annual payments due on such public and publicly guaranteed debt to not more than—

"(i) 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (e)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources; or

"(ii) a percentage of the gross national product of the country, or another benchmark, that will yield a result substantially equivalent to that which would be achieved through application of clause (i).[30]

"(2) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

"(b) RELATION TO POVERTY AND THE ENVIRONMENT.—Debt cancellation under the modifications to the Enhanced HIPC Initiative described in subsection (a) should not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

"(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

"(2) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

"(3) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

"(4) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

"(c) CONDITIONS.—A country shall not be eligible for cancellation of debt under modifications to the Enhanced HIPC Initiative described in subsection (a) if the government of the country—

"(1) has an excessive level of military expenditures;

"(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

"(3) is failing to cooperate on international narcotics control matters; or

"(4) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

[30] Sec. 596 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 118 Stat. 209), amended sec. 1625(a)(1)(B)(ii) of the International Financial Institutions Act by striking "subparagraph (A)" and inserting in lieu thereof "clause (i)".

"(d) PROGRAMS TO COMBAT HIV/AIDS AND POVERTY.—A country that is otherwise eligible to receive cancellation of debt under the modifications to the Enhanced HIPC Initiative described in subsection (a) may receive such cancellation only if the country has agreed—

"(1) to ensure that the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS and poverty, in particular through concrete measures to improve basic services in health, education, nutrition, and other development priorities, and to redress environmental degradation;

"(2) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

"(3) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

"(4) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

"(e) DEFINITIONS.—In this section:

"(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term 'country suffering a public health crisis' means a country in which the HIV/AIDS infection rate, as reported in the most recent epidemiological data for that country compiled by the Joint United Nations Program on HIV/AIDS, is at least 5 percent among women attending prenatal clinics or more than 20 percent among individuals in groups with high-risk behavior.

"(2) DECISION POINT.—The term 'Decision Point' means the date on which the executive boards of the International Bank for Reconstruction and Development and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

"(3) ENHANCED HIPC INITIATIVE.—The term 'Enhanced HIPC Initiative' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.".

SEC. 502.[31] REPORT ON EXPANSION OF DEBT RELIEF TO NON-HIPC COUNTRIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor

[31] 22 U.S.C. 7681.

country has suffered an external economic shock or a natural disaster.

(b) SPECIFIC OPTIONS TO BE CONSIDERED.—Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 1625(e) of the Financial Institutions Act, as added by section 501 of this Act), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) ENHANCED HIPC INITIATIVE DEFINED.—In this section, the term "Enhanced HIPC Initiative" means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

SEC. 503.[32] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004

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[32] 22 U.S.C. 7682.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"DEBT RESTRUCTURING

"* * *Provided further,* That up to $75,000,000 of the funds appropriated under this heading may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: *Provided further,* That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

"(1) the Inter-American Development Bank;

"(2) the African Development Fund;

"(3) the African Development Bank; and

"(4) the Central American Bank for Economic Integration:

"*Provided further,* That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further,* That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further,* That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further,* That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

"(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as 'enclave' loans; and

"(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

"*Provided further*, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further*, That none of the funds made available under this heading in this or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office: *Provided further*, That none of the funds appropriated under this heading may be paid to the HIPC Trust Fund for the benefit of any country

Continued

and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by section 501 of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

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that has accepted loans from an international financial institution between such country's decision point and completion point: *Provided further,* That the terms 'decision point' and 'completion point' shall have the same meaning as defined by the International Monetary Fund.".

See also *Legislation on Foreign Relations Through 2004*, vol. I–B, for legislation on international debt relief.

i. Afghanistan

(1) Afghanistan Freedom Support Act of 2002

Public Law 107–327 [S. 2712], 116 Stat. 2797, approved December 4, 2002; amended by Public Law 108–106 [Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004; H.R. 3289], 117 Stat. 1209, approved November 6, 2003; Public Law 108–287 [Department of Defense Appropriations Act, 2005; H.R. 4613], 118 Stat. 951, approved August 5, 2004; and by Public Law 108–458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

AN ACT To authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Afghanistan Freedom Support Act of 2002".

(b)[2] TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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[1] 22 U.S.C. 7501 note.

[2] Sec. 7104(j)(3) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) redesignated secs. 207 and 208 as secs. 208 and 209, respectively, and added a new sec. 207 to the table of contents. Sec. 7104(e)(4)(B) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) added sec. 305 to the table of contents.

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TITLE III—MISCELLANEOUS PROVISIONS

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(c)[3] DEFINITION.—In this Act, the term "Government of Afghanistan" includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101.[4] DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

[3] 22 U.S.C. 7501.
[4] 22 U.S.C. 7511.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102.[5] PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multi-ethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan;

(8) to provide resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs; and

(9) to foster the growth of a pluralistic society that promotes and respects religious freedom.

[5] 22 U.S.C. 7512.

SEC. 103.[6] AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other[7] provision of law, the President is authorized to provide assistance for Afghanistan for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines and other unexploded ordinance.

(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, promote alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for

[6] 22 U.S.C. 7513.

[7] Sec. 7104(e)(1)(B) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "section 512 of Public Law 107–115 or any other similar" and inserted in lieu thereof "any other".

farmers,[8] purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan, and to create special counternarcotics courts, prosecutors, and places of incarceration;[9]

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region, in particular, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420), by providing non-lethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2005 through 2008, for salaries for special counternarcotics police and supporting units;[10]

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan;[11]

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan; and[11]

(vi)[11] assist the Afghan National Army with respect to any of the activities under this paragraph.

(B) For each of the fiscal years 2003 through 2006, $15,000,000 is authorized to be appropriated to the President to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A).

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[8] Sec. 7104(j)(1)(A) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "establish crop substitution programs,", and inserted in lieu thereof "promote alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for farmers,".

[9] Sec. 7104(j)(1)(B) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) inserted ", and to create special counternarcotics courts, prosecutors, and places of incarceration".

[10] Sec. 7104(j)(1)(C) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) inserted ", in particular, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420), by providing non-lethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2005 through 2008, for salaries for special counternarcotics police and supporting units".

[11] Sec. 7104(j)(1)(D) through (F) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "and" at the end of clause (iv); replaced a period at the end of clause (v) with "; and"; and added a new clause (vi).

Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing (including repairing homes damaged during military operations), rebuilding urban infrastructure, and supporting basic urban services;[12]

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers; and[12]

(M)[12] assistance in identifying and surveying key road and rail routes that are essential for economic renewal in Afghanistan and the region and support for the establishment of a customs service and training for customs officers.

[12] Sec. 7104(f)(3) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "and" at the end of subpara. (K); replaced a period with "; and" at the end of subpara. (L); and added subpara. (M).

(5)[13] EDUCATION, THE RULE OF LAW, AND RELATED ISSUES.—

(A) EDUCATION.—To assist in the development of the capacity of the Government of Afghanistan to provide education to the people of Afghanistan, including assistance such as—

(i) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children, especially orphans;

(ii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iii) programs to enable the Government of Afghanistan to develop school curricula that incorporate relevant information such as landmine awareness, food security and agricultural education, civic education, and human rights education, including education relating to religious freedom;

(iv) programs to construct, renovate, or rebuild, and to equip and provide teacher training, for primary schools, secondary schools, and universities; and

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[13] Sec. 7104(f)(2) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) amended and restated para. (5). It previously read as follows:

"(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

"(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

"(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

"(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

"(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, including religious freedom, and civic education;

"(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan, including the recognition of religious freedom in the constitution and other legal frameworks;

"(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

"(vii) support for an independent media;

"(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

"(ix) programs to strengthen civil society organizations that promote human rights, including religious freedom, freedom of expression, and freedom of association, and support human rights monitoring;

"(x) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities;

"(xi) support for national, regional, and local elections and political party development;

"(xii) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force;

"(xiii) support for establishment of a central bank and central budgeting authority; and

"(xiv) assistance in identifying and surveying key road and rail routes essential for economic renewal in Afghanistan and the region, support in reconstructing those routes, and support for the establishment of a customs service and training for customs officers.

"(B) For each of the fiscal years 2003 through 2005, $10,000,000 is authorized to be appropriated to the President to be made available for the purposes of carrying out a traditional Afghan assembly or 'Loya Jirga' and for support for national, regional, and local elections and political party development under subparagraph (A)(xi).".

(v) programs to increase educational exchanges and partnerships between the United States and Afghanistan.

(B) RULE OF LAW.—To assist in the development of the rule of law and good governance and reduced corruption in Afghanistan, including assistance such as—

(i) support for the activities of the Government of Afghanistan to implement its constitution, to develop modern legal codes and court rules, to provide for the creation of legal assistance programs, and other initiatives to promote the rule of law in Afghanistan;

(ii) support for improvements in the capacity and physical infrastructure of the justice system in Afghanistan, such as for professional training (including for women) to improve the administration of justice, for programs to enhance prosecutorial and judicial capabilities and to protect participants in judicial cases, for improvements in the instruction of law enforcement personnel (including human rights training), and for the promotion of civilian police roles that support democracy;

(iii) support for rehabilitation and rebuilding of courthouses and detention facilities;

(iv) support for the effective administration of justice at the national, regional, and local levels, including programs to improve penal institutions and the rehabilitation of prisoners, and to establish a responsible and community-based police force;

(v) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance, such as the development of regulations relating to financial disclosure for public officials, political parties, and candidates for public office, and transparent budgeting processes and financial management systems;

(vi) support for establishment of a central bank and central budgeting authority;

(vii) support for international organizations that provide civil advisers to the Government of Afghanistan; and

(viii) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities.

(C) CIVIL SOCIETY AND DEMOCRACY.—To support the development of democratic institutions in Afghanistan, including assistance for—

(i) international monitoring and observing of, and the promotion of, free and fair elections;

(ii) strengthening democratic political parties;

(iii) international exchanges and professional training for members or officials of government, political, and civic or other nongovernmental entities;

(iv) national, regional, and local elections and political party development;

(v) an independent media;

(vi) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels; and

(vii) programs to strengthen civil society organizations that promote human rights, including religious freedom, freedom of expression, and freedom of association, and support human rights monitoring.

(D) PROTECTION OF SITES.—To provide for the protection of Afghanistan's culture, history, and national identity, including the rehabilitation of Afghanistan's museums and sites of cultural significance.

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing micro-enterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor;

(E) develop handicraft and other small-scale industries; and

(F) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(7) ASSISTANCE TO WOMEN AND GIRLS.—

(A) ASSISTANCE OBJECTIVES.—To assist women and girls in Afghanistan in the areas of political and human rights, health care, education, training, security, and shelter, with particular emphasis on assistance—

(i) to support construction of, provide equipment and medical supplies to, and otherwise facilitate the establishment and rehabilitation of, health care facilities in order to improve the health care of women, children, and infants;

(ii) to expand immunization programs for women and children;

(iii) to establish, maintain, and expand primary and secondary schools for girls that include mathematics, science, and languages in their primary curriculum;

(iv) to develop and expand technical and vocational training programs and income-generation projects for women;

(v) to provide special educational opportunities for girls whose schooling was ended by the Taliban, and to support the ability of women to have access to higher education;

(vi) to develop and implement programs to protect women and girls against sexual and physical abuse, abduction, trafficking, exploitation, and sex discrimination in the delivery of humanitarian supplies and services;

(vii) to provide emergency shelters for women and girls who face danger from violence;

(viii) to direct humanitarian assistance to widows, who make up a very large and needy population in war-torn Afghanistan;

(ix) to support the work of women-led and local nongovernmental organizations with demonstrated experience in delivering services to Afghan women and children;

(x) to disseminate information throughout Afghanistan on the rights of women and on international standards of human rights, including the rights of religious freedom, freedom of expression, and freedom of association;

(xi) to provide women's rights and human rights training for military, police, and legal personnel; and

(xii) to support the Afghan Independent[14] Human Rights Commission in programs to promote women's rights and human rights, including the rights of religious freedom, freedom of expression, and freedom of association, and in the investigation and monitoring of women's rights and human rights abuses.

(B) AVAILABILITY OF FUNDS.—For each of the fiscal years 2003 through 2006—

(i) $15,000,000 is authorized to be appropriated to the President to be made available to the Afghan Ministry of Women's Affairs; and

(ii) $5,000,000 is authorized to be appropriated to the President to be made available to the National Human Rights Commission of Afghanistan.

(C) RELATION TO OTHER AVAILABLE FUNDS.—Amounts made available under subparagraph (B) are in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the

[14] Sec. 7104(k)(2) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "National" and inserted in lieu thereof "Afghan Independent".

President first determines and certifies to Congress with respect to the fiscal year involved that progress is being made toward adopting a constitution and establishing a democratically elected government for Afghanistan that respects human rights.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

(c) ENTERPRISE FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President for an enterprise fund for Afghanistan $300,000,000. The provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall apply with respect to such enterprise fund and to funds made available to such enterprise fund under this subsection.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d)[15] MONITORING OF ASSISTANCE FOR AFGHANISTAN.—

(1) REPORT.—

(A) IN GENERAL.—The Secretary of State, in consultation with the Administrator for the United States Agency for International Development, shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the obligations of United States assistance for Afghanistan from all United States Government departments and agencies.

(B) CONTENTS.—Each such report shall set forth, for the preceding annual period and cumulatively, a description of—

(i) the activities and the purposes for which funds were obligated;

(ii) the source of the funds stated specifically by fiscal year, agency, and program;

(iii) the participation of each United States Government department or agency; and

(iv) such other information as the Secretary considers appropriate to fully inform Congress on such matters.

[15] Sec. 7104(g) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) added subsec. (d).

(C) ADDITIONAL REQUIREMENTS.—The first report submitted under this paragraph shall include a cumulative account of information described in subparagraph (B) from all prior periods beginning with fiscal year 2001. The first report under this paragraph shall be submitted not later than March 15, 2005. Subsequent reports shall be submitted every 12 months thereafter and may be included in the report required under section 206(c)(2).

(2) SUBMISSION OF INFORMATION FOR REPORT.—The head of each United States Government agency referred to in paragraph (1) shall provide on a timely basis to the Secretary of State such information as the Secretary may reasonably require to allow the Secretary to prepare and submit the report required under paragraph (1).

SEC. 104.[16] COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President shall[17] designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

(c)[18] ASSISTANCE PLAN.—

(1) SUBMISSION TO CONGRESS.—The coordinator designated under subsection (a) shall annually submit the Afghanistan assistance plan of the Administration to—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on International Relations of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(2) CONTENTS.—The assistance plan submitted under paragraph (1) shall describe—

[16] 22 U.S.C. 7514.

[17] Sec. 7104(c)(2) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "is strongly urged to" and inserted in lieu thereof "shall".

[18] Sec. 7104(d) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) added subsecs. (c) and (d).

(A) how the plan relates to the strategy provided pursuant to section 304; and

(B) how the plan builds upon United States assistance provided to Afghanistan since 2001.

(d)[18] COORDINATION WITH INTERNATIONAL COMMUNITY.—

(1) IN GENERAL.—The coordinator designated under subsection (a) shall work with the international community and the Government of Afghanistan to ensure that assistance to Afghanistan is implemented in a coherent, consistent, and efficient manner to prevent duplication and waste.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS.—The coordinator designated under subsection (a), under the direction of the Secretary of State, shall work through the Secretary of the Treasury and the United States Executive Directors at the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2))) to coordinate United States assistance for Afghanistan with international financial institutions.

SEC. 105.[19] SENSE OF CONGRESS REGARDING PROMOTING COOPERATION IN OPIUM PRODUCING AREAS.

It is the sense of Congress that the President should—

(1) to the extent practicable, under such procedures as the President may prescribe, withhold United States bilateral assistance from, and oppose multilateral assistance to, opium-producing areas of Afghanistan if, within such areas, appropriate cooperation is not provided to the United States, the Government of Afghanistan, and international organizations with respect to the suppression of narcotics cultivation and trafficking, and if withholding such assistance would promote such cooperation;

(2) redistribute any United States bilateral assistance (and to promote the redistribution of any multilateral assistance) withheld from an opium-producing area to other areas with respect to which assistance has not been withheld as a consequence of this section; and

(3) define or redefine the boundaries of opium producing areas of Afghanistan for the purposes of this section.

SEC. 106.[20] ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

[19] 22 U.S.C. 7515.
[20] 22 U.S.C. 7516.

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Of the funds made available to carry out the purposes of assistance authorized by this title in any fiscal year, up to 7 percent may be used for administrative expenses of Federal departments and agencies in connection with the provision of such assistance.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(f) PRIORITY FOR DIRECT ASSISTANCE TO THE GOVERNMENT OF AFGHANISTAN.—To the maximum extent practicable, assistance authorized under this title should be provided directly to the Government of Afghanistan (including any appropriate ministry thereof).

SEC. 107.[21] RELATIONSHIP TO OTHER AUTHORITY.

The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

SEC. 108.[22] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the President to carry out this title (other than section 103(c)) such sums as may be necessary for each of the fiscal years 2005 and 2006.[23]

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

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[21] 22 U.S.C. 7517.

[22] 22 U.S.C. 7518.

[23] Sec. 7104(m) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "$1,825,000,000 for fiscal year 2004 and $425,000,000 for each of fiscal years 2005 and 2006." and inserted in lieu thereof "such sums as may be necessary for each of the fiscal years 2005 and 2006.". Previously, sec. 2214 of Public Law 108–106 (117 Stat. 1232) struck out "$425,000,000 for each of the fiscal years 2003 through 2006" and inserted in lieu thereof "$1,825,000,000 for fiscal year 2004 and $425,000,000 for each of fiscal years 2005 and 2006".

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 103(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201.[24] SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202.[25] AUTHORIZATION OF ASSISTANCE.

(a) DRAWDOWN AUTHORITY.—

(1) IN GENERAL.—The President is authorized to exercise his authorities under section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318) to direct the drawdown of defense articles, defense services, and military education and training—

(A) for the Government of Afghanistan, in accordance with this section; and

(B) for eligible foreign countries, and eligible international organizations, in accordance with this section and sections 203 and 205.

(2) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraph (1) may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance

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[24] 22 U.S.C. 7531.

[25] 22 U.S.C. 7532.

Pursuant to sec. 506 of the Foreign Assistance Act of 1961 (Public Law 87–195) and sec. 202 of this Act, on February 13, 2003, the President directed "the drawdown of up to $165 million of defense articles, defense services, and military education and training from the Department of Defense, $158 million for the Transitional Islamic State of Afghanistan, and $7 million to Jordan to assist in its operations in Afghanistan, and further have determined, in accordance with section 205 of the [Afghanistan Freedom Support] Act, that such assistance to Jordan is important to the national security interests of the United States." (Presidential Determination No. 2003–15; 68 F.R. 10651).

Pursuant to sec. 506 of the Foreign Assistance Act of 1961 and sec. 202 of this Act, on December 16, 2003, the President directed "the drawdown of up to $135 million of defense articles, defense services, and military education and training from the Department of Defense for the Transitional Islamic State of Afghanistan." (Presidential Determination No. 2004–15; 68 F.R. 75385).

provided under subsection (a) may not exceed $550,000,000,[26] except that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1) and shall not count toward any limitation contained in section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318).

SEC. 203.[27] ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), a foreign country or international organization shall be eligible to receive assistance under section 202 if—

(1) such country or organization is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country; and

(2) such assistance is provided specifically for such operations in Afghanistan.

(b) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly engaged in gross violations of human rights, or provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

SEC. 204.[28] REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205.[29] CONGRESSIONAL NOTIFICATION REQUIREMENTS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and

[26] Sec. 9008 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008) struck out "$450,000,000" and inserted in lieu thereof "$550,000,000". Previously, sec. 2206 of Public Law 108–106 (117 Stat. 1231) struck out "$300,000,000" and inserted in lieu thereof "$450,000,000".

[27] 22 U.S.C. 7533.

[28] 22 U.S.C. 7534.

[29] 22 U.S.C. 7535.

notifies the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206.[30] PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN AND EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it is no longer a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the functioning of the Government of Afghanistan and the traditional Afghan assembly or "Loya Jirga" process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5)(A) On July 6, Vice President Haji Abdul Qadir was assassinated in Kabul by unknown assailants.

(B) On September 5, 2002, a car bomb exploded in Kabul killing 32 and injuring 150 and on the same day a member of Kandahar Governor Sherzai's security team attempted to assassinate President Karzai.

(6) The violence and lawlessness may jeopardize the "Loya Jirga" process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(7) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(8) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United

[30] 22 U.S.C. 7536.

States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(9) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(10) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(11) Because of these immediate security needs, the Government of Afghanistan, its President, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c)[31] IMPLEMENTATION OF STRATEGY.—

(1) INITIAL REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall provide the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate with—

(A) a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government, including an update to the strategies submitted pursuant to Public Law 107–206; and

(B) a description of the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

[31] In a memorandum of July 22, 2003, for the Secretary of State, the President submitted a report on "implementation of the strategies for meeting the immediate and long-term security needs of Afghanistan" (68 F.R. 53869).

(2)[32] IMPLEMENTATION OF STRATEGY.—Every 6 months after the enactment of this Act through January 1, 2010,[33] the President shall submit to the congressional committees specified in paragraph (1) a report on the implementation of the strategies for meeting the immediate and long-term security needs of Afghanistan, which shall include the following elements—

(A) since the previous report, the progress in recruiting, training, and deploying an Afghan National Army and police force, including the numbers and ethnic composition of recruits; the number of graduates from military and police training; the numbers of graduates retained by the Afghan National Army and police forces since the previous report; the numbers of graduates operationally deployed and to which areas of the country; the degree to which these graduates are assuming security responsibilities; whether Afghan army and police units are establishing effective central governmental authority over areas of the country, and which areas; and the numbers of instances of armed attacks against Afghan central governmental officials, United States or international officials, troops or aid workers, or between the armed forces of regional leaders;

(B) the degree to which armed regional leaders are cooperating and integrating with the central government, providing security and order within their regions of influence, engaging in armed conflict or other forms of competition that are deleterious to peace, security, and the integration of a unified Afghanistan under the central government;

(C) the amount of humanitarian relief provided since the previous report to returnees, isolated populations and other vulnerable groups, as well as demining assistance and landmine survivors rehabilitation; and the numbers of such persons not assisted since the previous report;

(D) the steps taken since the previous report toward national reconstruction, including establishment of the ministries and other institutions of the Government of Afghanistan;

(E) the numbers of Civil Affairs Teams working with regional leaders, as well as the quick impact infrastructure projects undertaken by such teams since the previous report;

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[32] Sec. 7014(h)(1) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) provides the following:

"(h) UNITED STATES POLICY TO SUPPORT DISARMAMENT OF PRIVATE MILITIAS AND EXPANSION OF INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

"(1) UNITED STATES POLICY RELATING TO DISARMAMENT OF PRIVATE MILITIAS.—

"(A) IN GENERAL.—It shall be the policy of the United States to take immediate steps to provide active support for the disarmament, demobilization, and reintegration of armed soldiers, particularly child soldiers, in Afghanistan, in close consultation with the President of Afghanistan.

"(B) REPORT.—The report required under section 206(c)(2) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(c)(2)) shall include a description of the progress to implement paragraph (1).".

[33] Sec. 7104(k)(1) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "2007" and inserted in lieu thereof "2010".

(F) efforts undertaken since the previous report to rebuild the justice sector, including the establishment of a functioning judiciary, a competent bar, reintegration of women legal professionals and a reliable penal system, and the respect for human rights; and

(G) a description of the progress of the Government of Afghanistan with respect to the matters described in paragraph (1)(B).

(d) EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.—

(1)[34] EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

(A) EFFORTS.—The President shall encourage, and, as authorized by law, enable other countries to actively participate in expanded international peacekeeping and security operations in Afghanistan, especially through the provision of military personnel for extended periods of time.

(B) REPORTS.—The President shall prepare and transmit a report on the efforts carried out pursuant to subparagraph (A) to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. The first report under this subparagraph shall be transmitted not later than 60 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004 and subsequent reports shall be transmitted every 6 months thereafter and may be included in the report required by subsection (c)(2).

(2) AUTHORIZATION OF APPROPRIATIONS.—(A) There is authorized to be appropriated to the President $500,000,000 for each of fiscal years 2003 and 2004 to support the International Security Assistance Force or the establishment of a similar security force.

(B) Amounts made available under subparagraph (A) may be appropriated pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961, section 551 of such Act, or section 23 of the Arms Export Control Act.

(C) Funds appropriated pursuant to subparagraph (A) shall be subject to the notification requirements under section 634A of the Foreign Assistance Act of 1961.

(e)[35] UNITED STATES POLICY RELATING TO INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—It shall be the policy of the United States to make every effort to support the expansion

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[34] Sec. 7104(i) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) amended and restated para. (1). It formerly read as follows:

"(1) SENSE OF CONGRESS.—Congress urges the President, in order to fulfill the objective of establishing security in Afghanistan, to take all appropriate measures to assist Afghanistan in establishing a secure environment throughout the country, including by—

"(A) sponsoring in the United Nations Security Council a resolution authorizing an expansion of the International Security Assistance Force, or the establishment of a similar security force; and

"(B) enlisting the European and other allies of the United States to provide forces for an expansion of the International Security Assistance Force in Afghanistan, or the establishment of a similar security force.".

[35] Sec. 7104(h)(2) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) added subsec. (e).

of international peacekeeping and security operations in Afghanistan in order to—

(1) increase the area in which security is provided and undertake vital tasks related to promoting security, such as disarming warlords, militias, and irregulars, and disrupting opium production; and

(2) safeguard highways in order to allow the free flow of commerce and to allow material assistance to the people of Afghanistan, and aid personnel in Afghanistan, to move more freely.

SEC. 207.[36] SENSE OF CONGRESS AND REPORT REGARDING COUNTER-DRUG EFFORTS IN AFGHANISTAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should make the substantial reduction of illegal drug production and trafficking in Afghanistan a priority in the Global War on Terrorism;

(2) the Secretary of Defense, in coordination with the Secretary of State and the heads of other appropriate Federal agencies, should expand cooperation with the Government of Afghanistan and international organizations involved in counter-drug activities to assist in providing a secure environment for counter-drug personnel in Afghanistan; and

(3) the United States, in conjunction with the Government of Afghanistan and coalition partners, should undertake additional efforts to reduce illegal drug trafficking and related activities that provide financial support for terrorist organizations in Afghanistan and neighboring countries.

(b) REPORT REQUIRED.—(1) The Secretary of Defense and the Secretary of State shall jointly prepare a report that describes—

(A) the progress made toward substantially reducing poppy cultivation and heroin production capabilities in Afghanistan; and

(B) the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the Government of Afghanistan.

(2) The report required by this subsection shall be submitted to Congress not later than 120 days after the date of the enactment of the 9/11 Recommendations Implementation Act.

SEC. 208.[37] RELATIONSHIP TO OTHER AUTHORITY.

(a) ADDITIONAL AUTHORITY.—The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

(b) LAWS RESTRICTING AUTHORITY.—Assistance under this title to the Government of Afghanistan may be provided notwithstanding section 512 of Public Law 107–115 or any similar provision of law.

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[36] 22 U.S.C. 7536a. Added by sec. 7104(j)(2)(B) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638).

[37] 22 U.S.C. 7537. Originally enacted as sec. 207; redesignated as sec. 208 by sec. 7104(j)(2)(A) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638).

SEC. 209.[38] SUNSET.

The authority of this title shall expire after September 30, 2006.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301.[39] REQUIREMENT TO COMPLY WITH PROCEDURES RELATING TO THE PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

Assistance provided under this Act shall be subject to the same provisions as are applicable to assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act under section 487 of the Foreign Assistance Act of 1961 (relating to the prohibition on assistance to drug traffickers; 22 U.S.C. 2291f), and the applicable regulations issued under that section.

SEC. 302.[40] SENSE OF CONGRESS REGARDING PROTECTING AFGHANISTAN'S PRESIDENT.

It is the sense of Congress that—

(1) any United States physical protection force provided for the personal security of the President of Afghanistan should be composed of United States diplomatic security, law-enforcement, or military personnel, and should not utilize private contracted personnel to provide actual physical protection services;

(2) United States allies should be invited to volunteer active-duty military or law enforcement personnel to participate in such a protection force; and

(3) such a protection force should be limited in duration and should be succeeded by qualified Afghan security forces as soon as practicable.

SEC. 303.[41] DONOR CONTRIBUTIONS TO AFGHANISTAN AND REPORTS.

(a) FINDINGS.—The Congress finds that inadequate amounts of international assistance promised by donor states at the Tokyo donors conference and elsewhere have been delivered to Afghanistan, imperiling the rebuilding and development of civil society and infrastructure, and endangering peace and security in that war-torn country.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should use all appropriate diplomatic means to encourage all states that have pledged assistance to Afghanistan to deliver as soon as possible the total amount of assistance pledged.

(c) REPORTS.—

(1) IN GENERAL.—The Secretary of State shall submit reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives, in accordance with this paragraph, on the status of contributions of assistance from donor states to Afghanistan. The first report shall be submitted not later

[38] 22 U.S.C. 7538. Originally enacted as sec. 208; redesignated as sec. 209 by sec. 7104(j)(2)(A) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638).

[39] 22 U.S.C. 7551.

[40] 22 U.S.C. 7552.

[41] 22 U.S.C. 7553.

than 60 days after the date of enactment of this Act, the second report shall be submitted 90 days thereafter, and subsequent reports shall be submitted every 180 days thereafter through December 31, 2004.

(2) FURTHER REQUIREMENTS.—Each report, which shall be unclassified and posted upon the Department of State's Internet website, shall include, by donor country, the total amount pledged, the amount delivered within the previous 60 days, the total amount of assistance delivered, the type of assistance and type of projects supported by the assistance.

SEC.304.[42] **REPORTS.**

(a)[43] IN GENERAL.—The Secretary of State shall submit reports to the Committees on Foreign Relations and Appropriations of the Senate, and the Committees on International Relations and Appropriations of the House of Representatives on progress made in accomplishing the "Purposes of Assistance" set forth in section 102 of this Act utilizing assistance provided by the United States for Afghanistan.

(b)[44] DEADLINE FOR SUBMISSION.—The first report shall be submitted in conjunction with reports required under section 303 of this title and thereafter through December 31, 2004.

(c)[45] FORM OF REPORTS.—Any report or other matter that is required to be submitted to Congress (including a committee of Congress) by this Act may contain a classified annex.

SEC. 305.[46] **FORMULATION OF LONG-TERM STRATEGY FOR AFGHANISTAN.**

(a) STRATEGY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the President shall formulate a 5-year strategy for Afghanistan and submit such strategy to—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on International Relations of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(2) CONTENTS.—The strategy formulated under paragraph (1) shall include specific and measurable goals for addressing the long-term development and security needs of Afghanistan, including sectors such as agriculture and irrigation, parliamentary and democratic development, the judicial system and rule of law, human rights, education, health, telecommunications, electricity, women's rights, counternarcotics, police, border security, anti-corruption, and other law-enforcement activities, as

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[42] 22 U.S.C. 7554.

[43] Sec. 7104(e)(3)(A) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "The Secretary" and inserted in lieu thereof "(a) IN GENERAL.—The Secretary".

[44] Sec. 7104(e)(3)(B) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) struck out "The first report" and inserted in lieu thereof "(b) DEADLINE FOR SUBMISSION.—The first report".

[45] Sec. 7104(e)(3)(C) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) added subsec. (c).

[46] 22 U.S.C. 7555. Sec. 7104(e)(4)(A) of the Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104 of Public Law 108–458; 118 Stat. 3638) added sec. 305.

well as the anticipated costs and time frames associated with achieving those goals.

(b) MONITORING.—

(1) ANNUAL REPORT.—The President shall transmit on an annual basis through 2010 a report describing the progress made toward the implementation of the strategy required by subsection (a) and any changes to the strategy since the date of the submission of the last report to—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on International Relations of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(2) Afghanistan Freedom Support Act Amendments of 2004

Section 7104 of Public Law 108–458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638 at 3780, approved December 17, 2004

NOTE.—The Afghanistan Freedom Support Act Amendments of 2004 amended the Afghanistan Freedom Support Act of 2002. Amendments have been incorporated into that Act. The remaining freestanding measures are presented here.

SEC. 7104. ASSISTANCE FOR AFGHANISTAN.

(a)[1] SHORT TITLE.—This section may be cited as the "Afghanistan Freedom Support Act Amendments of 2004".

(b)[2] COORDINATION OF ASSISTANCE.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(A) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(B) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(i) improving security throughout the country;

(ii) disarming and demobilizing militias;

(iii) curtailing the rule of the warlords;

(iv) promoting equitable economic development;

(v) protecting the human rights of the people of Afghanistan;

(vi) continuing to hold elections for public officials; and

(vii) ending the cultivation, production, and trafficking of narcotics.

(C) The United States and the international community must make a long-term commitment to addressing the un-

[1] 22 U.S.C. 7501 note.
[2] 22 U.S.C. 7511 note.

stable security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should take, with respect to Afghanistan, the following actions:

(A) Work with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Use the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Take appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(c) COORDINATOR FOR ASSISTANCE.—

(1)[3] FINDINGS.—Congress makes the following findings:

(A) The Final Report of the National Commission on Terrorist Attacks Upon the United States criticized the provision of United States assistance to Afghanistan for being too inflexible.

(B) The Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) contains provisions that provide for flexibility in the provision of assistance for Afghanistan and are not subject to the requirements of typical foreign assistance programs and provide for the designation of a coordinator to oversee United States assistance for Afghanistan.

(2) * * *

* * * * * * *

(e) GENERAL PROVISIONS RELATING TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—

(1) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL AND SOCIAL DEVELOPMENT.—

(A)[4] DECLARATION OF POLICY.—Congress reaffirms the authorities contained in title I of the Afghanistan Freedom

[3] 22 U.S.C. 7514 note.
[4] 22 U.S.C. 7513 note.

Support Act of 2002 (22 U.S.C. 7501 et seq.), relating to economic and democratic development assistance for Afghanistan.

(B) PROVISION OF ASSISTANCE.—* * *

(2)[5] DECLARATIONS OF GENERAL POLICY.—Congress makes the following declarations:

(A) The United States reaffirms the support that it and other countries expressed for the report entitled "Securing Afghanistan's Future" in their Berlin Declaration of April 2004. The United States should help enable the growth needed to create an economically sustainable Afghanistan capable of the poverty reduction and social development foreseen in the report.

(B) The United States supports the parliamentary elections to be held in Afghanistan by April 2005 and will help ensure that such elections are not undermined, including by warlords or narcotics traffickers.

(C) The United States continues to urge North Atlantic Treaty Organization members and other friendly countries to make much greater military contributions toward securing the peace in Afghanistan.

* * * * * * *

(f) EDUCATION, THE RULE OF LAW, AND RELATED ISSUES.—

(1)[6] DECLARATION OF POLICY.—Congress declares that, although Afghanistan has adopted a new constitution and made progress on primary education, the United States must invest in a concerted effort in Afghanistan to improve the rule of law, good governance, and effective policing, to accelerate work on secondary and university education systems, and to establish new initiatives to increase the capacity of civil society.

* * * * * * *

(h) UNITED STATES POLICY TO SUPPORT DISARMAMENT OF PRIVATE MILITIAS AND EXPANSION OF INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

(1)[7] UNITED STATES POLICY RELATING TO DISARMAMENT OF PRIVATE MILITIAS.—

(A) IN GENERAL.—It shall be the policy of the United States to take immediate steps to provide active support for the disarmament, demobilization, and reintegration of armed soldiers, particularly child soldiers, in Afghanistan, in close consultation with the President of Afghanistan.

(B) REPORT.—The report required under section 206(c)(2) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(c)(2)) shall include a description of the progress to implement paragraph (1).

* * * * * * *

[5] 22 U.S.C. 7511 note.
[6] 22 U.S.C. 7513 note.
[7] 22 U.S.C. 7536 note.

j. Sudan

(1) Comprehensive Peace in Sudan Act of 2004

Public Law 108–497 [S. 2781], 118 Stat. 4012, approved December 23, 2004

AN ACT To express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Comprehensive Peace in Sudan Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004).

(3) JEM.—The term "JEM" means the Justice and Equality Movement.

(4) SLA.—The term "SLA" means the Sudan Liberation Army.

(5) SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) A comprehensive peace agreement for Sudan, as envisioned in the Sudan Peace Act (50 U.S.C. 1701 note) and the Machakos Protocol of 2002, could be in jeopardy if the parties do not implement and honor the agreements they have signed.

(2) Since seizing power through a military coup in 1989, the Government of Sudan repeatedly has attacked and dislocated civilian populations in southern Sudan in a coordinated policy of ethnic cleansing and genocide that has cost the lives of more than 2,000,000 people and displaced more than 4,000,000 people.

[1] 50 U.S.C. 1701 note.

(3) In response to two decades of civil conflict in Sudan, the United States has helped to establish an internationally supported peace process to promote a negotiated settlement to the war that has resulted in a framework peace agreement, the Nairobi Declaration on the Final Phase of Peace in the Sudan, signed on June 5, 2004.

(4) At the same time that the Government of Sudan was negotiating for a comprehensive and all inclusive peace agreement, enumerated in the Nairobi Declaration on the Final Phase of Peace in the Sudan, it refused to engage in any meaningful discussion with regard to its ongoing campaign of ethnic cleansing and genocide in the Darfur region of western Sudan.

(5) The Government of Sudan reluctantly agreed to attend talks to bring peace to the Darfur region only after considerable international pressure and outrage was expressed through high level visits by Secretary of State Colin Powell and others, and through United Nations Security Council Resolution 1556 (July 30, 2004).

(6) The Government of the United States, in both the executive branch and Congress, has concluded that genocide has been committed and may still be occurring in the Darfur region, and that the Government of Sudan and militias supported by the Government of Sudan, known as the Janjaweed, bear responsibility for the genocide.

(7) Evidence collected by international observers in the Darfur region between February 2003 and November 2004 indicate a coordinated effort to target African Sudanese civilians in a scorched earth policy, similar to that which was employed in southern Sudan, that has destroyed African Sudanese villages, killing and driving away their people, while Arab Sudanese villages have been left unscathed.

(8) As a result of this genocidal policy in the Darfur region, an estimated 70,000 people have died, more than 1,600,000 people have been internally displaced, and more than 200,000 people have been forced to flee to neighboring Chad.

(9) Reports further indicate the systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves.

(10) Despite the threat of international action expressed through United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004), the Government of Sudan continues to obstruct and prevent efforts to reverse the catastrophic consequences that loom over the Darfur region.

(11) In addition to the thousands of violent deaths directly caused by ongoing Sudanese military and government-sponsored Janjaweed attacks in the Darfur region, the Government of Sudan has restricted access by humanitarian and human

rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter.

(12) The Government of Sudan's continued support for the Janjaweed and their obstruction of the delivery of food, shelter, and medical care to the Darfur region is estimated by the World Health Organization to be causing up to 10,000 deaths per month and, should current conditions persist, is projected to escalate to thousands of deaths each day by December 2004.

(13) The Government of Chad served an important role in facilitating the humanitarian cease-fire (the N'Djamena Agreement dated April 8, 2004) for the Darfur region between the Government of Sudan and the two opposition rebel groups in the Darfur region (the JEM and the SLA), although both sides have violated the cease-fire agreement repeatedly.

(14) The people of Chad have responded courageously to the plight of over 200,000 Darfur refugees by providing assistance to them even though such assistance has adversely affected their own means of livelihood.

(15) On September 9, 2004, Secretary of State Colin Powell stated before the Committee on Foreign Relations of the Senate: "When we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring.".

(16) The African Union has demonstrated renewed vigor in regional affairs through its willingness to respond to the crisis in the Darfur region, by convening talks between the parties and deploying several hundred monitors and security forces to the region, as well as by recognizing the need for a far larger force with a broader mandate.

(17) The Government of Sudan's complicity in the atrocities and genocide in the Darfur region raises fundamental questions about the Government of Sudan's commitment to peace and stability in Sudan.

SEC. 4. SENSE OF CONGRESS REGARDING THE CONFLICT IN DARFUR, SUDAN.

(a) SUDAN PEACE ACT.—It is the sense of Congress that the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.

(b) ACTIONS TO ADDRESS THE CONFLICT.—It is the sense of Congress that—

(1) a legitimate countrywide peace in Sudan will only be possible if those principles enumerated in the 1948 Universal Declaration of Human Rights, that are affirmed in the Machakos Protocol of 2002 and the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004, are applied to all of Sudan, including the Darfur region;

(2) the parties to the N'Djamena Agreement (the Government of Sudan, the JEM, and the SLA) must meet their obligations under that Agreement to allow safe and immediate delivery of all humanitarian assistance throughout the Darfur region and must expedite the conclusion of a political agreement to end the genocide and conflict in the Darfur region;

(3) the United States should continue to provide humanitarian assistance to the areas of Sudan to which the United States has access and, at the same time, implement a plan to provide assistance to the areas of Sudan to which access has been obstructed or denied;

(4) the international community, including African, Arab, and Muslim nations, should immediately provide resources necessary to save the lives of hundreds of thousands of individuals at risk as a result of the crisis in the Darfur region;

(5) the United States and the international community should—

(A) provide all necessary assistance to deploy and sustain an African Union Force to the Darfur region; and

(B) work to increase the authorized level and expand the mandate of such forces commensurate with the gravity and scope of the problem in a region the size of France;

(6) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should—

(A) condemn any failure on the part of the Government of Sudan to fulfill its obligations under United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004), and press the United Nations Security Council to respond to such failure by immediately imposing the penalties suggested in paragraph (14) of United Nations Security Council Resolution 1564;

(B) press the United Nations Security Council to pursue accountability for those individuals who are found responsible for orchestrating and carrying out the atrocities in the Darfur region, consistent with relevant United Nations Security Council Resolutions; and

(C) encourage member states of the United Nations to—

(i) cease to import Sudanese oil; and

(ii) take the following actions against Sudanese Government and military officials and other individuals, who are planning, carrying out, or otherwise involved in the policy of genocide in the Darfur region, as well as their families, and businesses controlled by the Government of Sudan and the National Congress Party:

(I) freeze the assets held by such individuals or businesses in each such member state; and

(II) restrict the entry or transit of such officials through each such member state;

(7) the President should impose targeted sanctions, including a ban on travel and the freezing of assets, on those officials of the Government of Sudan, including military officials, and

other individuals who have planned or carried out, or otherwise been involved in the policy of genocide in the Darfur region, and should also freeze the assets of businesses controlled by the Government of Sudan or the National Congress Party;

(8) the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to implement, peace agreements for all areas of Sudan, including the Darfur region;

(9) those individuals found to be involved in the planning or carrying out of genocide, war crimes, or crimes against humanity should not hold leadership positions in the Government of Sudan or the coalition government established pursuant to the agreements reached in the Nairobi Declaration on the Final Phase of Peace in the Sudan; and

(10) the Government of Sudan has a primary responsibility to guarantee the safety and welfare of its citizens, which includes allowing them access to humanitarian assistance and providing them protection from violence.

SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT. * * *[2]

SEC. 6. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) SANCTIONS.—Beginning on the date that is 30 days after the date of enactment of this Act, the President shall, notwithstanding paragraph (1) of section 6(b) of the Sudan Peace Act (50 U.S.C. 1701 note), implement the measures set forth in subparagraphs (A) through (D) of paragraph (2) of such section.

(b) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of enactment of this Act, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of appropriate senior officials of the Government of Sudan.

(c) WAIVER.—The President may waive the application of subsection (a) or (b) if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States.

(d) CONTINUATION OF RESTRICTIONS.—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Act, 2004 (division D of Public Law 108–199; 118 Stat. 143), or any other similar provision of law, shall remain in effect against the Government of Sudan and may not be lifted pursuant to such provisions of law unless the President transmits a certification to the appropriate congressional committees in accordance with paragraph (2) of section 12(a) of the Sudan Peace Act (as added by section 5(a)(1) of this Act).

(e) DETERMINATION.—Notwithstanding subsection (a) of this section, the President shall continue to transmit the determination required under section 6(b)(1)(A) of the Sudan Peace Act (50 U.S.C. 1701 note).

[2] For amended text, see page 636.

SEC. 7. ADDITIONAL AUTHORITIES.

Notwithstanding any other provision of law, the President is authorized to provide assistance, other than military assistance, to areas that were outside of the control of the Government of Sudan on April 8, 2004, including to provide assistance for emergency relief, development and governance, or to implement any program in support of any viable peace agreement at the local, regional, or national level in Sudan.

SEC. 8. TECHNICAL CORRECTION.

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by striking "Organization of African Unity" and inserting "African Union".

(2) Sudan Peace Act

Public Law 107–245 [H.R. 5531], 116 Stat. 1504, approved October 21, 2002; amended by Public Law 108–497 [Comprehensive Peace in Sudan Act of 2004; S. 2781], 118 Stat. 4012, approved December 23, 2004

AN ACT To facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Sudan Peace Act".

SEC. 2.[1] FINDINGS.

The Congress makes the following findings:

(1) The Government of Sudan has intensified its prosecution of the war against areas outside of its control, which has already cost more than 2,000,000 lives and has displaced more than 4,000,000 people.

(2) A viable, comprehensive, and internationally sponsored peace process, protected from manipulation, presents the best chance for a permanent resolution of the war, protection of human rights, and a self-sustaining Sudan.

(3) Continued strengthening and reform of humanitarian relief operations in Sudan is an essential element in the effort to bring an end to the war.

(4) Continued leadership by the United States is critical.

(5) Regardless of the future political status of the areas of Sudan outside of the control of the Government of Sudan, the absence of credible civil authority and institutions is a major impediment to achieving self-sustenance by the Sudanese people and to meaningful progress toward a viable peace process. It is critical that credible civil authority and institutions play an important role in the reconstruction of post-war Sudan.

(6) Through the manipulation of traditional rivalries among peoples in areas outside of its full control, the Government of Sudan has used divide-and-conquer techniques effectively to subjugate its population. However, internationally sponsored reconciliation efforts have played a critical role in reducing human suffering and the effectiveness of this tactic.

(7) The Government of Sudan utilizes and organizes militias, Popular Defense Forces, and other irregular units for raiding and enslaving parties in areas outside of the control of the Government of Sudan in an effort to disrupt severely the ability of the populations in those areas to sustain themselves. The tactic helps minimize the Government of Sudan's accountability internationally.

[1] 50 U.S.C. 1701 note.

(8) The Government of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales to increase the tempo and lethality of the war against the areas outside of its control.

(9) By regularly banning air transport relief flights by the United Nations relief operation OLS, the Government of Sudan has been able to manipulate the receipt of food aid by the Sudanese people from the United States and other donor countries as a devastating weapon of war in the ongoing effort by the Government of Sudan to starve targeted groups and subdue areas of Sudan outside of the Government's control.

(10) The acts of the Government of Sudan, including the acts described in this section, constitute genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide (78 U.N.T.S. 277).

(11) The efforts of the United States and other donors in delivering relief and assistance through means outside of OLS have played a critical role in addressing the deficiencies in OLS and offset the Government of Sudan's manipulation of food donations to advantage in the civil war in Sudan.

(12) While the immediate needs of selected areas in Sudan facing starvation have been addressed in the near term, the population in areas of Sudan outside of the control of the Government of Sudan are still in danger of extreme disruption of their ability to sustain themselves.

(13) The Nuba Mountains and many areas in Bahr al Ghazal and the Upper Nile and the Blue Nile regions have been excluded completely from relief distribution by OLS, consequently placing their populations at increased risk of famine.

(14) At a cost which has sometimes exceeded $1,000,000 per day, and with a primary focus on providing only for the immediate food needs of the recipients, the current international relief operations are neither sustainable nor desirable in the long term.

(15) The ability of populations to defend themselves against attack in areas outside of the control of the Government of Sudan has been severely compromised by the disengagement of the front-line states of Ethiopia, Eritrea, and Uganda, fostering the belief among officials of the Government of Sudan that success on the battlefield can be achieved.

(16) The United States should use all means of pressure available to facilitate a comprehensive solution to the war in Sudan, including—

(A) the multilateralization of economic and diplomatic tools to compel the Government of Sudan to enter into a good faith peace process;

(B) the support or creation of viable democratic civil authority and institutions in areas of Sudan outside of government control;

(C) continued active support of people-to-people reconciliation mechanisms and efforts in areas outside of government control;

(D) the strengthening of the mechanisms to provide humanitarian relief to those areas; and

(E) cooperation among the trading partners of the United States and within multilateral institutions toward those ends.

SEC. 3.[1] DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) GOVERNMENT OF SUDAN.—Except as provided in section 12, the[2] term "Government of Sudan" means the National Islamic Front government in Khartoum, Sudan.

(3) OLS.—The term "OLS" means the United Nations relief operation carried out by UNICEF, the World Food Program, and participating relief organizations known as "Operation Lifeline Sudan".

(4)[3] SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

SEC. 4.[1] CONDEMNATION OF SLAVERY, OTHER HUMAN RIGHTS ABUSES, AND TACTICS OF THE GOVERNMENT OF SUDAN.

The Congress hereby—

(1) condemns—

(A) violations of human rights on all sides of the conflict in Sudan;

(B) the Government of Sudan's overall human rights record, with regard to both the prosecution of the war and the denial of basic human and political rights to all Sudanese;

(C) the ongoing slave trade in Sudan and the role of the Government of Sudan in abetting and tolerating the practice;

(D) the Government of Sudan's use and organization of "murahalliin" or "mujahadeen", Popular Defense Forces, and regular Sudanese Army units into organized and coordinated raiding and slaving parties in Bahr al Ghazal, the Nuba Mountains, and the Upper Nile and the Blue Nile regions; and

(E) aerial bombardment of civilian targets that is sponsored by the Government of Sudan; and

(2) recognizes that, along with selective bans on air transport relief flights by the Government of Sudan, the use of raiding and slaving parties is a tool for creating food shortages and is used as a systematic means to destroy the societies, culture, and economies of the Dinka, Nuer, and Nuba peoples in a policy of low-intensity ethnic cleansing.

SEC. 5.[1] ASSISTANCE FOR PEACE AND DEMOCRATIC GOVERNANCE.

(a) ASSISTANCE TO SUDAN.—The President is authorized to provide increased assistance to the areas of Sudan that are not controlled by the Government of Sudan to prepare the population for

[2] Sec. 5(a)(2)(A) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4017) struck out "The" and inserted in lieu thereof "Except as provided in section 12, the".

[3] Sec. 5(a)(2)(B) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4017) added para. (4).

peace and democratic governance, including support for civil administration, communications infrastructure, education, health, and agriculture.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out the activities described in subsection (a) of this section $100,000,000 for each of the fiscal years 2003, 2004, and 2005.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) of this subsection are authorized to remain available until expended.

SEC. 6.[1] SUPPORT FOR AN INTERNATIONALLY SANCTIONED PEACE PROCESS.

(a) FINDINGS.—Congress hereby—

(1) recognizes that—

(A) a single, viable internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and

(B) resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994, and on the Machakos Protocol in July 2002; and

(2) commends the efforts of Special Presidential Envoy, Senator Danforth and his team in working to assist the parties to the conflict in Sudan in finding a just, permanent peace to the conflict in Sudan.

(b) MEASURES OF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—

(A)[4] The President shall make a determination and certify in writing to the appropriate congressional committees within 6 months after the date of enactment of this Act, and each 6 months thereafter, that the Government of Sudan and the Sudan People's Liberation Movement are negotiating in good faith and that negotiations should continue.

(B) If, under subparagraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Government of Sudan has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, or has unreasonably interfered with humanitarian efforts, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(C) If, under paragraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Sudan People's Liberation Movement has not engaged in good faith negotiations to achieve a

[4] On April 21, 2003, the President determined and certified that "the Government of Sudan and the Sudan People's Liberation Movement are negotiating in good faith and the negotiations should continue" (Presidential Determination No. 2003–21; 68 F.R. 20329). Identical determinations followed: Presidential Determination No. 2004–05 of October 21, 2003 (68 F.R. 63977), and Presidential Determination No. 2004–29 of April 21, 2004 (69 F.R. 24905). In a memorandum of October 21, 2004, the President delegated the determination, certification, and reporting functions of sec. 6(b)(1) to the Secretary of State (69 F.R. 63039).

permanent, just, and equitable peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(D) If the President certifies to the appropriate congressional committees that the Government of Sudan is not in compliance with the terms of a permanent peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(E) If, at any time after the President has made a certification under subparagraph (B), the President makes a determination and certifies in writing to the appropriate congressional committees that the Government of Sudan has resumed good faith negotiations, or makes a determination and certifies in writing to the appropriate congressional committees that the Government of Sudan is in compliance with a peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(2) MEASURES IN SUPPORT OF THE PEACE PROCESS.—Subject to the provisions of paragraph (1), the President—

(A) shall, through the Secretary of the Treasury, instruct the United States executive directors to each international financial institution to continue to vote against and actively oppose any extension by the respective institution of any loan, credit, or guarantee to the Government of Sudan;

(B) should consider downgrading or suspending diplomatic relations between the United States and the Government of Sudan;

(C) shall take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues to ensure that the Government of Sudan neither directly nor indirectly utilizes any oil revenues to purchase or acquire military equipment or to finance any military activities; and

(D) shall seek a United Nations Security Council Resolution to impose an arms embargo on the Government of Sudan.

(c) REPORT ON THE STATUS OF NEGOTIATIONS.—If, at any time after the President has made a certification under subsection (b)(1)(A), the Government of Sudan discontinues negotiations with the Sudan People's Liberation Movement for a 14-day period, then the President shall submit a quarterly report to the appropriate congressional committees on the status of the peace process until negotiations resume.

(d) REPORT ON UNITED STATES OPPOSITION TO FINANCING BY INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall submit a semiannual report to the appropriate congressional committees describing the steps taken by the United States to oppose the extension of a loan, credit, or guarantee if, after the Secretary of the Treasury gives the instructions described in subsection (b)(2)(A), such financing is extended.

(e) REPORT ON EFFORTS TO DENY OIL REVENUES.—Not later than 45 days after the President takes an action under subsection

(b)(2)(C), the President shall submit to the appropriate congressional committees a comprehensive plan for implementing the actions described in such subsection.

(f) DEFINITION.—In this section, the term "international financial institution" means the International Bank for Reconstruction and Development, the International Development Association, the International Monetary Fund, the African Development Bank, and the African Development Fund.

SEC. 7.[1] MULTILATERAL PRESSURE ON COMBATANTS.

It is the sense of Congress that—

(1) the United Nations should help facilitate peace and recovery in Sudan;

(2) the President, acting through the United States Permanent Representative to the United Nations, should seek to end the veto power of the Government of Sudan over the plans by OLS for air transport relief flights and, by doing so, to end the manipulation of the delivery of relief supplies to the advantage of the Government of Sudan on the battlefield; and

(3) the President should take appropriate measures, including the implementation of recommendations of the International Eminent Persons Commission contained in the report issued on May 22, 2002, to end slavery and aerial bombardment of civilians by the Government of Sudan.

SEC. 8.[1, 5] REPORTING REQUIREMENTS.

(a) REPORT ON COMMERCIAL ACTIVITY.—Not later than 30 days after the date of the enactment of the Comprehensive Peace in Sudan Act of 2004, and annually thereafter until the completion of the interim period outlined in the Machakos Protocol of 2002, the Secretary of State, in consultation with relevant United States Government departments and agencies, shall submit to the appropriate congressional committees a report regarding commercial activity in Sudan that includes—

(1) a description of the sources and current status of Sudan's financing and construction of infrastructure and pipelines for oil exploitation, the effects of such financing and construction on the inhabitants of the regions in which the oil fields are located and the ability of the Government of Sudan to finance the war in Sudan with the proceeds of the oil exploitation;

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[5] Sec. 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4017) amended and restated sec. 8. It previously read as follows:

"SEC. 8. REPORTING REQUIREMENT.

"Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees a report regarding the conflict in Sudan. Such report shall include—

"(1) a description of the sources and current status of Sudan's financing and construction of infrastructure and pipelines for oil exploitation, the effects of such financing and construction on the inhabitants of the regions in which the oil fields are located, and the ability of the Government of Sudan to finance the war in Sudan with the proceeds of the oil exploitation;

"(2) a description of the extent to which that financing was secured in the United States or with involvement of United States citizens;

"(3) the best estimates of the extent of aerial bombardment by the Government of Sudan, including targets, frequency, and best estimates of damage; and

"(4) a description of the extent to which humanitarian relief has been obstructed or manipulated by the Government of Sudan or other forces.".

(2) a description of the extent to which that financing was secured in the United States or with the involvement of United States citizens; and

(3) a description of the relationships between Sudan's arms industry and major foreign business enterprises and their subsidiaries, including government-controlled entities.

(b) REPORT ON THE CONFLICT IN SUDAN, INCLUDING THE DARFUR REGION.—Not later than 30 days after the date of the enactment of the Comprehensive Peace in Sudan Act of 2004, and annually thereafter until the completion of the interim period outlined in the Machakos Protocol of 2002, the Secretary of State shall prepare and submit to the appropriate congressional committees a report regarding the conflict in Sudan, including the conflict in the Darfur region. Such report shall include—

(1) the best estimates of the extent of aerial bombardment of civilian centers in Sudan by the Government of Sudan, including targets, frequency, and best estimates of damage; and

(2) a description of the extent to which humanitarian relief in Sudan has been obstructed or manipulated by the Government of Sudan or other forces, and a contingency plan to distribute assistance should the Government of Sudan continue to obstruct or delay the international humanitarian response to the crisis in Darfur.

(c) DISCLOSURE TO THE PUBLIC.—The Secretary of State shall publish or otherwise make available to the public each unclassified report, or portion of a report that is unclassified, submitted under subsection (a) or (b).

SEC. 9.[1] CONTINUED USE OF NON-OLS ORGANIZATIONS FOR RELIEF EFFORTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a detailed report describing the progress made toward carrying out subsection (a).

SEC. 10.[1] CONTINGENCY PLAN FOR ANY BAN ON AIR TRANSPORT RELIEF FLIGHTS.

(a) PLAN.—The President shall develop a contingency plan to provide, outside the auspices of the United Nations if necessary, the greatest possible amount of United States Government and privately donated relief to all affected areas in Sudan, including the Nuba Mountains and the Upper Nile and the Blue Nile regions, in the event that the Government of Sudan imposes a total, partial, or incremental ban on OLS air transport relief flights.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law, in carrying out the plan developed under subsection (a), the President may reprogram up to 100 percent of the funds available for support of OLS operations for the purposes of the plan.

SEC. 11.[1] INVESTIGATION OF WAR CRIMES.

(a) IN GENERAL.—The Secretary of State shall collect information about incidents which may constitute crimes against humanity,

genocide, war crimes, and other violations of international humanitarian law by all parties to the conflict in Sudan, including slavery, rape, and aerial bombardment of civilian targets.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act and annually thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees a detailed report on the information that the Secretary of State has collected under subsection (a) and any findings or determinations made by the Secretary on the basis of that information. The report under this subsection may be submitted as part of the report required under section 8.

(c) CONSULTATIONS WITH OTHER DEPARTMENTS.—In preparing the report required by this section, the Secretary of State shall consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests.

SEC. 12.[6] ASSISTANCE FOR THE CRISIS IN DARFUR AND FOR COMPREHENSIVE PEACE IN SUDAN.

(a) ASSISTANCE.—

(1) AUTHORITY.—Notwithstanding any other provision of law, the President is authorized to provide assistance for Sudan as authorized in paragraph (5) of this section—

(A) subject to the requirements of this section, to support the implementation of a comprehensive peace agreement that applies to all regions of Sudan, including the Darfur region; and

(B) to address the humanitarian and human rights crisis in the Darfur region and eastern Chad, including to support the African Union mission in the Darfur region, provided that no assistance may be made available to the Government of Sudan.

(2) CERTIFICATION FOR THE GOVERNMENT OF SUDAN.—Assistance authorized under paragraph (1)(A) may be provided to the Government of Sudan only if the President certifies to the appropriate congressional committees that the Government of Sudan has taken demonstrable steps to—

(A) ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance;

(B) demobilize and disarm militias supported or created by the Government of Sudan;

(C) allow full and unfettered humanitarian assistance to all regions of Sudan, including the Darfur region;

(D) allow an international commission of inquiry to conduct an investigation of atrocities in the Darfur region, in a manner consistent with United Nations Security Council Resolution 1564 (September 18, 2004), to investigate reports of violations of international humanitarian law and

[6] 50 U.S.C. 1701 note. Sec. 5(a)(1) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4016) added sec. 12.

human rights law in the Darfur region by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(E) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(F) permit the safe and voluntary return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence; and

(G) implement the final agreements reached in the Naivasha peace process and install a new coalition government based on the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004.

(3) CERTIFICATION WITH REGARD TO SPLM'S COMPLIANCE WITH A PEACE AGREEMENT.—If the President determines and certifies in writing to the appropriate congressional committees that the SPLM has not engaged in good faith negotiations, or has failed to honor the agreements signed, the President shall suspend assistance authorized in this section for the SPLM, except for health care, education, and humanitarian assistance.

(4) SUSPENSION OF ASSISTANCE.—If, on a date after the President transmits the certification described in paragraph (2), the President determines that the Government of Sudan has ceased taking the actions described in such paragraph, the President shall immediately suspend the provision of any assistance to such Government under this section until the date on which the President transmits to the appropriate congressional committees a further certification that the Government of Sudan has resumed taking such actions.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—In addition to any other funds otherwise available for such purposes, there are authorized to be appropriated to the President—

(i) $100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the fiscal years 2006 and 2007, unless otherwise authorized, to carry out paragraph (1)(A); and

(ii) $200,000,000 for fiscal year 2005 to carry out paragraph (1)(B), provided that no amounts appropriated under this authorization may be made available for the Government of Sudan.

(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(b) GOVERNMENT OF SUDAN DEFINED.—In this section, the term "Government of Sudan" means the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of the Comprehensive Peace in Sudan Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004).

k. Trafficking in Persons

(1) Trafficking Victims Protection Reauthorization Act of 2003

Partial text of Public Law 108–193 [H.R. 2620], 117 Stat. 2875, approved December 19, 2003

NOTE.—Except for the provisions noted below, the Trafficking Victims Protection Reauthorization Act of 2003 consists of amendments to the Trafficking Victims Protection Act of 2000 (Public Law 106–386), Immigration and Nationality Act (Public Law 82–414), Department of State and Related Agency Appropriations Act, 2003 (Public Law 108–7), Foreign Assistance Act of 1961 (Public Law 87–195), and 18 United States Code.

AN ACT To authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Trafficking Victims Protection Reauthorization Act of 2003".

SEC. 2.[1] FINDINGS.

Congress finds the following:

(1) Trafficking in persons continues to victimize countless men, women, and children in the United States and abroad.

(2) Since the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386), the United States Government has made significant progress in investigating and prosecuting acts of trafficking and in responding to the needs of victims of trafficking in the United States and abroad.

(3) On the other hand, victims of trafficking have faced unintended obstacles in the process of securing needed assistance, including admission to the United States under section 101(a)(15)(T)(i) of the Immigration and Nationality Act.

(4) Additional research is needed to fully understand the phenomenon of trafficking in persons and to determine the most effective strategies for combating trafficking in persons.

[1] 22 U.S.C. 7101 note.

(5) Corruption among foreign law enforcement authorities continues to undermine the efforts by governments to investigate, prosecute, and convict traffickers.

(6) International Law Enforcement Academies should be more fully utilized in the effort to train law enforcement authorities, prosecutors, and members of the judiciary to address trafficking in persons-related crimes.

* * * * * * *

(2) Trafficking Victims Protection Act of 2000

Division A of Public Law 106–386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; and by Public Law 108–193 [Trafficking Victims Protection Reauthorization Act of 2003; H.R. 2620], 117 Stat. 2875, approved December 19, 2003

AN ACT To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000

SEC. 101.[1] SHORT TITLE.

This division may be cited as the "Trafficking Victims Protection Act of 2000".

SEC. 102.[2] PURPOSES AND FINDINGS.

(a) PURPOSES.—The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) FINDINGS.—Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor

[1] 22 U.S.C. 7101 note.
[2] 22 U.S.C. 7101.

and involves significant violations of labor, public health, and human rights standards worldwide.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In United States v. Kozminski, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, United States Code, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain

unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

SEC. 103.[3] DEFINITIONS.

In this division:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives.

(2) COERCION.—The term "coercion" means—

(A) threats of serious harm to or physical restraint against any person;

[3] 22 U.S.C. 7102.

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(3) COMMERCIAL SEX ACT.—The term "commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

(4) DEBT BONDAGE.—The term "debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(5) INVOLUNTARY SERVITUDE.—The term "involuntary servitude" includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(6) MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.—The term "minimum standards for the elimination of trafficking" means the standards set forth in section 108.

(7) NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE.—The term "nonhumanitarian, nontrade-related foreign assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961, other than—

(i) assistance under chapter 4 of part II of that Act in support of programs of nongovernmental organizations[4] that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;

(ii) assistance under chapter 8 of part I of that Act;

(iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(v) antiterrorism assistance under chapter 8 of part II of that Act;

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

[4] Sec. 8(b)(1) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2887) inserted "in support of programs of nongovernmental organizations" after "part II of that Act".

(viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.

(8) SEVERE FORMS OF TRAFFICKING IN PERSONS.—The term "severe forms of trafficking in persons" means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(9) SEX TRAFFICKING.—The term "sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(11) TASK FORCE.—The term "Task Force" means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.

(12) UNITED STATES.—The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(13) VICTIM OF A SEVERE FORM OF TRAFFICKING.—The term "victim of a severe form of trafficking" means a person subject to an act or practice described in paragraph (8).

(14) VICTIM OF TRAFFICKING.—The term "victim of trafficking" means a person subjected to an act or practice described in paragraph (8) or (9).

SEC. 104. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

(a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(f)) is amended to read as follows: * * *[5]

[5] Should refer to 22 U.S.C. 2151n(f).

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection: * * *

SEC. 105.[6] INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

(a) ESTABLISHMENT.—The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.[7]

(b) APPOINTMENT.—The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Secretary of State.

(d) ACTIVITIES OF THE TASK FORCE.—The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this division.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

(5) Examine the role of the international "sex tourism" industry in the trafficking of persons and in the sexual exploitation of women and children around the world.

(6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this division.

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[6] 22 U.S.C. 7103.

[7] Sec. 406 of the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108–7; 117 Stat. 92), required the establishment of a Senior Policy Operating Group under the Interagency Task Force. Sec. 6(c) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2881) subsequently added the establishment of the Senior Policy Operating Group to sec. 105 and repealed sec. 406.

The President established an Interagency Task Force to Monitor and Combat Trafficking in Persons with the issuance of Executive Order 13257 of February 13, 2002 (67 F.R. 7259). For text, see page 680.

(7)[8] Not later than May 1, 2004, and annually thereafter, the Attorney General shall submit to the Committee on Ways and Means, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate, a report on Federal agencies that are implementing any provision of this division, or any amendment made by this division, which shall include, at a minimum, information on—

(A) the number of persons who received benefits or other services under section 107(b) in connection with programs or activities funded or administered by the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and other appropriate Federal agencies during the preceding fiscal year;

(B) the number of persons who have been granted continued presence in the United States under section 107(c)(3) during the preceding fiscal year;

(C) the number of persons who have applied for, been granted, or been denied a visa or otherwise provided status under section 101(a)(15)(T)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)(i)) during the preceding fiscal year;

(D) the number of persons who have been charged or convicted under one or more of sections 1581, 1583, 1584, 1589, 1590, 1591, 1592, or 1594 of title 18, United States Code, during the preceding fiscal year and the sentences imposed against each such person;

(E) the amount, recipient, and purpose of each grant issued by any Federal agency to carry out the purposes of sections 106 and 107 of this Act, or section 134 of the Foreign Assistance Act of 1961, during the preceding fiscal year;

(F) the nature of training conducted pursuant to section 107(c)(4) during the preceding fiscal year; and

(G) the activities undertaken by the Senior Policy Operating Group to carry out its responsibilities under section 105(f) of this division.

(e) SUPPORT FOR THE TASK FORCE.—The Secretary of State is authorized to establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large.[9] The

[8] Sec. 6(a)(1) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2880) added para. (7).

[9] Sec. 6(b)(1) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2881) inserted ", who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large". Sec. 6(b)(2) of that Act (22 U.S.C. 7103 note) provided the following:

"(2) APPLICABILITY.—The individual who holds the position of Director of the Office to Monitor and Combat Trafficking of the Department of State may continue to hold such position notwithstanding the amendment made by paragraph (1).".

Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

(f)[10] SENIOR POLICY OPERATING GROUP.—

(1) ESTABLISHMENT.—There shall be established within the executive branch a Senior Policy Operating Group.

(2) MEMBERSHIP; RELATED MATTERS.—

(A) IN GENERAL.—The Operating Group shall consist of the senior officials designated as representatives of the appointed members of the Task Force (pursuant to Executive Order No. 13257 of February 13, 2002).

(B) CHAIRPERSON.—The Operating Group shall be chaired by the Director of the Office to Monitor and Combat Trafficking of the Department of State.

(C) MEETINGS.—The Operating Group shall meet on a regular basis at the call of the Chairperson.

(3) DUTIES.—The Operating Group shall coordinate activities of Federal departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and the implementation of this division.

(4) AVAILABILITY OF INFORMATION.—Each Federal department or agency represented on the Operating Group shall fully share all information with such Group regarding the department or agency's plans, before and after final agency decisions are made, on all matters relating to grants, grant policies, and other significant actions regarding the international trafficking in persons and the implementation of this division.

(5) REGULATIONS.—Not later than 90 days after the date of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003, the President shall promulgate regulations to implement this section, including regulations to carry out paragraph (4).

SEC. 106.[11] PREVENTION OF TRAFFICKING.

(a) ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING.—The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include—

(1) microcredit lending programs, training in business development, skills training, and job counseling;

(2) programs to promote women's participation in economic decisionmaking;

[10] Sec. 6(c)(1) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2881) added subsec. (f).

[11] 22 U.S.C. 7104.

(3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;

(4) development of educational curricula regarding the dangers of trafficking; and

(5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) PUBLIC AWARENESS AND INFORMATION.—The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c)[12] BORDER INTERDICTION.—The President shall establish and carry out programs of border interdiction outside the United States. Such programs shall include providing grants to foreign nongovernmental organizations that provide for transit shelters operating at key border crossings and that help train survivors of trafficking in persons to educate and train border guards and officials, and other local law enforcement officials, to identify traffickers and victims of severe forms of trafficking, and the appropriate manner in which to treat such victims. Such programs shall also include, to the extent appropriate, monitoring by such survivors of trafficking in persons of the implementation of border interdiction programs, including helping in the identification of such victims to stop the cross-border transit of victims. The President shall ensure that any program established under this subsection provides the opportunity for any trafficking victim who is freed to return to his or her previous residence if the victim so chooses.

(d)[12] INTERNATIONAL MEDIA.—The President shall establish and carry out programs that support the production of television and radio programs, including documentaries, to inform vulnerable populations overseas of the dangers of trafficking, and to increase awareness of the public in countries of destination regarding the slave-like practices and other human rights abuses involved in trafficking, including fostering linkages between individuals working in the media in different countries to determine the best methods for informing such populations through such media.

(e)[12] COMBATING INTERNATIONAL SEX TOURISM.—

(1) DEVELOPMENT AND DISSEMINATION OF MATERIALS.—The President, pursuant to such regulations as may be prescribed, shall ensure that materials are developed and disseminated to alert travelers that sex tourism (as described in subsections (b) through (f) of section 2423 of title 18, United States Code) is illegal, will be prosecuted, and presents dangers to those involved. Such materials shall be disseminated to individuals traveling to foreign destinations where the President determines that sex tourism is significant.

[12] Sec. 3(a) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2875) redesignated subsec. (c) as subsec. (f), and added new subsecs. (c) through (e).

(2) MONITORING OF COMPLIANCE.—The President shall monitor compliance with the requirements of paragraph (1).

(3) FEASIBILITY REPORT.—Not later than 180 days after the date of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Affairs of the Senate a report that describes the feasibility of such United States Government materials being disseminated through public-private partnerships to individuals traveling to foreign destinations.

(f)[12] CONSULTATION REQUIREMENT.—The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

(g)[13] TERMINATION OF CERTAIN GRANTS, CONTRACTS AND COOPERATIVE AGREEMENTS.—

(1) TERMINATION.—The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds described in paragraph (2) are to be provided to a private entity, in whole or in part, shall include a condition that authorizes the department or agency to terminate the grant, contract, or cooperative agreement, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement.

(2) ASSISTANCE DESCRIBED.—Funds referred to in paragraph (1) are funds made available to carry out any program, project, or activity abroad funded under major functional budget category 150 (relating to international affairs).

SEC. 107.[14] PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—

(1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force. In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:[15]

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[13] Sec. 3(b) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2876) added subsec. (g).

[14] 22 U.S.C. 7105.

[15] Sec. 682(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1409) added this sentence through subpara. (E).

(A) Support for local in-country nongovernmental organization-operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organization networks and databases on trafficking, including support to assist nongovernmental organizations in establishing service centers and systems that are mobile and extend beyond large cities.

(B) Support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention, and by facilitating contact between relevant foreign government agencies and such nongovernmental organizations to facilitate cooperation between the foreign governments and such organizations.[16]

(C) Education and training for trafficked women and girls.

(D) The safe integration or reintegration of trafficked individuals into an appropriate community or family, with full respect for the wishes, dignity, and safety of the trafficked individual.

(E) Support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members, in assisting the voluntary repatriation of these family members or their integration or resettlement into appropriate communities, and in providing them with treatment.

(2) ADDITIONAL REQUIREMENT.—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.

(b) VICTIMS IN THE UNITED STATES.—

(1) ASSISTANCE.—

(A) ELIGIBILITY FOR BENEFITS AND SERVICES.—Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons, or an alien classified as a nonimmigrant under section 101(a)(15(T)(ii),[17] shall be eligible for benefits and services under any Federal or State program or activity funded or

[16] Sec. 4(a)(1) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2877) added ", and by facilitating contact between relevant foreign government agencies and such nongovernmental organizations to facilitate cooperation between the foreign governments and such organizations".

[17] Sec. 4(a)(2)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2877) added ", or an alien classified as a nonimmigrant under section 101(a)(15(T)(ii),".

administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) REQUIREMENT TO EXPAND BENEFITS AND SERVICES.—Subject to subparagraph (C) and, in the case of nonentitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States,and aliens classified as a nonimmigrant under section 101(a)(15)(T)(ii),[18] without regard to the immigration status of such victims. In the case of nonentitlement programs funded by the Secretary of Health and Human Services, such benefits and services may include services to assist potential victims of trafficking in achieving certification and to assist minor dependent children of victims of severe forms of trafficking in persons or potential victims of trafficking.[19]

(C) DEFINITION OF VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS.—For the purposes of this paragraph, the term "victim of a severe form of trafficking in persons" means only a person—

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(D) * * *[20]

(E) CERTIFICATION.—

(i) IN GENERAL.—Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)—

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

(II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

[18] Sec. 4(a)(2)(B)(i) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2877) inserted ""and aliens classified as a nonimmigrant under section 101(a)(15)(T)(ii)," after "United States,".

[19] Sec. 4(a)(2)(B)(ii) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2877) added "In the case of nonentitlement programs funded by the Secretary of Health and Human Services, such benefits and services may include services to assist potential victims of trafficking in achieving certification and to assist minor dependent children of victims of severe forms of trafficking in persons or potential victims of trafficking.".

[20] Sec. 6(a)(2) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2880) struck out subpara. (D), which had required an annual report. See, however, sec. 105(d)(7).

(bb) is a person whose continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) PERIOD OF EFFECTIVENESS.—A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) INVESTIGATION AND PROSECUTION DEFINED.—For the purpose of a certification under this subparagraph, the term "investigation and prosecution" includes—

(I) identification of a person or persons who have committed severe forms of trafficking in persons;

(II) location and apprehension of such persons; and

(III) testimony at proceedings against such persons.

(iv)[21] ASSISTANCE TO INVESTIGATIONS.—In making the certification described in this subparagraph with respect to the assistance to investigation or prosecution described in clause (i)(I), the Secretary of Health and Human Services shall consider statements from State and local law enforcement officials that the person referred to in subparagraph (C)(ii)(II) has been willing to assist in every reasonable way with respect to the investigation and prosecution of State and local crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking appear to have been involved.

(2) GRANTS.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(B) ALLOCATION OF GRANT FUNDS.—Of amounts made available for grants under this paragraph, there shall be set aside—

(i) three percent for research, evaluation, and statistics;

(ii) two percent for training and technical assistance; and

(iii) one percent for management and administration.

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of a grant made under this paragraph may not exceed 75

[21] Sec. 4(a)(3) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2877) added clause (iv).

percent of the total costs of the projects described in the application submitted.

(c) TRAFFICKING VICTIM REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) PROTECTIONS WHILE IN CUSTODY.—Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall—

(A) not be detained in facilities inappropriate to their status as crime victims;

(B) receive necessary medical care and other assistance; and

(C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including—

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) ACCESS TO INFORMATION.—Victims of severe forms of trafficking shall have access to information about their rights and translation services.

(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.—Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(4) TRAINING OF GOVERNMENT PERSONNEL.—Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) CONSTRUCTION.—Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS.—

(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—* * *

(2) CONDITIONS OF NONIMMIGRANT STATUS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—* * *

(3) WAIVER OF GROUNDS FOR INELIGIBILITY FOR ADMISSION.—Section 212(d) of the Immigration and Nationality Act (8

U.S.C. 1182(d)) is amended by adding at the end the following: * * *

(4) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO "T" VISA NONIMMIGRANTS.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following new subsection: * * *

(5) STATUTORY CONSTRUCTION.—Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against an alien admitted as a nonimmigrant under section 101(a)(15)(T)(i) of that Act, as added by subsection (e), for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under such section 101(a)(15)(T)(i).

(f) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—Section 245 of such Act (8 U.S.C 1255) is amended by adding at the end the following new subsection: * * *

(g) ANNUAL REPORTS.—On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), or who were unable to adjust their status under section 245(l) of such Act, solely on account of the unavailability of visas due to a limitation imposed by section 214(o)(2)[22] or 245(l)(4)(A) of such Act.

SEC. 108.[23] MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) MINIMUM STANDARDS.—For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

[22] Sec. 8(b)(2) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2887) struck out "214(n)(1)" and inserted in lieu thereof "214(o)(2)".

[23] 22 U.S.C. 7106.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) CRITERIA.—In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country.[24] After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.[25]

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the

[24] Sec. 6(d)(1)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2881) struck out "that take place wholly or partly within the territory of the country" and inserted in lieu thereof ", and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country".

[25] Sec. 6(d)(1)(B) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2882) added text to this point beginning at "After reasonable requests".

country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences[26] public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking. After reasonable requests from the Department of State for data regarding such investigations, prosecutions, convictions, and sentences, a government which does not provide such data consistent with its resources shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.[27]

(8)[28] Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.

(9)[28] Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts.

(10)[28] Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

SEC. 109. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

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[26] Sec. 6(d)(2)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2882) struck out "and prosecutes" and inserted in lieu thereof ", prosecutes, convicts, and sentences".

[27] Sec. 6(d)(2)(B) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2882) added text to this point beginning at "After reasonable requests".

[28] Sec. 6(d)(3) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2882) added paras. (8) through (10).

"SEC. 134.[29] ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.
* * *

SEC. 110.[30] ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) STATEMENT OF POLICY.—It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

(1) does not comply with minimum standards for the elimination of trafficking; and

(2) is not making significant efforts to bring itself into compliance with such standards.

(b) REPORTS TO CONGRESS.—

(1)[31] ANNUAL REPORT.—Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons that shall include—

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[29] 22 U.S.C. 2152d.

[30] 22 U.S.C. 7107. On September 10, 2004, the President issued the following (Presidential Determination No. 2004–46; 69 F.R. 56155):

"Consistent with section 110 of the Trafficking Victims Protection Act of 2000 (Division A of Public Law 106–386), as amended, (the "Act"), I hereby:

"Make the determination provided in section 110(d)(1)(A)(i) of the Act, with respect to Equatorial Guinea and Venezuela, not to provide certain funding for those countries' governments for fiscal year 2005, until such government complies with the minimum standards or makes significant efforts to bring itself into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

"Make the determination provided in section 110(d)(1)(A)(ii) of that Act, with respect to Burma, Cuba. Sudan, and North Korea, not to provide certain funding for those countries' governments for fiscal year 2005, until such government complies with the minimum standards or makes significant efforts to bring itself into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

"Make the determination provided in section 110(d)(3) of that Act, concerning the determinations of the Deputy Secretary of State with respect to Bangladesh, Ecuador, Guyana, and Sierra Leone;

"Determine, consistent with section 110(d)(4) of the Act, with respect to Equatorial Guinea, for the implementation of programs, projects, or activities regarding police professionalization, business responsibility, and promotion of the rule of law, that provision to Equatorial Guinea of the assistance described in section 110(d)(1)(A)(i) of the Act for such programs, projects, or activities would promote the purposes of the Act or is otherwise in the national interest of the United States;

"Determine, consistent with section 110(d)(4) of the Act, with respect to Sudan, for all programs, projects, or activities of assistance as may be necessary to implement a North/South peace accord and to address the crisis in Darfur, that provision to Sudan of the assistance described in section 110(d)(1)(B) of the Act for such programs, projects, or activities would promote the purposes of the Act or is otherwise in the national interest of the United States; and

"Determine, consistent with section 110(d)(4) of the Act, with respect to Venezuela, for all programs, projects, or activities designed to strengthen the democratic process, including strengthening of political parties and supporting electoral observation and monitoring, that provision to Venezuela of the assistance described in sections 110(d)(1)(A)(i) and 110(d)(1)(B) of the Act for such programs, projects, or activities would promote the purposes of the Act or is otherwise in the national interest of the United States.

"The certification required by section 110(e) of the Act is provided herewith.".

See Presidential Determination No. 2003–35 of September 9, 2003 (68 F.R. 53871) for fiscal year 2004.

[31] In June 2004, the Department of State issued its annual report pursuant to this section. The report established three tiers, organized to mirror sec. 110(b)(1)(A), (B) and (C):

Tier 1 countries, whose governments fully comply with minimum standards for the elimination of trafficking: Australia, Austria, Belgium, Canada, Colombia, Czech Republic, Denmark, France, Germany, Ghana, Hong Kong, Italy, Lithuania, Macedonia, Morocco, The Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Spain, Sweden, Taiwan, and the United Kingdom.

Tier 2 countries, whose governments do not yet fully comply with minimum standards but are making significant efforts: Afghanistan, Albania, Angola, Argentina, Armenia, Bahrain, Belarus, Benin, Bosnia-Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Chile, China, Costa Rica, Egypt, El Salvador, Finland, The Gambia, Guinea, Hungary, Indonesia, Iran, Israel, Kuwait, Kyrgyz Republic, Latvia, Lebanon, Malaysia, Mali, Mauritius, Moldova, Mozambique, Nepal, Nicaragua, Niger, Panama, Romania, Rwanda, Saudi Arabia,

Continued

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) INTERIM REPORTS.—In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance, since the transmission of the last annual report.

(3)[32] SPECIAL WATCH LIST.—

(A) SUBMISSION OF LIST.—Not later than the date on which the determinations described in subsections (c) and (d) are submitted to the appropriate congressional committees in accordance with such subsections, the Secretary of State shall submit to the appropriate congressional committees a list of countries that the Secretary determines requires special scrutiny during the following year. The list shall be composed of the following countries:

(i) Countries that have been listed pursuant to paragraph (1)(A) in the current annual report and were listed pursuant to paragraph (1)(B) in the previous annual report.

(ii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report and were listed pursuant to paragraph (1)(C) in the previous annual report.

Singapore, Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Togo, Uganda, Ukraine, United Arab Emirates, and Uzbekistan.

Tier 2 watch list: Azerbaijan, Belize, Bolivia, Cote d'Ivoire, Croatia, Cyprus, Democratic Republic of Congo, Dominican Republic, Estonia, Ethiopia, Gabon, Georgia, Greece, Guatemala, Honduras, India, Jamaica, Japan, Kazakhstan, Kenya, Laos, Madagascar, Malawi, Mauritania, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, Qatar, Russia, Senegal, Serbia-Montenegro, Suriname, Tajikistan, Tanzania, Thailand, Turkey, Vietnam, Zambia, and Zimbabwe.

Tier 3 countries, whose governments do not fully comply with minimum standards and are not making significant efforts: Bangladesh, Burma, Cuba, Ecuador, Guyana, North Korea, Sierra Leone, Sudan, and Venezuela.

[32] Sec. 6(e) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2882) redesignated para. (3) as para. (4), and added a new para. (3).

(iii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report, where—

(I) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

(II) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or

(III) the determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

(B) INTERIM ASSESSMENT.—Not later than February 1st of each year, the Secretary of State shall provide to the appropriate congressional committees an assessment of the progress that each country on the special watch list described in subparagraph (A) has made since the last annual report.

(C) RELATION OF SPECIAL WATCH LIST TO ANNUAL TRAFFICKING IN PERSONS REPORT.—A determination that a country shall not be placed on the special watch list described in subparagraph (A) shall not affect in any way the determination to be made in the following year as to whether a country is complying with the minimum standards for the elimination of trafficking or whether a country is making significant efforts to bring itself into compliance with such standards.

(4)[32] SIGNIFICANT EFFORTS.—In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) NOTIFICATION.—Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional

committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report—

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) PRESIDENTIAL DETERMINATIONS.—The determinations referred to in subsection (c) are the following:

(1) WITHHOLDING OF NONHUMANITARIAN, NONTRADE-RELATED ASSISTANCE.—The President has determined that—

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) ONGOING, MULTIPLE, BROAD-BASED RESTRICTIONS ON ASSISTANCE IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) SUBSEQUENT COMPLIANCE.—The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST.—Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination

of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian, nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs,[33] or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) EXERCISE OF WAIVER AUTHORITY.—

(A) IN GENERAL.—The President may exercise the authority under paragraph (4) with respect to—

(i) all nonhumanitarian, nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs[34] to a country;

(ii) all multilateral assistance described in paragraph (1)(B) to a country; or

(iii) one or more programs, projects, or activities of such assistance.

(B) AVOIDANCE OF SIGNIFICANT ADVERSE EFFECTS.—The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) DEFINITION OF MULTILATERAL DEVELOPMENT BANK.—In this subsection, the term "multilateral development bank" refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) CERTIFICATION.—Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 103(7)(A), or with respect to any assistance described in section 103(7)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

(f)[35] After the President has made a determination described in subsection (d)(1) with respect to the government of a country, the President may at any time make a determination described in paragraphs (4) and (5) of subsection (d) to waive, in whole or in part, the measures imposed against the country by the previous determination under subsection (d)(1).

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[33] Sec. 6(h)(1) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2884) inserted "or funding for participation in educational and cultural exchange programs" after "nonhumanitarian, nontrade-related foreign assistance".

[34] Sec. 6(h)(2) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2884) inserted "or funding for participation in educational and cultural exchange programs" after "foreign assistance".

[35] Sec. 6(i) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2884) added subsec. (f).

SEC. 111.[36] ACTIONS AGAINST SIGNIFICANT TRAFFICKERS IN PERSONS.

(a) AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following persons:

(A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

(b) REPORT TO CONGRESS ON IDENTIFICATION AND SANCTIONING OF SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—Upon exercising the authority of subsection (a), the President shall report to the appropriate congressional committees—

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) REMOVAL OF SANCTIONS.—Upon suspending or terminating any action imposed under the authority of subsection (a), the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) SUBMISSION OF CLASSIFIED INFORMATION.—Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

(c) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED.—Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(d) EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph: * * *

[36] 22 U.S.C. 7108.

(e) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a).

(2) PROMULGATION OF RULES AND REGULATIONS.—The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) OPPORTUNITY FOR REVIEW.—Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a).

(f) DEFINITION OF FOREIGN PERSONS.—In this section, the term "foreign person" means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) CONSTRUCTION.—Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a).

SEC. 112.[37] STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.

(a) TITLE 18 AMENDMENTS.—Chapter 77 of title 18, United States Code, is amended—

(1) in each of sections 1581(a), 1583, and 1584—

(A) by striking "10 years" and inserting "20 years"; and

(B) by adding at the end the following: "If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.";

(2) by inserting at the end the following: * * *[38]

(b) AMENDMENT TO THE SENTENCING GUIDELINES.—

(1) Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

[37] 22 U.S.C. 7109.
[38] See 18 U.S.C., next entry in this volume.

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

SEC. 112A.[39] RESEARCH ON DOMESTIC AND INTERNATIONAL TRAFFICKING IN PERSONS.

The President, acting through the Council of Economic Advisors, the National Research Council of the National Academies, the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, the Secretary of State, the Administrator of the United States Agency for International Development, and the Director of Central Intelligence, shall carry out research, including by providing grants to nongovernmental organizations, as well as relevant United States Government agencies and international organizations, which furthers the purposes of this division and provides data to address the problems identified in the findings of this division. Such research initiatives shall, to the maximum extent practicable, include, but not be limited to, the following:

(1) The economic causes and consequences of trafficking in persons.

(2) The effectiveness of programs and initiatives funded or administered by Federal agencies to prevent trafficking in persons and to protect and assist victims of trafficking.

(3) The interrelationship between trafficking in persons and global health risks.

SEC. 113.[40] AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS IN SUPPORT OF THE TASK FORCE.—To carry out the purposes of sections 104, 105(e), 105(f)[41]

[39] 22 U.S.C. 7109a. Added by sec. 6(g)(1) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2883).

[40] 22 U.S.C. 7110.

[41] Sec. 7(1)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2884) struck out "105" and inserted in lieu thereof "105(e), 105(f)".

and 110, there are authorized to be appropriated to the Secretary of State $1,500,000 for fiscal year 2001, $3,000,000 for each of the fiscal years 2002 and 2003, and $5,000,000 for each of the fiscal years 2004 and 2005.[42]

(b) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Health and Human Services $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 and $15,000,000 for each of the fiscal years 2004 and 2005.[43]

(c) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF STATE.—

(1)[44] BILATERAL ASSISTANCE TO COMBAT TRAFFICKING.—

(A) PREVENTION.—To carry out the purposes of section 106, there are authorized to be appropriated to the Secretary of State $10,000,000 for each of the fiscal years 2004 and 2005.

(B) PROTECTION.—To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State $15,000,000 for fiscal year 2003 and $10,000,000 for each of the fiscal years 2004 and 2005.

(C) PROSECUTION AND MEETING MINIMUM STANDARDS.—To carry out the purposes of section 134 of the Foreign Assistance Act of 1961, there are authorized to be appropriated $10,000,000 for each of the fiscal years 2004 and 2005 to assist in promoting prosecution of traffickers and otherwise to assist countries in meeting the minimum standards described in section 108 of this Act, including $250,000 for each such fiscal year to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies.

(2) VOLUNTARY CONTRIBUTIONS TO OSCE.—To carry out the purposes of section 109, there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001 through 2005[45] $300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the

[42] Sec. 7(1)(B) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2884) struck out "and $3,000,000 for each of the fiscal years 2002 and 2003" and inserted in lieu thereof ", $3,000,000 for each of the fiscal years 2002 and 2003, and $5,000,000 for each of the fiscal years 2004 and 2005".

Previously, sec. 682(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "for fiscal year 2002" and inserted in lieu thereof "for each of the fiscal years 2002 and 2003".

[43] Sec. 7(2) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) inserted "and $15,000,000 for each of the fiscal years 2004 and 2005".

[44] Sec. 7(3)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) amended and restated para. (1). It previously read as follows:

"(1) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State $5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003.".

Previously, sec. 682(b)(2)(A) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), amended para. (1) as originally enacted to authorize appropriations of $15,000,000 for fiscal year 2003.

[45] Sec. 7(3)(B) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) struck out "for each of the fiscal years 2001, 2002, and 2003" and inserted in lieu thereof "for each of the fiscal years 2001 through 2005".

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Organization for Security and Cooperation in Europe participating states in related legal reform for such fiscal year.[46]

(3) PREPARATION OF ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS.—To carry out the purposes of section 104, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices, including the preparation and publication of the list described in subsection (a)(1) of that section.

(d) AUTHORIZATION OF APPROPRIATIONS TO ATTORNEY GENERAL.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Attorney General $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 and $15,000,000 for each of the fiscal years 2004 and 2005.[47] To carry out the purposes of section 134 of the Foreign Assistance Act of 1961 (as added by section 109), there are authorized to be appropriated to the President, acting through the Attorney General and the Secretary of State, $250,000 for each of fiscal years 2004 and 2005 to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies.[48]

(e) AUTHORIZATION OF APPROPRIATIONS TO PRESIDENT.—

(1) FOREIGN VICTIM ASSISTANCE.—To carry out the purposes of section 106, there are authorized to be appropriated to the President $5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $15,000,000 for each of the fiscal years 2003 through 2005.[49]

(2) ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.—To carry out the purposes of section 109, there are authorized to be appropriated to the President $5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $15,000,000 for each of the fiscal years 2003 through 2005.[49]

(3)[50] RESEARCH.—To carry out the purposes of section 112A, there are authorized to be appropriated to the President $300,000 for fiscal year 2004 and $300,000 for fiscal year 2005.

(f) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF LABOR.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Labor $5,000,000 for

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Previously, sec. 682(b)(2)(B)(i) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "there are authorized to be appropriated to the Secretary of State" and inserted in lieu thereof "there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001, 2002, and 2003".

[46] Sec. 682(b)(2)(B)(ii) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "for fiscal year 2001" and inserted in lieu thereof "for such fiscal year".

[47] Sec. 7(4)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) added "and $15,000,000 for each of the fiscal years 2004 and 2005".

[48] Sec. 7(4)(B) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) added text beginning at "To carry out the provisions".

[49] Sec. 7(5)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) struck out "for fiscal year 2003" and inserted in lieu thereof "for each of the fiscal years 2003 through 2005".

Previously, sec. 682(b)(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "and $10,000,000 for fiscal year 2002" each place it appeared and inserted in lieu thereof ", $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003".

[50] Sec. 7(5)(B) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) added para. (3).

fiscal year 2001 and $10,000,000 for fiscal year 2002 and $10,000,000 for each of the fiscal years 2004 and 2005.[51]

(g)[52] LIMITATION ON USE OF FUNDS.—

(1) RESTRICTION ON PROGRAMS.—No funds made available to carry out this division, or any amendment made by this division, may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to promote the purposes of this Act by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

(2) RESTRICTION ON ORGANIZATIONS.—No funds made available to carry out this division, or any amendment made by this division, may be used to implement any program that targets victims of severe forms of trafficking in persons described in section 103(8)(A) of this Act through any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.

* * * * * * *

[51] Sec. 7(6) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) added "and $10,000,000 for each of the fiscal years 2004 and 2005".

[52] Sec. 7(7) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2885) added subsec. (g).

(3) 18 United States Code—Trafficking in Persons

§ 1589.[1] Forced labor

Whoever knowingly provides or obtains the labor or services of a person—

(1) by threats of serious harm to, or physical restraint against, that person or another person;

(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

§ 1590.[1] Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

§ 1591.[1] Sex trafficking of children or by force, fraud,[2] or coercion

(a) Whoever knowingly—

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States,[3] recruits, entices, harbors, transports, provides, or obtains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

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[1] Added by sec. 112(a) of the Trafficking Victims Protection Act of 2000 (Public Law 106–386; 114 Stat. 1464).

[2] Sec. 5(a)(1) of Public Law 108–193 (117 Stat. 2879) inserted a comma after "**fraud**".

[3] Sec. 5(a)(2) of Public Law 108–193 (117 Stat. 2879) struck out "in or affecting interstate commerce" and inserted in lieu thereof "in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States".

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is—

(1) if the offense was effected by force, fraud, or coercion or if the person recruited, enticed, harbored, transported, provided, or obtained[4] had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained[4] had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 40[5] years, or both.

(c) In this section:

(1) The term "commercial sex act" means any sex act, on account of which anything of value is given to or received by any person.

(2) The term "coercion" means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term "venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

§ 1592.[1] Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—

(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when

[4] Sec. 5(a)(3) of Public Law 108–193 (117 Stat. 2879) struck out "the person transported" and inserted in lieu thereof "the person recruited, enticed, harbored, transported, provided, or obtained".

[5] Sec. 103(a)(3) of the Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2003 (Public Law 108–21; 117 Stat. 653) struck out "20" and inserted in lieu thereof "40".

the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be fined under this title or imprisoned for not more than 5 years, or both.

(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

§ 1593.[1] Mandatory restitution

(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.

(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) As used in this subsection, the term "full amount of the victim's losses" has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

(c) As used in this section, the term "victim" means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

§ 1594.[1] General provisions

(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States—

(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

(c)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

(d) WITNESS PROTECTION.—Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).

§ Sec. 1595.[6] Civil remedy

(a) An individual who is a victim of a violation of section 1589, 1590, or 1591 of this chapter may bring a civil action against the perpetrator in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

(b)(1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

(2) In this subsection, a "criminal action" includes investigation and prosecution and is pending until final adjudication in the trial court.

[6] Added by sec. 4(a)(4)(A) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193; 117 Stat. 2878).

(4) President's Interagency Task Force to Monitor and Combat Trafficking in Persons

Executive Order 13257[1] of February 13, 2002 (67 F.R. 7259); amended by Executive Order 13286 of February 28, 2003 (68 F.R. 10619); and by Executive Order 13333 of March 18, 2004 (69 F.R. 13455)

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trafficking Victims Protection Act of 2000, (22 U.S.C. 7101 *et seq.*)[2] (the "Act"), and section 301 of title 3, United States Code,[3] and in order to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims, it is hereby ordered as follows:

Section 1. (a) The President's Interagency task Force to Monitor and Combat Trafficking in Persons is hereby established.

(b) The Task Force shall consist of:

(i) the Secretary of State;

(ii) the Attorney General;

(iii) the Secretary of Labor;

(iv) the Secretary of Health and Human Services;

(v) the Secretary of Homeland Security;[4]

(vi) the Director of Central Intelligence;

(vii) the Director of the Office of Management and Budget;

(viii) the Administrator of the United States Agency for International Development; and

(ix) any additional officers or employees of the United States as may be designated by the President.

(c) The Task Force shall be chaired by the Secretary of State.

Sec. 2. *Activities*. The Task Force shall, consistent with applicable law and the constitutional authorities and duties of the President, carry out the following activities:

(a) coordinate the implementation of the Act;

(b) measure and evaluate progress of the United States and other countries in the areas of trafficking in persons prevention, protection, and assistance to victims of trafficking in persons, and prosecutions and other enforcement efforts against traffickers, including the role of public corruption in facilitating trafficking in persons;

(c) assist the Secretary of State in the preparation of the annual reports described in section 110 of the Act;

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[1] 22 U.S.C. 7103 note.

[2] Sec. 1(a) of Executive Order 13333 (March 18, 2004; 69 F.R. 13455) struck out "7103" and inserted in lieu thereof "7101 *et seq.*".

[3] Sec. 1(b) of Executive Order 13333 (March 18, 2004; 69 F.R. 13455) inserted "and section 301 of title 3, United States Code,".

[4] Added by sec. 5 of Executive Order 13286 (68 F.R. 10619), which then redesignated the clauses that followed the amendment.

(d) expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking in persons, while ensuring that any data collection procedures involved, respect the confidentiality of victims of trafficking in persons;

(e) engage in efforts to facilitate cooperation among countries of origin, transit, and destination, and such efforts shall aim to strengthen local and regional capacities to prevent trafficking in persons, prosecute traffickers and assist trafficking victims; shall include initiatives to enhance cooperative efforts between destination countries, transit countries, and countries of origin; and shall assist in the appropriate reintegration of stateless victims of trafficking in persons;

(f) examine the role of the international "sex tourism" industry in the trafficking of persons and in the sexual exploitation of women and children around the world;

(g) engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of the Act; and

(h) address such other matters related to the purposes of the Act as the President may determine.

Sec. 3. *Administration.* (a) The Department of State shall provide funding and administrative support for the Task Force, except as otherwise provided by the Act.

(b) At the call of the Chair, the Task Force shall meet as necessary to accomplish its mission.

(c) Task Force members may designate representatives from their respective agencies to represent them at Task Force meetings.

(d) Whenever the work of the Task Force involves a matter committed by law or Presidential directive to the consideration of the National Security Council, or by Executive Order 13228 of October 8, 2001, to the consideration of the Homeland Security Council, that work shall be undertaken, and any communication by the Secretary of State to the President shall be undertaken, in a manner consistent with such law, Presidential directive, or Executive Order.

(e) The Task Force shall have no directive authority or other substantial independent authority.

(f) As necessary and appropriate, the Task Force shall report to the President, through the Secretary of State, the following:

(i) progress on the implementation of the Act, and

(ii) recommendations for United States policy to monitor and eliminate trafficking in persons and to protect the victims of trafficking in persons.

Sec. 4.[5] *Guidelines, Policies, and Regulations.* (a) The Senior Policy Operating Group (SPOG), described in subsection 105(f) of the Act, shall (i) establish guidelines and policies to coordinate the activities of executive branch departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and (ii) advise the Secretary of State what regulations may be necessary to implement section 105 of the Act, including such regulations as may be necessary to carry out

[5] Sec. 3 of Executive Order 13333 (March 18, 2004; 69 F.R. 13455) added secs. 4 through 7.

the sharing of information on all matters relating to grants, grant policies, or other significant actions regarding the international trafficking in persons as set forth in subsection 105(f)(4) of the Act, to the extent permitted by law.

(b) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall promulgate regulations to implement section 105 of the Act.

Sec. 5.[5] *Enhanced Prevention of Trafficking in Persons.* (a) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall carry out the functions under subsection 106(c) and subsection 106(d) of the Act.

(b) The Secretary of State shall have the authority to determine, under section 106(e)(1) of the Act, foreign destinations where sex tourism is significant. The Secretary of Homeland Security, in consultation with the members of the Task Force or their representatives and appropriate officials of the Departments of Commerce and Transportation, shall carry out all other functions under subsection 106(e) of the Act, including promulgation of any appropriate regulations relating to the distribution of the materials described in subsec. 106(e).

(c) The head of each executive branch agency responsible for the establishment and conduct of initiatives and programs described in subsections 106(a) through (e) of the Act shall consult with appropriate nongovernmental organizations consistent with section 106(f) of the Act.

(d) The Secretary of State shall have responsibility to initiate appropriate regulatory implementation of the requirements set out in section 106(g) of the Act with respect to contracts, including proposing appropriate amendments to the Federal Acquisition Regulation. Each affected executive branch department or agency shall implement, within that department or agency, the requirements set out in section 106(g) of the Act with respect to grants and cooperative agreements.

Sec. 6.[5] *Research on Trafficking in Persons.* The entities named in section 112A of the Act shall carry out the research initiatives required by section 112A of the Act, and shall award grants according to such policies and guidelines as may be established by the SPOG described in section 105(f) of the Act, as well as any applicable agency rules and regulations.

Sec. 7.[5] *Guidance for Exercising Authority and Performing Duties.* In exercising authority delegated by, or performing functions assigned in, this order, officers of the United States shall ensure that all actions taken by them are consistent with the President's constitutional authority to:

(a) conduct the foreign affairs of the United States;

(b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties;

(c) recommend for congressional consideration such measures as the President may judge necessary or expedient; and

(d) supervise the unitary Executive Branch.

Sec. 8.[6] *Judicial Review*. This order does not create any rights or benefits, enforceable at law or equity, against the Untied States, its departments, its agencies, or other entities, its officers or employees, or any other person.

[6] Originally sec. 4; redesignated as sec. 8 by sec. 2 of Executive Order 13333 (March 18, 2004; 69 F.R. 13455).

l. Jobs Through Trade Expansion Act of 1994

Partial text of Public Law 103–392 [H.R. 4950], 108 Stat. 4098, approved October 22, 1994

NOTE.—Except for the provisions noted below, the Jobs Through Trade Expansion Act of 1994 consists of amendments to the Foreign Assistance Act of 1961, Export Administration Amendments Act of 1985, and Export Enhancement Act of 1988. These amendments have been incorporated into those Acts at the appropriate locations.

AN ACT To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Jobs Through Trade Expansion Act of 1994".

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TITLE V—INTERNATIONAL PROTECTION OF INTELLECTUAL PROPERTY

SEC. 501.[2] ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—In carrying out part I of the Foreign Assistance Act of 1961 and other relevant foreign assistance laws, the President, acting through the Administrator of the United States Agency for International Development, shall establish a program of training and other technical assistance to assist foreign countries in—

(1) developing and strengthening laws and regulations to protect intellectual property; and

(2) developing the infrastructure necessary to implement and enforce such laws and regulations.

(b) PARTICIPATION OF OTHER AGENCIES.—The Administrator of the United States Agency for International Development—

(1) shall utilize the expertise of the Patent and Trademark Office and other agencies of the United States Government in designing and implementing the program of assistance provided for in this section;

[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2151t–1.

(2) shall coordinate assistance under this section with efforts of other agencies of the United States Government to increase international protection of intellectual property, including implementation of international agreements containing high levels of protection of intellectual property; and

(3) shall consult with the heads of such other agencies in determining which foreign countries will receive assistance under this section.

m. Jobs Through Exports Act of 1992

Partial text of Public Law 102–549 [H.R. 4996], 106 Stat. 3651, approved October 28, 1992; amended by Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995

NOTE.—Except for the provisions noted below, the Jobs Through Exports Act of 1992 consists of amendments to the Foreign Assistance Act of 1961, Trade and Development Enhancement Act of 1983, Agricultural Trade Development and Assistance Act of 1954, and 5 USC. These amendments have been incorporated into those Acts and sections of the USC at the appropriate locations.

AN ACT To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Jobs Through Exports Act of 1992".

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TITLE II—TRADE AND DEVELOPMENT AGENCY

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SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a)[2] RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section, be known as the Trade and Development Agency.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) * * *

(d) * * *

(e)[2] REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2421 note.

TITLE III—AID, TRADE, AND COMPETITIVENESS

SEC. 301.[3] SHORT TITLE.

This title may be cited as the "Aid, Trade, and Competitiveness Act of 1992".

SEC. 302.[4] CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of AID shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), in coordination with the appropriate members of the Trade Promotion Coordination Committee—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall ensure that each capital project for which AID provides funding is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid purposes; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infra-

[3] 22 U.S.C. 2421a note.
[4] 22 U.S.C. 2421a.

structure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act.

SEC. 303.[5] CAPITAL PROJECTS FOR POVERTY ALLEVIATION AND ENVIRONMENTAL SAFETY AND SUSTAINABILITY.

(a) PURPOSES.—The Administrator of AID shall develop a program, in accordance with subsection (b), that focuses on developmentally sound capital projects for basic infrastructure that will measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level, taking into consideration development needs of the host country and export opportunities for services and goods from the United States.

(b) ACTIVITIES OF AID.—In order to carry out subsection (a), the Administrator of AID shall, working with AID technical support staff, regional bureau staff, and country missions, identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level in countries receiving assistance under part I of the Foreign Assistance Act of 1961. Such projects may include basic sanitation systems, basic water supply and treatment, pollution control, and rural infrastructure benefiting poor communities or establishing environmentally sustainable patterns of rural development. Such projects should have measurable positive effects on indicators of human and environmental health.

SEC. 304.[6] COORDINATION.

The President shall use the Trade Promotion Coordination Committee to coordinate activities under this title with other relevant activities of the United States Government.

SEC. 305.[3] REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support the projects described in this title in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 304; and

[5] 22 U.S.C. 2421b.
[6] 22 U.S.C. 2421c.

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

SEC. 306.[7] FUNDING FOR CAPITAL PROJECTS.

(a) FUNDING LEVEL.—The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1993 and at least $700,000,000 for fiscal year 1994 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Support for East European Democracy (SEED) Act of 1989, assistance under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, and assistance under the Multilateral Assistance Initiative for the Philippines, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

(b) DEVELOPMENT ASSISTANCE CAPITAL PROJECTS.—Funds appropriated to carry out chapter 1 or chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to development assistance and the Development Fund for Africa) may not be used for capital projects that do not meet the criteria contained in section 303 of this Act. This subsection does not apply with respect to capital projects for which funds have been obligated or expended before the date of the enactment of this Act.

SEC. 307.[3] REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

SEC. 308.[8] DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development; and

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services.

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401.[9] UNITED STATES COMMERCIAL CENTERS.

(a) ESTABLISHMENT.—The Secretary of Commerce, in his or her role as chairperson of the Trade Promotion Coordinating Committee, is authorized and encouraged to establish United States

[7] 22 U.S.C. 2421d.
[8] 22 U.S.C. 2421e.
[9] 22 U.S.C. 4723a.

Commercial Centers (hereinafter in this section referred to as "Centers") in Asia, in Latin America, and in Africa.

(b) PURPOSE OF THE CENTERS.—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) FUNCTIONS OF THE CENTERS.—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) SPECIFIC SERVICES TO BE PROVIDED.—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) BUSINESS FACILITIES.—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impeding deficiencies in the public system, high quality international telecommunications facilities.

(2) BUSINESS SERVICES.—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) COMMERCIAL LAW INFORMATION SERVICES.—Commercial law information services, including—

(A) a clearinghouse for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) OTHER TRADE PROMOTION ACTIVITIES.—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) STAFFING OF CENTERS.—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, and

employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee.

(g) CENTER FACILITIES AND THEIR RELATIONSHIP TO UNITED STATES DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—

(1) PHYSICAL ACCOMMODATIONS FOR THE CENTERS.—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) CONSOLIDATION OF DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities.

(h) USE OF MARKET DEVELOPMENT COOPERATOR PROGRAM.—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $8,000,000 for fiscal year 1993, and $5,500,000 for fiscal year 1994. Funds made available under this subsection may be used for the acquisition of real property.

(j)[10] * * * [Repealed—1995]

(k) DEFINITIONS.—For purposes of this section—

(1) the term "United States exporter" means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State, or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

[10] Sec. 1021(b) of Public Law 104–66 (109 Stat. 707) repealed subsec. (j), which had required the Secretary of Commerce to report annually to the House Committee on International Relations and the Senate Committee on Banking, Housing, and Urban Affairs on the status, activities, and effectiveness of the Centers.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501.[11] ADDITIONAL PROCUREMENT OFFICERS.

(a) APPOINTMENT.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint one or more full-time additional procurement officers, for each multilateral development bank, to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) DEFINITION.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $1,000,000 for each of the fiscal years 1993 and 1994 to carry out this section. Amounts appropriated pursuant to this subsection shall be available only for the purpose of making the appointment of additional procurement officers required by subsection (a).

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601.[12] SHORT TITLE.

This title may be cited as the "Enterprise for the Americas Act of 1992".

* * * * * * *

SEC. 604.[13] INTERNATIONAL UNIVERSITY FOR THE AMERICAS.

(a) PURPOSE.—The purpose of this section is to promote economic integration and the consolidation and strengthening of democratic

[11] 22 U.S.C. 262s–2 note.

[12] 22 U.S.C. 2151 note. Title VI, sec. 602, amended the Foreign Assistance Act of 1961, adding a new Part IV—Enterprise for the Americas Initiative, codified at 22 U.S.C. 2430.

[13] 22 U.S.C. 2077.

institutions in the Western Hemisphere, and to commemorate the 500th anniversary of the discovery of the Americas by Christopher Columbus through the establishment of an institution of higher education, which shall be known as the "International University for the Americas".

(b) ESTABLISHMENT.—The Secretary of State, in consultation with other governments in the Western Hemisphere, shall determine the most appropriate location for the International University for the Americas. In making that determination, the Secretary shall ensure that—

(1) the location chosen is in the Americas and is easily accessible to all peoples in the region; and

(2) the relevant government—

(A) has demonstrated a commitment to economic integration and democratic values though its policies and programs; and

(B) has expressed an interest in that location being chosen as a site and has agreed to contribute some amount of assistance, either in cash or kind, toward the costs of developing the institution.

(c) FACULTY, STUDENTS, AND CURRICULUM.—In developing the bylaws of the International University for the Americas, the Secretary of State shall ensure that they contain provisions to ensure that faculty and students are drawn from all the nations in the Western Hemisphere, and that the curriculum is designed to develop expertise in fields that will promote the economic integration of the Americas and the consolidation of democracy throughout the Hemisphere.

(d) ANNUAL REPORT.—The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a progress report on the selection of a site and design for the establishment of the International University for the Americas.

(e) FUNDING.—Of the funds that are allocated for assistance for Latin America and the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 4 of part II of that Act (relating to the economic support fund), $500,000 may be made available to carry out the site location and design phase of the International University for the Americas.

TITLE VII—TRADE PROMOTION EXPANSION

SEC. 701. INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1993 and 1994 for use by the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service in accordance with subsection (b).

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for placing and maintaining 20 additional Commercial Service Officers abroad. The Secretary of Commerce, acting through the Assistant Secretary of Commerce

and Director General of the United States and Foreign Commercial Service, may place such additional Commercial Service Officers—

(1) in countries with which the United States has the largest trade deficit, and

(2) in newly emerging market economy countries, with democratically elected governments, in Central and Eastern Europe and elsewhere.

(c) REPORT TO CONGRESS.—The Secretary of Commerce, acting through the Assistant Secretary of Commerce and the Director General of the United States and Foreign Commercial Service, shall, not later than December 31, 1994, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of subsection (b). Each report shall specify—

(1) in what countries the additional Commercial Service Officers were placed, and the number of such officers placed in each such country; and

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to the countries in which such officers were placed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801.[14] IMPACT ON EMPLOYMENT IN THE UNITED STATES.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States, if such incentive or inducement is likely to reduce the number of employees in the United States because United States production is being replaced by such enterprise outside the United States.

SEC. 802.[14] INTERNATIONALLY RECOGNIZED WORKER RIGHTS.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone in that country.

[14] 22 U.S.C. 2151 note.

n. Overseas Private Investment Corporation Amendments Act of 1988

Partial text of S. 2757, enacted into law by reference in sec. 555, Public Law 100–461 [H.R. 4637], 102 Stat. 2268–36, approved October 1, 1988 [1]

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SECTION 1. SHORT TITLE.

This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1988".

* * * * * * *

SEC. 109. SMALL AND MINORITY-OWNED BUSINESSES.

(a) FINDINGS.—The Congress finds that—

(1) the Overseas Private Investment Corporation has a consistent record of encouraging United States business investment in the world's developing countries;

(2) 62 percent of the open projects supported by the Corporation during fiscal year 1987 were located in the poorest of developing countries; and

(3) United States small businesses participated in 34 percent of the open projects supported by the Corporation during fiscal year 1987.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Overseas Private Investment Corporation should continue to encourage United States small businesses to invest in the world's developing countries; and

(2) the Corporation should continue to encourage United States small businesses that are minority-owned to invest in the world's developing countries as these businesses are well suited to the economic and social development needs of such countries.

* * * * * * *

[1] Sec. 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268–36), enacted into law by reference title I of H.R. 5263, as passed by the House of Representatives on September 20, 1988, and provided further: "That notwithstanding any other provision of this Act, titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law".

Title I of H.R. 5263 and title I of S. 2757, in large part, amended chapter 2, title IV of the FA Act of 1961. Sections 109 and 111, shown here, were freestanding provisions and were identical in both bills.

For text of title III of S. 2757 (concerning certain USIA programs), see *Legislation on Foreign Relations Through 2004*, vol. II, sec. E.

SEC. 111. OPIC PROGRAMS IN HAITI.

Prohibitions on United States assistance for Haiti during fiscal year 1988 shall not be construed to apply with respect to the Overseas Private Investment Corporation unless the prohibition specifically states that it applies with respect to the Overseas Private Investment Corporation.

o. Special Foreign Assistance Act of 1986

Partial text of Public Law 99–529 [S. 1917], 100 Stat. 3010, approved October 24, 1986; amended by Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B); H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT To promote immunization and oral rehydration in developing countries, to promote democracy in Haiti, to protect tropical forests and biological diversity in developing countries, to authorize increased funding for the Child Survival Fund and for international narcotics control assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Special Foreign Assistance Act of 1986".

TITLE I—PROMOTING IMMUNIZATION AND ORAL REHYDRATION IN DEVELOPING COUNTRIES

SEC. 101. FINDINGS.

The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that 3.5 million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) at the 1984 "Bellagio Conference" it was determined that the goal of universal childhood immunization by 1990 is indeed achievable; and

[1] 22 U.S.C. 2151 note.

(7) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program.

SEC. 102. UNITED STATES PARTICIPATION IN GLOBAL EFFORT.

(a) UNITED STATES GOVERNMENT SUPPORT.—The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(1) assisting in the delivery, distribution, and use of vaccines, including—

(A) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 percent of their annually projected target population with the full schedule of required immunizations; and

(B) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(2) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(b) PRIVATE SECTOR SUPPORT.—In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 103.[2] * * *

TITLE II—PROMOTING DEMOCRACY IN HAITI

SEC. 201. FINDINGS CONCERNING HAITI.

The Congress finds that—

(1) the establishment of an interim government in Haiti committed to a restoration of democracy provides Haiti with an opportunity to build the political, social, and economic institutions necessary to promote Haiti's development, to provide a better future for the people of Haiti, and to provide the framework for more effective mutual cooperation with the United States, Haiti's neighbor in the Caribbean, and the other nations of the Hemisphere;

(2) the magnitude of the political, economic, and social tasks facing the people of Haiti will make the achievement of a better future a difficult task which will require a determined and sustained effort by the Haitian people over a long period of

[2] Sec. 103 amended sec. 104(c) of the Foreign Assistance Act of 1961, fiscal year 1987 funding authorization for Child Survival Fund and development assistance for health.

time and will require significant external assistance from the United States and other donors; and

(3) it is in the interest of the United States to provide appropriate support for the development of Haiti, a close neighbor which is one of the world's poorest nations and which is committed to the establishment of a democratic government.

SEC. 202. ECONOMIC ASSISTANCE FOR HAITI.

(a) EARMARKING OF FUNDS.—Not less than $108,000,000 of the aggregate amounts available for fiscal year 1987 to carry out sections 103 through 106 of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 4 of part II of that Act (relating to the Economic Support Fund), and titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (relating to the Food for Peace Program) shall be available only for Haiti.

(b) USE OF DEVELOPMENT ASSISTANCE.—Assistance under sections 103 through 106 of the Foreign Assistance Act of 1961 which is provided for Haiti pursuant to subsection (a) shall be used to support a transition to democracy in Haiti, emphasizing foreign investment, job creation (especially in the private sector), rural development, health care and sanitation, small-scale irrigation, reforestation and land conservation, and literacy education. Such assistance should reflect the need to distribute development assistance resources more equitably among the various regions in Haiti in order to support sustainable development in all of Haiti.

(c) REQUIREMENT FOR SEGREGATED ACCOUNT FOR ECONOMIC SUPPORT ASSISTANCE FUNDS PAID TO GOVERNMENT OF HAITI.—Funds under chapter 4 of part II of the Foreign Assistance Act of 1961 which are made available for Haiti pursuant to subsection (a) may be paid to the Government of Haiti only if the Government of Haiti will maintain those funds in a separate account and not commingle them with other funds.

(d) CONDITIONS ON ECONOMIC SUPPORT AND DEVELOPMENT ASSISTANCE.—Funds may be obligated for assistance for Haiti under sections 103 through 106 of chapter 4 of part II of the Foreign Assistance Act of 1961 pursuant to subsection (a) only if the President determines that the interim Government of Haiti—

(1) is improving the human rights situation in Haiti;

(2) is implementing its timetable for completion of a new constitution that promotes genuine democratic reforms and guarantees the fundamental principles of democracy;

(3) is establishing a framework for free and open elections leading to a democratically-elected civilian government, which would include free and functioning political parties and associations, free labor unions, and freedom of the press;

(4) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years);

(5) is maintaining a system of fiscal accountability to ensure that all resources allocated to the development of Haiti are used in the most effective and efficient manner;

(6) is continuing its investigation of alleged human rights abuses and corruption by the Duvalier government and is prosecuting, in accordance with due process, those responsible for human rights abuses and corruption;

(7) is maintaining a free and independent judiciary system;

(8) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti; and

(9) is encouraging private sector development.

(e)[3] * * *

(f) ADDITIONAL ASSISTANCE FOR ECONOMIC DEVELOPMENT IN HAITI.—In order to assist economic development in Haiti, a Foreign Commercial Service officer should be assigned to the United States Embassy in Haiti.

SEC. 203. MILITARY TRAINING AND OTHER NONLETHAL ASSISTANCE FOR HAITI.

(a) AUTHORIZATION OF ASSISTANCE.—Up to $4,000,000 of the aggregate amounts available for fiscal year 1987 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), chapter 5 of part II of that Act (relating to international military education and training), and the Arms Export Control Act (relating to FMS assistance) may be made available for Haiti for education, training, and other nonlethal assistance (such as transportation equipment, communications equipment, and uniforms).

(b) CONDITIONS ON MILITARY ASSISTANCE.—Funds made available pursuant to subsection (a) may be obligated only if the President certifies to the Congress the following:

(1) The Government of Haiti has submitted a formal request to the United States specifying a comprehensive plan for the reform and reorganization of the mission, command, and control structures of the Haitian armed forces consistent with a transition to democracy, the rule of law, constitutional government, and an elected civilian government. Such a plan should include a publicly announced commitment by the armed forces of Haiti to abide by international human rights standards and adoption of a code of conduct to assure adherence to these standards.

(2) The Government of Haiti is making substantial efforts—

(A) to prevent the involvement of the Haitian armed forces in human rights abuses and corruption by removing from those forces and prosecuting, in accordance with due process, those military personnel responsible for the human rights abuses and corruption;

(B) to ensure that freedom of speech and assembly are respected;

(C) to conduct investigations into the killings of unarmed civilians in Gonaives, Martissant, and Fort Dimanche, to prosecute, in accordance with due process, those responsible for those killings, and to prevent any similar occurrences in the future;

[3] Subsec. (e) amended the Foreign Assistance Act of 1961, sec. 401(s)(2), fiscal year 1987 funding authorization for the Inter-American Foundation.

(D) to provide education and training to the Haitian armed forces with respect to internationally recognized human rights and the civil and political rights essential to democracy, in order to enable those forces to function consistent with those rights; and

(E) to take steps to implement the policy of the Government of Haiti requiring former members of the Volunteers for National Security (VSN) to turn in their weapons and to take the necessary actions to enforce this requirement.

(c)[4] * * * [Repealed—1998]

(d) NOTIFICATION TO CONGRESS.—Funds made available pursuant to subsection (a) may be obligated only if the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate are notified fifteen days in advance.

(e) RELATION TO EXISTING PROVISION.—Assistance under subsection (a) may be provided notwithstanding the limitations contained in section 705(e) of the International Security and Development Cooperation Act of 1985 and is in addition to the assistance allowed under that section.

SEC. 204. RECOVERY BY HAITI OF ASSETS STOLEN BY DUVALIER REGIME.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Haiti believes that former president-for-life Jean Claude Duvalier and other individuals associated with the Duvalier regime illegally diverted to their own use substantial amounts of the assets of the Government of Haiti:

(2) the Government of Haiti is attempting to locate and recover those assets through legal means;

(3) virtually every relevant jurisdiction, both in the United States and abroad, requires the posting of some form of security to secure the issuance of orders of attachment or other judicial seizures of property;

(4) the Government of Haiti is unable, without outside assistance, to post the necessary security because of its lack of assets;

(5) Haiti's economic situation could be significantly improved, and the need for external resources reduced, if the Government of Haiti is able to pursue its legal remedies against those who are in large part responsible for the economic crisis in Haiti; and

(6) the United States has a substantial foreign policy interest in helping the Government of Haiti recover any assets which were illegally diverted by those associated with the Duvalier regime.

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[4] Sec. 2219(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B of Public Law 105–277; 112 Stat. 2681), repealed subsec. (c), which had read as follows:

"(c) REPORTS.—Not later than three months after the President submits his certification under subsection (b) and every three months thereafter, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each of the objectives specified in subsection (b). Half of the assistance provided pursuant to subsection (a) shall be withheld from delivery until the President submits the first such report.".

(b) ACTIONS TO ASSIST HAITI.—The President shall exercise the authorities granted by section 203 of the International Emergency Economic Powers Act (50 U.S.C. App. 1702) to assist the Government of Haiti in its efforts to recover, through legal proceedings, assets which the Government of Haiti alleges were stolen by former president-for-life Jean Claude Duvalier and other individuals associated with the Duvalier regime. This subsection shall be deemed to satisfy the requirements of section 202 of that Act.

* * * * * * *

p. International Security and Development Cooperation Act of 1985

Partial text of Public Law 99–83 [S. 960], 99 Stat. 190, approved August 8, 1985 as amended by Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99–570 [Anti-Drug Abuse Act of 1986, H.R. 5484], 100 Stat. 3207, approved October 27, 1986; Public Law 99–591 [Continuing Appropriations Act, 1987; H.J. Res. 738], 100 Stat. 3341, approved October 30, 1986; Public Law 100–202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 101–246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102–145 [Further Continuing Appropriations, 1992; H.J. Res. 360], 105 Stat. 968, approved October 28, 1991; Public Law 103–149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103–272 [H.R. 1758], 108 Stat. 745, approved July 5, 1994; and by Public Law 105–277 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (division A, sec. 101(b)), and Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B); H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1985 consists of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act, the Peace Corps Act, Public Law 480, and to several former foreign aid annual authorization acts. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize international development and security assistance programs and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Security and Development Cooperation Act of 1985".

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TITLE I—MILITARY ASSISTANCE AND SALES AND RELATED PROGRAMS

SEC. 101. FOREIGN MILITARY SALES CREDITS.

(a) * * *
(b) * * *

(c) FMS FINANCING FOR ISRAEL.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,800,000,000 for fiscal year 1986[1] and not less than $1,800,000,000 for fiscal year 1987[2] shall be available only for Israel.

(2) Israel shall be released from its contractual liability to repay the United States Government with respect to the credits provided pursuant to paragraph (1).

(3) If the Government of Israel requests that funds be used for such purposes—

(A) up to $150,000,000 of the amount of credits made available for Israel pursuant to paragraph (1) for each of the fiscal years 1986 and 1987 shall be available for research and development in the United States for the Lavi[1] program, and

(B) not less than $250,000,000 of the amount of credits made available for Israel pursuant to paragraph (1) for each of the fiscal years 1986 and 1987 shall be available for the procurement in Israel of defense articles and defense services (including research and development) for the Lavi[1] program.

(d) FMS FINANCING FOR EGYPT.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,300,000,000 for fiscal year 1986[3] and not less than $1,300,000,000 for fiscal year 1987 shall be available only for Egypt.

(2) Egypt shall be released from its contractual liability to repay the United States Government with respect to the credits extended pursuant to paragraph (1).

(e) FMS FINANCING FOR GREECE.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, $500,000,000 for each of the fiscal years 1986[4] and 1987 shall be available only for Greece.

(2) For each of the fiscal years 1986 and 1987, of the total amount of credits extended for Greece under section 23 of the Arms Export Control Act, Greece shall receive the same proportion of credits extended at concessional rates of interest as the proportion

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[1] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of the Further Continuing Appropriations Act, 1986; Public Law 99–190; 99 Stat. 1301), provided that "not less than $1,800,000,000 shall be available only for Israel.". The Act further provided that: "if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel * * *".

[2] The Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99–591; 100 Stat. 3341–224), contained language identical to that cited in note 1 and provided further:

"That funds for the Lavi program shall be expended upon the Department of Defense's determination that the proposed contracts meet application technical standards: *Provided further,* That during fiscal year 1987, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,040,441,284: *Provided further,* That any funds made available by this paragraph, other than funds made available for Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act".

[3] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided an appropriation of $1,300,000,000 for Egypt, as did title III of the 1987 Act (Public Law 99–591; 100 Stat. 3341–224).

[4] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided $450,000,000 for Greece; the 1987 Act (Public Law 99–591; 100 Stat. 3341–225) appropriated $343,000,000 for Greece.

of credits extended at concessional rates of interest which Turkey receives out of the total amount of credits extended for Turkey under that section, and the average annual rate of interest on the credits extended for Greece at concessional rates of interest shall be comparable to the average annual rate of interest on the credits extended for Turkey at concessional rates of interest. Credits extended for Greece for each of the fiscal years 1986 and 1987 at concessional rates of interest shall not be counted toward any ceiling established by law on concessional financing under the Arms Export Control Act.

(f) FMS FINANCING AND MAP FOR TURKEY.—For each of the fiscal years 1986[5] and 1987, the aggregate total of financing under the Arms Export Control Act and assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 provided for Turkey may not exceed $714,280,000. Of this amount, up to $215,000,000 may be used for assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, with the understanding that the United States Government is acting with urgency and determination to oppose any actions aimed at effecting a permanent bifurcation of Cyprus.

* * * * * * *

SEC. 106. GUARANTY RESERVE FUND.

(a) REPORT ON REPLENISHMENT.—For the purpose of providing recommendations for improving the security interests of the United States and the friends and allies of the United States, the President shall prepare and transmit to the Congress within 90 days after the date of enactment of this Act a report which sets forth the history of United States foreign military sales financing under the Foreign Assistance Act of 1961 and the Arms Export Control Act. Such report shall include recommendations on replenishing the Guaranty Reserve Fund under section 24 of the Arms Export Control Act and recommendations on other matters agreed to in consultation with the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and of the Committee on Foreign Affairs of the House of Representatives.

* * * * * * *

SEC. 129.[6] CONVENTIONAL ARMS TRANSFERS.

(a) NEGOTIATIONS.—At the earliest possible date, the President should, in consultation with United States allies, initiate discussions with the Soviet Union and France aimed at beginning multilateral negotiations to limit and control the transfer of conventional arms to less developed countries.

(b) REPORT.—Within one year after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which specifies steps being taken to fulfill the requirements of subsection (a) and which examines and

[5] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided Foreign Military Sales appropriation of $427,852,000 for Turkey; the 1987 Act (Public Law 99–591; 100 Stat. 3341–225) appropriated $490,000 for Turkey.

[6] 22 U.S.C. 2751 note.

analyzes United States policies concerning the export of conventional arms, especially sophisticated weapons, and possible approaches to developing multilateral limitations on conventional arms sales. This report shall examine and analyze—

(1) the lessons of earlier efforts to negotiate restraints on the export of conventional arms;

(2) the evolution of supplier practices and policies;

(3) the evolution of recipient country attitudes regarding conventional arms transfers;

(4) the effect upon regional stability and security of conventional arms transfer by the United States and its allies and the Soviet Union and its allies;

(5) the relationship between arms imports and the external debt of recipient countries, the allocation of their internal resources, and their economic well-being;

(6) the relationship between arms exports by Western European countries and the needs of those countries to support their domestic military procurement programs;

(7) the prospects for engaging the Soviet Union in serious discussions concerning arms transfers, both globally and as they relate to regional security problems;

(8) possible measures by the United States and Western European suppliers to control levels of sophisticated weapons sales, both regionally and globally; and

(9) the timing and phasing of international conventional arms control negotiations.

SEC. 130.[7] FOREIGN MILITARY SALES FOR JORDAN.

(a) MIDDLE EAST PEACE.—The foreign military sales financing authorized by this Act for Jordan is provided and increased in the recognition of progress Jordan has made in the search for a just and lasting peace in the Middle East, to encourage further progress, in recognition of the continuing defense needs of Jordan, and in the expectation that Jordan will enter into direct negotiations with Israel based on United Nations Security Council Resolutions 242 and 338 in order to resolve the state of war between those two countries.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that no foreign military sales financing authorized by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

[7] Similar language enacted in sec. 545 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1311).

(c)[8] CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons, shall be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

SEC. 131. CERTIFICATION CONCERNING AWACS SOLD TO SAUDI ARABIA.

(a) THE PRESIDENT'S 1981 AWACS COMMUNICATION TO THE SENATE.—(1) The Congress finds that in his October 28, 1981, communication to the Senate concerning the proposed sale of AWACS aircraft and F15 enhancement items to Saudi Arabia which was then being reviewed by the Congress (hereafter in this section referred to as the "1981 AWACS communication"), the President stated the following:

"Transfer of the AWACS will take place . . . only after the Congress has received in writing a Presidential certification, containing agreements with Saudi Arabia, that the following conditions have been met:

"1. **Security of Technology**

"A. That a detailed plan for the security of equipment, technology, information, and supporting documentation has been agreed to by the United States and Saudi Arabia and is in place; and

"B. The security provisions are no less stringent than measures employed by the U.S. for protection and control of its equipment of like kind outside the continental U.S.; and

"C. The U.S. has the right of continual on-site inspection and surveillance by U.S. personnel of security arrangements for all operations during the useful life of the AWACS. It is further provided that security arrangements will be supplemented by additional U.S. personnel if it is deemed necessary by the two parties; and

"D. Saudi Arabia will not permit citizens of third nations either to perform maintenance on the AWACS or to modify any such equipment without prior, explicit mutual consent of the two governments; and

"E. Computer software, as designated by the U.S. Government, will remain the property of the USG.

"2. **Access to Information**

"That Saudi Arabia has agreed to share with the United States continuously and completely the information that it acquires from use of the AWACS.

"3. **Control Over Third-Country Participation**

"A. That Saudi Arabia has agreed not to share access to AWACS equipment, technology, documentation, or any information developed from such equipment or technology with any

[8] On June 23, 1995, the President certified "that Jordan is publicly committed to the recognition of Israel and to negotiate [sic] promptly and directly with Israel under basic tenets of United Nations Security Council Resolutions 242 and 338." (Presidential Determination No. 95–27; 60 F.R. 35461).

nation other than the U.S. without the prior, explicit mutual consent of both governments; and

"B. There are in place adequate and effective procedures requiring the screening and security clearance of citizens of Saudi Arabia and that only cleared Saudi citizens and cleared U.S. nationals will have access to AWACS equipment, technology, or documentation, or information derived therefrom, without the prior, explicit mutual consent of the two governments.

"4. **AWACS Flight Operations**

"That the Saudi AWACS will be operated solely within the boundaries of Saudi Arabia, except with the prior, explicit mutual consent of the two governments, and solely for defensive purposes as defined by the United States, in order to maintain security and regional stability.

"5. **Command Structure**

"That agreements as they concern organizational command and control structure for the operation of AWACS are of such a nature to guarantee that the commitments above will be honored.

"6. **Regional Peace and Security**

"That the sale contributes directly to the stability and security of the area, enhances the atmosphere and prospects for progress toward peace, and that initiatives toward the peaceful resolution of disputes in the region have either been successfully completed or that significant progress toward that goal has been accomplished with the substantial assistance of Saudi Arabia.".

(2) The Congress finds that the President also stated in the 1981 AWACS communications that should circumstances arise that might require changes in the arrangements described in that communication, "they would be made only with Congressional participation".

(b) REQUIREMENT FOR PRESIDENTIAL CERTIFICATION.—As provided in the 1981 AWACS communication, before the E3A airborne warning and control system (AWACS) aircraft which were the subject of that communication are transferred to Saudi Arabia, the President shall submit to the Congress a written Presidential certification, containing agreements with Saudi Arabia, that the conditions set forth in that communication have been met.

(c) CONGRESSIONAL PARTICIPATION IN CHANGES IN AWACS ARRANGEMENTS.—In order to facilitate the congressional participation provided for in the 1981 AWACS communication, the President shall notify the Congress promptly of any changes being considered by the United States in the arrangements described in that communication.

SEC. 132. COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE.

(a) GENERAL AUTHORITIES.—The Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) SPECIAL AUTHORITIES.—In connection with the administration of the European air defense agreements, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act;

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency—

(A) for the supply of logistical support in Europe for the Patriot missile system, and

(B) for the acquisition of such logistical support,

to the extent that the Secretary determines that the procedures of that Agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of setup charges of facilities for use by that Agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) delivery to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the requirement in section 22 of that Act for payment in advance of delivery for any purchase under that Act.

(c) RATE CHARGED FOR CERTAIN SERVICES.—Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under the Arms Export Control Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

(d) LIMITATION ON CONTRACT AUTHORITY.—The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds, other than those made available under section 31 of the Arms Export Control Act, are available for that purpose.

(e) RELATION TO FISCAL YEAR 1985 AUTHORIZATION.—The authorities provided by this section are an extension of, and not in addition to, the authorities provided by section 1007 of the Department of Defense Authorization Act, 1985 (98 Stat. 2579), relating to the authority of the Secretary of Defense to carry out the European air defense agreements during fiscal year 1985.

(f) DEFINITION OF EUROPEAN AIR DEFENSE AGREEMENTS.—For the purposes of this section, the term "European air defense agreements" means—

(1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983; and

(2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

TITLE II—ECONOMIC SUPPORT FUND

* * * * * * *

SEC. 202. ASSISTANCE FOR THE MIDDLE EAST.

(a) ISRAEL.[9, 10]—(1) Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $1,200,000,000 for fiscal year 1986[11] and not less than $1,200,000,000 for fiscal year 1987 shall be available only for Israel.

(2) The total amounts of funds allocated for Israel under that chapter for fiscal year 1986 and fiscal year 1987 shall be made available as a cash transfer on a grant basis. Such transfer shall be made on an expedited basis in the first 30 days of the respective fiscal year. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfer made to Israel

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[9] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190), contained the following:

"That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords.".

Identical language was contained in title II of the 1987 Act (Public Law 99–591; 100 Stat. 3341–221).

[10] Sec. 532 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1308), provided the following:

"SEC. 532. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.".

Section 531 of the 1987 Act (Public Law 99–591; 100 Stat. 3341–231), contained identical language to sec. 532 above.

[11] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1298), provided appropriations for the Economic Support Fund:

"* * * not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1985, whichever is later * * *.".

Title II of the 1987 Act (Public Law 99–591; 100 Stat. 3341–220) contained identical language to that above except that the amount is "$1,200,000,000", and the date is "October 31, 1986".

does not cause an adverse impact on the total level of nonmilitary exports from the United States to Israel.

(b) EGYPT.—(1) Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $815,000,000 for fiscal year 1986[12] and not less than $815,000,000 for fiscal year 1987 shall be available only for Egypt.

(2) All of the funds made available to Egypt under that chapter for the fiscal years 1986 and 1987 shall be provided on a grant basis.

(3) Up to $115,000,000 of the amounts provided for Egypt for each of the fiscal years 1986 and 1987 pursuant to paragraph (1) may be provided as a cash transfer with the understanding that Egypt will undertake economic reforms or development activities which are additional to those which would be undertaken in the absence of the cash transfer.

(c) COOPERATIVE SCIENTIFIC AND TECHNOLOGICAL PROJECTS.—It is the sense of the Congress that, in order to continue to build the structure of peace in the Middle East, the United States should finance, and where appropriate participate in, cooperative projects of a scientific and technological nature involving Israel and Egypt and other Middle East countries wishing to participate. These cooperative projects should include projects in the fields of agriculture, health, energy, the environment, education, water resources, and the social sciences.

SEC. 203. ASSISTANCE FOR CYPRUS.

(a) EARMARKS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $15,000,000 for fiscal year 1986[13] and not less than $15,000,000 for fiscal year 1987 shall be available only for Cyprus.

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[12] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1298), provided the following for Economic Support Fund for Egypt:

"not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99–83, and not less than $200,000,000 shall be provided as a Commodity Import Program:".

Title II of the 1987 Act (Public Law 99–591; 100 Stat. 3341–220) contained identical language, as well as the following:

"* * * *Provided further*, That notwithstanding any other provision of law, the Agency for International Development is authorized to obligate such funds as it deems necessary in excess of $115,000,000 from the funds appropriated for assistance to Egypt for the fiscal year 1987 as direct cash transfer for Egypt: *Provided further*, That such obligations in excess of $115,000,000 shall only be made in support of the implementation of a comprehensive structural economic reform program by the Government of Egypt: *Provided further*, That all such cash transfers in excess of $115,000,000 shall be subject to the regular notification procedures of the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Appropriations Committee of the House and Senate: *Provided further*, That such notifications for the provision of cash transfers in excess of $115,000,000 shall include detailed descriptions of the comprehensive structural economic reform program of the Government of Egypt: *Provided further*, That if the Agency for International Development obligates cash transfer assistance for Egypt exceeding $115,000,000, as permitted above, then such increased funding shall be derived through proportionate reductions in both the Commodity Import Program and project assistance: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: * * *".

[13] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190), provided the following for Economic Support Fund for Cyprus for FY 1986:

Continued

(b) CYPRUS PEACE AND RECONSTRUCTION FUND.—It is the sense of the Congress that, at the appropriate time, $250,000,000 should be authorized to be appropriated to provide assistance for Cyprus under chapter 4 of part II of the Foreign Assistance Act of 1961 if the President certifies to the Congress that an agreement has been concluded by the Greek and Turkish Cypriots which is supported by Greece and Turkey and which achieves substantial progress toward settlement of the Cyprus dispute. Such an agreement should include an agreement on Varosha/Famagusta, foreign troop levels in the Republic of Cyprus, the disposition of the international airport on Cyprus, or other significant steps which are evidence of substantial progress toward an overall settlement of the Cyprus dispute.

SEC. 204. ASSISTANCE FOR PORTUGAL.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $80,000,000 for fiscal year 1986 and $80,000,000 for fiscal year 1987 shall be available only for Portugal.

SEC. 205. ACQUISITION OF AGRICULTURAL COMMODITIES UNDER COMMODITY IMPORT PROGRAMS.

The President shall use not less than 18 percent of the funds which are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 and 1987, and which are made available for commodity import programs, for the purchase of agricultural commodities of United States-origin.

SEC. 206. TIED AID CREDIT PROGRAM.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated for Commodity Import Programs—

(1) not less than $50,000,000 for fiscal year 1986, and

(2) an aggregate of not less than $100,000,000 for both fiscal years 1986 and 1987,

shall be deposited in the fund authorized by subsection (c)(2) of section 645 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635r) and shall be used by the Agency for International Development in carrying out the program of tied aid credits for United States exports which is provided for in that section. Funds that have not been obligated pursuant to the tied aid credit program by the end of the third quarter of the fiscal year for which they were appropriated may be used for other purposes under chapter 4 of part II of the Foreign Assistance Act of 1961 if the Administrator of the Agency for International Development certifies to the Congress that (A) no trade credit application acceptable and timely under the Trade and Development Enhancement Act of 1983 is pending, or (B) those funds are not needed for that program because other countries are not engaging in predatory financing practices in order to compete with United States exports.

"* * * of the funds appropriated or otherwise made available under this heading, $15,000,000 shall be available only for Cyprus (except that any offshore procurement must meet Agency for International Development procurement source and origin regulations)".

Title II of the 1987 Act (Public Law 99–591; 100 Stat. 3341–221) provided: "That not less than $15,000,000 of the funds appropriated under this paragraph shall be available for Cyprus".

SEC. 207. RESTRICTION ON USE OF FUNDS FOR NUCLEAR FACILITIES.

Funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1986 or fiscal year 1987 may not be used to finance the construction of, the operation or maintenance of, or the supplying of fuel for, any nuclear facility in a foreign country unless the President certifies to the Congress that such country is a party to the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America (the "Treaty of Tlatelolco"), cooperates fully with the International Atomic Energy Agency, and pursues nonproliferation policies consistent with those of the United States.

SEC. 208. FISCAL YEAR 1985 SUPPLEMENTAL AUTHORIZATION.

(a) AUTHORIZATION.—In addition to the amount appropriated for such purpose by Public Law 98–473, there are authorized to be appropriated $2,008,000,000 for fiscal year 1985 to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961. Of this amount, $1,500,000,000 shall be available only for Israel, $500,000,000 shall be available only for Egypt, and $8,000,000 shall be available only for the Middle East Regional Program. Amounts appropriated pursuant to this section are authorized to remain available until September 30, 1986.

(b) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

TITLE III—DEVELOPMENT ASSISTANCE

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SEC. 305. PROMOTION OF IMMUNIZATION AND ORAL REHYDRATION.

(a) * * *

(b) ANNUAL REPORTS.—Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act.

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SEC. 311.[14] USE OF PRIVATE AND VOLUNTARY ORGANIZATIONS, COOPERATIVES, AND THE PRIVATE SECTOR.

(a) STUDY.—The Administrator of the Agency for International Development shall undertake a comprehensive study of additional ways to provide development assistance through nongovernmental organizations, including United States and indigenous private and voluntary organizations, cooperatives, the business community, and other private entities. Such study shall include—

(1) an analysis of the percentage of development assistance allocated to governmental and nongovernmental programs;

(2) an analysis of structural impediments, within both the United States and foreign governments, to additional use of nongovernmental programs; and

(3) an analysis of the comparative economic benefits of governmental and nongovernmental programs.

[14] 22 U.S.C. 2151u note.

(b) REPORT.—The Administrator shall report the results of this study to the Congress no later than September 30, 1986.

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SEC. 315. MINORITY SET-ASIDE.

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for each of the fiscal years 1986 and 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

TITLE IV—OTHER FOREIGN ASSISTANCE PROGRAMS

* * * * * * *

SEC. 402. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS.

(a) * * *

(b) FISCAL YEAR 1985 CONTRIBUTION TO UNITED NATIONS ENVIRONMENT PROGRAM.—Notwithstanding section 614 of the Foreign Assistance Act of 1961 or any other provision of law, $10,000,000[15] of the funds appropriated for the fiscal year 1985 to carry out chapter 3 of part I of such Act shall be available only for the United Nations Environment Program. This subsection shall take effect on the date of enactment of this Act.

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TITLE V—INTERNATIONAL TERRORISM AND FOREIGN AIRPORT SECURITY

PART A—INTERNATIONAL TERRORISM GENERALLY[16]

* * * * * * *

[15] Title I of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1294), made available $9,000,000.

[16] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1300), appropriated $7,420,000 for anti-terrorism assistance for FY 1986.

Title II of the 1987 Act (Public Law 99–591; 100 Stat. 3341–223) provided the following:

"ANTI-TERRORISM ASSISTANCE

"For necessary expenses to carry out the provisions of chapter 8 of part II, $9,840,000.".

In addition, Title I, chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99–349; 100 Stat. 725), provided the following:

"DEPARTMENT OF STATE

"ANTI-TERRORISM ASSISTANCE (TRANSFERS OF FUNDS)

"For an additional amount to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $2,739,000, to be derived by transfer from any of the funds appropriated

SEC. 502. COORDINATION OF ALL UNITED STATES TERRORISM-RELATED [17] ASSISTANCE TO FOREIGN COUNTRIES.

(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance related to international terrorism [17] which is provided by the United States Government.

(b) REPORTS.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism [17] which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

(c) [18] RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.[19]

SEC. 503.[20] PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM. * * *

SEC. 504. PROHIBITION ON IMPORTS FROM AND EXPORTS TO LIBYA.

(a) PROHIBITION ON IMPORTS.—Notwithstanding any other provision of law, the President may prohibit any article grown, produced, extracted, or manufactured in Libya from being imported into the United States.

(b) PROHIBITION ON EXPORTS.—Notwithstanding any other provision of law, the President may prohibit any goods or technology, including technical data or other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, from being exported to Libya.

(c) DEFINITION.—For purposes of this section, the term "United States", when used in a geographical sense, includes territories and possessions of the United States.

SEC. 505.[21] BAN ON IMPORTING GOODS AND SERVICES FROM COUNTRIES SUPPORTING TERRORISM.

(a) AUTHORITY.—The President may ban the importation into the United States of any good or service from any country which supports terrorism or terrorist organizations or harbors terrorists or terrorist organizations.

(b) CONSULTATION.—The President, in every possible instance, shall consult with the Congress before exercising the authority granted by this section and shall consult regularly with the Congress so long as that authority is being exercised.

(c) REPORTS.—Whenever the President exercises the authority granted by this section, he shall immediately transmit to the Congress a report specifying—

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or otherwise made available in titles I, II, III, and IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99–190).".

[17] Sec. 503 of Public Law 99–399 (100 Stat. 871) inserted references to "terrorism-related" or "related to international terrorism" in lieu of references to "anti-terrorism".

[18] Subsection (c) was added by sec. 503 of Public Law 99–399 (100 Stat. 871).

[19] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. D.

[20] Sec. 503(a) amended sec. 620A of the FAA of 1961. Sec. 503(b) amended sec. 3(f) of the AECA.

[21] 22 U.S.C. 2349aa–9.

(1) The country with respect to which the authority is to be exercised and the imports to be prohibited;

(2) the circumstances which necessitate the exercise of such authority;

(3) why the President believes those circumstances justify the exercise of such authority; and

(4) why the President believes the prohibitions are necessary to deal with those circumstances.

At least once during each succeeding 6-month period after transmitting a report pursuant to this subsection, the President shall report to the Congress with respect to the actions taken, since the last such report, pursuant to this section and with respect to any changes which have occurred concerning any information previously furnished pursuant to this subsection.

(d) DEFINITION.—For purposes of this section, the term "United States" includes territories and possessions of the United States.

SEC. 506. INTERNATIONAL ANTI-TERRORISM COMMITTEE.

The Congress calls upon the President to seek the establishment of an international committee, to be known as the International Anti-Terrorism Committee, consisting of representatives of the member countries of the North Atlantic Treaty Organization, Japan, and such other countries as may be invited and may choose to participate. The purpose of the Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism, by serving as a forum at both the political and law enforcement levels.

SEC. 507. INTERNATIONAL TERRORISM CONTROL TREATY.

It is the sense of the Congress that the President should establish a process by which democratic and open societies of the world, which are those most plagued by terrorism, negotiate a viable treaty to effectively prevent and respond to terrorist attacks. Such a treaty should incorporate an operative definition of terrorism, and should establish effective close intelligence-sharing, joint counterterrorist training, and uniform laws on asylum, extradition, and swift punishment for perpetrators of terrorism. Parties to such a treaty should include, but not be limited to, those democratic nations who are most victimized by terrorism.

SEC. 508. STATE TERRORISM.

It is sense of the Congress that all civilized nations should firmly condemn the increasing use of terrorism by certain states as an official instrument for promoting their policy goals, as evidenced by such examples as the brutal assassination of Major Arthur D. Nicholson, Junior, by a member of the Soviet armed forces.

PART B—FOREIGN AIRPORT SECURITY

SEC. 551. SECURITY STANDARDS FOR FOREIGN AIR TRANSPORTATION.

(a)[22] SECURITY AT FOREIGN AIRPORTS.—* * * [Repealed—1994]

[22] Sec. 7(b) of Public Law 103–272 (108 Stat. 1379) repealed sec. 551(a) and (b), which enacted an amendment to sec. 1115 of the Federal Aviation Act of 1958, and related amendments, concerning security standards in foreign air transportation, codified at 49 U.S.C. App. 1515.

(b) CONFORMING AMENDMENTS.—* * * [Repealed—1994]

(c) CLOSING OF BEIRUT INTERNATIONAL AIRPORT.—It is the sense of the Congress that the President is urged and encouraged to take all appropriate steps to carry forward his announced policy of seeking the effective closing of the international airport in Beirut, Lebanon, at least until such time as the Government of Lebanon has instituted measures and procedures designed to prevent the use of that airport by aircraft hijackers and other terrorists in attacking civilian airlines or their passengers, hijacking their aircraft, or taking or holding their passengers hostage.

SEC. 552.[23] * * * [Repealed—1994]

SEC. 553.[24] * * * [Repealed—1994]

SEC. 554. ENFORCEMENT OF INTERNATIONAL CIVIL AVIATION ORGANIZATION STANDARDS.

The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to enforce that Organization's existing standards and to support United States actions enforcing such standards.

SEC. 555. INTERNATIONAL CIVIL AVIATION BOYCOTT OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

It is the sense of the Congress that the President—

(1) should call for an international civil aviation boycott with respect to those countries which the President determines—

(A) grant sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(B) otherwise support international terrorism; and

(2) should take steps, both bilateral and multilateral, to achieve a total international civil aviation boycott with respect to those countries.

SEC. 556.[25] * * * [Repealed—1994]

SEC. 557. RESEARCH ON AIRPORT SECURITY TECHNIQUES FOR DETECTING EXPLOSIVES.

In order to improve security at international airports, there are authorized to be appropriated to the Secretary of Transportation from the Airport and Airway Trust Fund (in addition to amounts otherwise available for such purpose) $5,000,000, without fiscal year limitation, to be used for research on and the development of airport security devices or techniques for detecting explosives.

SEC. 558. HIJACKING OF TWA FLIGHT 847 AND OTHER ACTS OF TERRORISM.

The Congress joins with all Americans in celebrating the release of the hostages taken from Trans World Airlines flight 847. It is the sense of the Congress that—

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[23] Formerly at 49 U.S.C. app. 1515a. Sec. 552, relating to travel advisories and suspension of foreign assistance, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

[24] Formerly at 49 U.S.C. app. 1356b. Sec. 553, relating to the United States airmarshal program, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

[25] Formerly 49 U.S.C. app. 1515 note. Sec. 556, relating to multilateral and bilateral agreements with respect to aircraft sabotage, aircraft hijacking, and airport security, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

(1) purser Uli Derickson, pilot John Testrake, co-pilot Philip Maresca, flight engineer Benjamin Zimmermann, and the rest of the crew of Trans World Airlines flight 847 displayed extraordinary valor and heroism during the hostages' ordeal and therefore should be commended;

(2) the hijackers who murdered United States Navy Petty Officer Stethem should be immediately brought to justice;

(3) all diplomatic means should continue to be employed to obtain the release of the 7 United States citizens previously kidnapped and still held in Lebanon;

(4) acts of international terrorism should be universally condemned; and

(5) the Secretary of State should be supported in his efforts to gain international cooperation to prevent future acts of terrorism.

SEC. 559. EFFECTIVE DATE.

This part shall take effect on the date of enactment of this Act.

TITLE VI—INTERNATIONAL NARCOTICS CONTROL

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SEC. 607. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $1,000,000 for each of the fiscal years 1986 and 1987 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

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SEC. 610.[26] ASSISTANCE FOR JAMAICA.

In allocating assistance for Jamaica for fiscal year 1986 under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), the President shall give major consideration to whether the Government of Jamaica has prepared, presented, and committed itself to a comprehensive plan or strategy for the control and reduction of illicit cultivation, production, processing, transportation, and distribution of marijuana within a specifically stated period of time.

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[26] Sec. 537 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1308), provided in part:

"Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: *Provided,* That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961.".

The 1987 Act (Public Law 99–591; 100 Stat. 3341–232) contained identical text in sec. 536.

SEC. 611.[27] **ASSISTANCE FOR BOLIVIA.**

Assistance may be provided to Bolivia for fiscal years 1986 and 1987 under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

(1) For fiscal year 1986—

(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia has achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.

(2) For fiscal year 1987, such assistance may not be provided unless the President certifies to the Congress that the Government of Bolivia has developed a plan to eliminate illicit narcotics production countrywide and is prepared to enter into an agreement with the United States to implement that plan. If that certification is made, then—

(A)[28] up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any

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[27] Sec. 537 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1308), provided:

"That assistance may be provided to Bolivia for Fiscal Year 1986, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

"For Fiscal Year 1986—

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

"(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.".

Sec. 535 of the 1987 Act (Public Law 99–591; 100 Stat. 3341–232) provided:

"* * * That assistance may be provided to Bolivia for fiscal year 1987, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only in accordance with the provisions of section 611 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83) as amended by section 2011 of H.R. 5484 as passed by the Senate on September 30, 1986.".

[28] Sec. 2012(b) of Public Law 99–570 (100 Stat. 3207) amended subparas. (A) and (B) of para. (2), which previously read as follows:

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of

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time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

(B)[28] the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

In the certification required by subparagraph (B), the President shall explain why the terms of the 1983 agreement provided unattainable and the reasons why a new agreement was necessary.

SEC. 612.[26] ASSISTANCE TO PERU.

(a) CONDITIONS ON ASSISTANCE.—United States assistance (as defined by section 481(i)(4) of the Foreign Assistance Act of 1961) may be provided for Peru—

(1) for fiscal year 1986, only if the President reports to the Congress that the Government of Peru has demonstrated substantial progress in developing a plan that will establish its legal coca requirements, license the number of hectares necessary to produce the legal requirement, and eliminate illicit and unlicensed coca production; and

(2) for fiscal year 1987, only if the President reports to the Congress that the Government of Peru has developed such a plan and is implementing it.

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds authorized to be appropriated for fiscal year 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Administrator of that Agency, after consultation with the Congress, determines that a comprehensive review of that project has been completed which establishes the effectiveness of that project in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley. The assistance for Peru described in this subsection may be provided only if the report required by subsection (a)(2) has been submitted to the Congress.

SEC. 613. REALLOCATION OF FUNDS IF CONDITIONS NOT MET.

If any of the assistance described in section 611 is not provided for Bolivia because the conditions specified in that section are not met, or if any of the assistance described in section 612(a) is not

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Bolivia has achieve at least half of the eradication target for the calendar year 1986 agreed to by the United States and the Government of Bolivia; and

"(B) the remaining amount of such assistance may be provided at any time the President certifies to the Congress that the Government of Bolivia fully achieved that eradication target.".

provided for Peru because the conditions specified in that section are not met, the President shall reprogram such assistance in order to provide additional assistance to countries which have taken significant steps to halt illicit drug production or trafficking.

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SEC. 615. LATIN AMERICAN REGIONAL NARCOTICS CONTROL ORGANIZATION.

(a) FEASIBILITY STUDY.—The Secretary of State, with the assistance of the National Drug Enforcement Policy Board, shall conduct a study of the feasibility of establishing a regional organization in Latin America which would combat narcotics production and trafficking through regional information-sharing and a regional enforcement unit.

(b) REPORT.—No later than six months after the date of enactment of this Act, a report on the advisability of encouraging the establishment of such an organization shall be submitted to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

SEC. 616. GREATER EFFORT BY UNITED STATES ARMED FORCES TO SUPPORT NARCOTICS CONTROL EFFORTS ABROAD.

No later than 60 days after the date of enactment of this Act, the President shall report to the Congress on why the United States Armed Forces should not exert greater effort in facilitating and supporting interception of narcotics traffickers, and in gathering narcotics-related intelligence, outside the United States.

SEC. 617. CUBAN DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the subject of the flow, use, and control of narcotic and psychotropic substances is a matter of great international importance;

(2) the problem of drug abuse and drug trafficking continues to worsen throughout most parts of the world;

(3) the concerns of the governments of many countries have become manifest in several bilateral and multilateral narcotics control projects;

(4) United Nations agencies monitor and apply controls on the flow and use of drugs and coordinate multilateral efforts to control production, trafficking, and abuse of drugs;

(5) the United Nations Fund for Drug Abuse Control funds narcotics projects throughout the world and has been a vehicle since 1971 for multilateral implementation of narcotics control and reduction programs;

(6) the International Narcotics Control Board is charged with monitoring compliance with the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, and Cuba is a party to both Conventions;

(7) the United Nations Commission on Narcotic Drugs is responsible for formulating policies, coordinating activities, supervising the implementation of international conventions, and making recommendations to governments for international drug control;

(8) the promotion of drug abuse and participation in drug trafficking is universally considered egregious criminal behavior wherever it occurs, whether it occurs locally, nationally, or internationally;

(9) a Federal grand jury of the United States has indicted four prominent Cuban officials on charges of conspiring to smuggle drugs into the United States;

(10) United States Government officials have testified at several congressional hearings that the Government of Cuba is facilitating the flow of illicit drugs into the United States in order to obtain hard currency, support guerrilla/terrorist activities, and undermine United States society; and

(11) such alleged conduct on the part of the Government of Cuba would be injurious to the world community and counter to the general principle of international law that no country has the right to use or permit the use of its territory in such a manner as to injure another country or persons therein.

(b) RECOMMENDED ACTIONS.—It is the sense of the Congress that the President should—

(1) acting through the Permanent Representative of the United States to the United Nations, take such steps as may be necessary to place the question of the involvement by the Government of Cuba in illicit drug trafficking on the agenda of the United Nations;

(2) acting through the Representative of the United States to the Organization of American States, request the Organization of American States to consider this question as soon as possible; and

(3) request other appropriate international organizations and international forums to consider this question.

(c) REPORT.—The President shall report to the Congress on the actions taken pursuant to this section.

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SEC. 619.[29] DRUG TRAFFICKING AND THE PROBLEM OF TOTAL CONFIDENTIALITY OF CERTAIN FOREIGN BANK ACCOUNTS.

(a) FINDINGS.—The Congress finds that—

(1) several banks in Latin America and the Caribbean are used by narcotics traffickers as depositories for money obtained in providing illicit drugs to the United States and other countries of the region;

(2) offshore banks which provide total confidentiality provide a service which materially assists the operations of illicit drug traffickers; and

(3) cooperation in gaining access to the bank accounts of such narcotics traffickers would materially assist United States authorities in controlling the activities of such traffickers.

(b) POLICY.—The Congress—

(1) requests the President to negotiate treaties or appropriate international agreements with all countries providing confidential banking services (giving high priority to countries in the Caribbean region) to provide disclosure to the United

[29] 22 U.S.C. 2291 note.

States Government of information contained in official records, and in records of bank accounts, concerning persons under investigation for violations of United States law, in particular those regarding international drug trafficking;

(2) directs the President to include reports on the results of such efforts in the annual International Narcotics Control Strategy Report; and

(3) reaffirms its intention to obtain maximum cooperation on the part of all governments for the purpose of halting international drug trafficking, and constantly to evaluate the cooperation of those governments receiving assistance from the United States.

TITLE VII—WESTERN HEMISPHERE

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SEC. 702.[30] **EL SALVADOR.**

(a) SUPPORT FOR EL SALVADOR.—(1) The Congress finds that—

(A) a free and democratic El Salvador is in the security interest of the United States;

(B) Jose Napoleon Duarte was elected President of El Salvador in 1984 in the most democratic election held in El Salvador in many years;

(C) political violence in El Salvador has declined dramatically under President Duarte's leadership;

(D) President Duarte's policies of respect for human rights, political pluralism, dialogue and reconciliation with the Salvadoran guerrilla force, legal and social reform and effective defense against the violent overthrow of the Salvadoran government are deserving of praise from all who believe in a democratic form of government;

(E) the March 31, 1985, legislation and municipal elections were successfully carried out, with 64 percent of the electorate defying guerrilla attacks to vote;

(F) the victory of President Duarte's Christian Democratic Party reaffirms the support for these policies by his fellow citizens, the essential test of any government or movement;

(G) in spite of the state of siege technically in effect due to the insurgent threat, observance of free speech, free press, and

[30] The Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–232), provided the following:

"SEC. 537. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

* * * * * * *

"SEC. 545. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.".

free assembly are widely enjoyed in El Salvador and permit public airing of opposing political views;

(H) President Duarte is firmly committed to judicial reform and prosecution of cases involving "death squads";

(I) President Duarte's leadership and popular support has notably weakened the popular support given the guerrillas, as evidenced by the high levels of voter participation in the free elections held in El Salvador since 1982, the reduction in territory in which the guerrillas can freely operate, their inability to mount frontal military attacks, and their resort to economic sabotage, ambushes, political assassination, and urban terrorism with blatant disregard for basic human rights; and

(J) President Duarte has succeeded in reversing the decline in his country's economy which, though still weak, has better prospects than in recent years.

(2) Therefore, it is the sense of the Congress that—

(A) President Duarte is to be congratulated for his outstanding leadership under difficult circumstances and for his efforts to foster democratic government and institutions in his country, and he is encouraged to continue his efforts to promote political pluralism, democratic institutions, and respect for human rights in his country; and

(B) the armed services of El Salvador are to be congratulated for their improved performance and professionalism in defending Salvadoran citizens and their democratically elected government from attack by armed insurgents, and especially for their role in helping to protect and uphold the electoral process.

(3) The Congress reaffirms the importance of continued support for democratic principles and institutions and respect for human rights by the various sectors of Salvadoran society, which is a major factor in United States support for El Salvador.

(b) OBJECTIVES.—The Congress expects that—

(1) the Government of El Salvador will be willing to pursue a dialogue with the armed opposition forces and their political representatives for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C111–03–984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in implementing the land reform program.

(c) REPORTS.—On October 1, 1985, April 1, 1986, October 1, 1986, and April 1, 1987, the President shall report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (b) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall discuss whether the commission proposed by the President of El Salvador to investigate human rights cases has been established, funded, and given sufficient investigative powers; whether the evidence that commission collects may be used in the Salvadoran judicial process; whether that commission has issued a comprehensive report with regard to its investigation of all Americans murdered in El Salvador; and whether those responsible for the Las Hojas massacre are being prosecuted.

(d) AIRCRAFT FOR AERIAL WARFARE.—(1) The authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(2) Paragraph (1) shall take effect on the date of enactment of this Act and shall remain in effect until October 1, 1987.

(e) SPECIAL ACCOUNT FOR LOCAL CURRENCIES.—(1) All local currencies, which are generated with the funds provided to El Salvador for balance-of-payments support for fiscal years 1986 and 1987 under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), shall be deposited in accordance with section 609 of that Act in a special account established by the Government of El Salvador.

(2) Local currencies deposited pursuant to paragraph (1) shall be used for projects assisting agrarian reform and the agricultural sector (and particular emphasis shall be placed on projects for these purposes); judicial reform, employment generation; health, education, and other social services; infrastructure repair; and credits and other support for the private sector (principally for small and medium sized businesses).

(3) For purposes of subsection—

(A) the term "agrarian reform" means projects assisting or enhancing the abilities of agencies, cooperatives, and farms to implement land reform decrees in El Salvador, notwithstanding section 620(g) of the Foreign Assistance Act of 1961; and

(B) the term "judicial reform" means projects assisting or enhancing the abilities of agencies of the Salvadoran Government to investigate and prosecute politically motivated violence.

(f) DEVELOPMENT ASSISTANCE.—Of the amounts available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, $79,600,000 for fiscal year 1986 and $79,600,000 for fiscal year 1987 shall be available only for El Salvador.

(g) SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.—All assistance authorized by this Act which is allocated for El Salvador shall be suspended if the elected President of that country is deposed by military coup or decree.

SEC. 703. ASSISTANCE FOR GUATEMALA.[31]

(a) CONDITIONS ON MILITARY ASSISTANCE AND SALES.—For fiscal years 1986 and 1987, assistance may be provided for Guatemala under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) and sales may be made and financing may be provided for Guatemala under the Arms Export Control Act (relating to foreign military sales) only if the President makes the following certifications to the Congress:

(1) For fiscal year 1986, an elected civilian government is in power in Guatemala and has submitted a formal written request to the United States for the assistance, sales, or financing to be provided.

(2) For both fiscal years 1986 and 1987, the Government of Guatemala made demonstrated progress during the preceding year—

(A) in achieving control over its military and security forces,

(B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights, and

(C) in respecting the internationally recognized human rights of its indigenous Indian population.

(b) CONSTRUCTION EQUIPMENT AND MOBILE MEDICAL FACILITIES AND RELATED TRAINING.—If the conditions specified in subsection (a) are met, Guatemala may be provided with the following for fiscal years 1986 and 1987 (in addition to such other assistance, sales, or financing as may be provided for Guatemala):

(1) Sales of construction equipment and mobile medical facilities to assist in development programs that will directly assist the poor in Guatemala.

(2) Sales of training, to be provided outside of Guatemala, which is related to the sales described in paragraph (1).

(3) A total for both fiscal years 1986 and 1987 of no more than $10,000,000 in credits under the Arms Export Control Act for sales described in paragraphs (1) and (2).

Such sales and credits shall be provided only to enable the military forces of Guatemala to obtain equipment and training for civilian engineering and construction projects and mobile medical teams, which would not be used in the rural resettlement program.

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[31] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided the following appropriation for fiscal year 1986 (assuming certification requirements are met):

"* * * That not more than $553,900,000 of the funds made available under this paragraph shall be available at concessional rates of interest: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification process of the Committee on Appropriations.".

Sec. 538 of the 1987 Act (Public Law 99–591; 100 Stat. 3341–232) provided the following:

"Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.".

(c) PROHIBITION ON FURNISHING WEAPONS.—Funds authorized to be appropriated by title I of this Act may not be used for the procurement by Guatemala of any weapons or ammunition.

(d) SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.—All assistance authorized by this Act which is allocated for Guatemala shall be suspended if the elected civilian government of that country is deposed by military coup or decree.

(e) RURAL RESETTLEMENT PROGRAM.—Assistance provided for Guatemala for the fiscal year 1986 and fiscal year 1987 under chapter 1 of part I (relating to development assistance) or under chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961—

(1) may not be provided to the Government of Guatemala for use in its rural resettlement program; and

(2) shall be provided through private and voluntary organizations to the maximum extent possible.

(f) INVITATION FOR ICRC TO VISIT GUATEMALA.—The Congress calls upon the President to urge the Government of Guatemala to allow the International Committee of the Red Cross—

(1) to conduct an unimpeded visit to Guatemala in order to investigate humanitarian needs in that country and to report on human rights abuses in that country; and

(2) to investigate the possibilities of its providing humanitarian services in that country.

(g) RELATIONS BETWEEN BELIZE AND GUATEMALA.—It is the sense of the Congress that the United States should use its good offices and influence to encourage the Government of Guatemala to recognize the independence of Belize and to enter into a mutual nonaggression treaty with Belize.

(h) HUMAN RIGHTS GROUPS IN GUATEMALA.—(1) The Congress finds that—

(A) the Group for Mutual Support was formed in 1984 to protest the disappearances of Guatemalan civilians;

(B) the Group for Mutual Support has carried out its work in a peaceful, non-ideological manner, and is the only indigenous human rights group operating in Guatemala; and

(C) two of the Group's six steering committee members, Hector Gomez and Maria Rosario Godyo[32] de Cuevas, were recently killed.

(2) It is the sense of the Congress that—

(A) human rights groups in Guatemala, particularly the Group for Mutual Support, should be allowed to carry out their work against human rights abuses with the full cooperation, protection, and support of the Government of Guatemala; and

(B) whether the Government of Guatemala allows human rights groups, including the Group for Mutual Support, to carry out their work should be taken into account by the United States in determining whether there is human rights progress in Guatemala.

[32] Should read "Godoy".

SEC. 704. REFUGEES IN HONDURAS.

Funds authorized to be appropriated by this Act and funds authorized to be appropriated for the "Migration and Refugee Assistance" account for fiscal years 1986 and 1987—

(1) which are to be used for refugee assistance or other assistance for Nicaraguan Indian refugees in Honduras shall be channeled, to the maximum extent possible, through the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the Intergovernmental Committee for Migration, or other established and recognized international refugee relief organizations; and

(2) may not be used to facilitate the involuntary repatriation of Salvadoran refugees who are in Honduras.

SEC. 705. PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI.[33]

(a) USE OF PVOS.—To the maximum extent practicable, assistance for Haiti under chapter 1 of part I (relating to development assistance) and under chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(b) CONDITIONS ON ASSISTANCE.—Funds available for fiscal year 1986 and for fiscal year 1987 to carry out chapter 1 of part I (relating to development assistance), chapter 4 of part II (relating to the economic support fund), or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 may be obligated for Haiti only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making progress toward improving the human rights situation in Haiti and progress toward implementing political

[33] Title I, chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99–349; 100 Stat. 726), provided:

"ASSISTANCE FOR HAITI

"Of the funds made available in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99–190), subject to the notification process of the Committees on Appropriations, up to $21,700,000 shall be made available for assistance to Haiti. Of this amount, $1,700,000, or the equivalent amount in local currencies, may be transferred to the Inter-American Foundation for use by the Foundation for programs for Haiti. The assistance made available pursuant to this paragraph shall be used to promote the transition to democracy by means such as generating local currency for use for literacy projects, rural development, and job creation. The assistance provided for Haiti pursuant to this paragraph shall be in addition to the assistance previously allocated for Haiti.

"It is the sense of the Congress that the United States Government should cooperate with the Government of Haiti in recovering for the Haitian people the wealth that was illegally obtained by former president Jean-Claude Duvalier and his former government ministers and associates through diversions of funds and property, regardless of whether that wealth is located in the United States or abroad.

"Notwithstanding any limitations on assistance to Haiti contained in Public Law 98–473 or Public Law 99–83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: *Provided,* That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided further,* That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti.".

reforms which are essential to the development of democracy in Haiti, such as progress toward the establishment of political parties, free elections, free labor unions, and freedom of the press.

(c)[34] * * * [Repealed—1998]

(d) ASSISTANCE IN HALTING ILLEGAL EMIGRATION FROM HAITI.—Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961 (relating to police training), funds made available under such Act may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

(e) LIMITATION ON MAP AND FMS FINANCING.—Assistance may not be provided for Haiti for fiscal year 1986 or fiscal year 1987 under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) or under the Arms Export Control Act (relating to foreign military sales financing), except for necessary transportation, maintenance, communications, and related articles and services to enable the continuation of migrant and narcotics interdiction operations.

(f) LITERACY AND OTHER EDUCATION PROGRAMS.—Of the amounts authorized to be appropriated to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) which are allocated for Haiti, $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 shall be available only for literacy and other education programs in Haiti.

SEC. 706. MILITARY ASSISTANCE FOR PARAGUAY.

For the fiscal years 1986 and 1987, none of the funds authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) or to carry out the Arms Export Control Act (relating to foreign military sales financing) may be used for assistance for Paraguay unless the President certifies to the Congress that the Government of Paraguay has ended the practice of torture and abuse of individuals held in detention by its military and security forces and has instituted procedures to ensure that those arrested promptly charged and brought to trial.

SEC. 707. ASSISTANCE FOR PERU.[35]

(a) HUMAN RIGHTS TRAINING IN IMET PROGRAMS.—Respect for internationally recognized human rights shall be an important component of the training provided for Peru under chapter 5 of part II of the Foreign Assistance Act of 1961 for fiscal year 1986 and for fiscal year 1987.

(b) STRENGTHENING THE PERUVIAN JUDICIAL SYSTEM.—Of the amount authorized to be appropriated by this Act to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating

[34] Sec. 2219(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B of public Law 105–277; 112 Stat. 2681), repealed subsec. (c), which had read as follows:

"(c) REPORTS TO THE CONGRESS.—Not later than one year after the date of the enactment of this Act and one year thereafter, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each paragraph of subsection (b).".

[35] See also sec. 612 of this Act.

to the economic support fund), $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 shall be used to strengthen the judicial system in Peru under section 534 of the Foreign Assistance Act of 1961 (relating to administration of justice).

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SEC. 709. COMPREHENSIVE REPORTS ON ASSISTANCE FOR LATIN AMERICA AND THE CARIBBEAN.

(a) REQUIREMENT FOR COMPREHENSIVE ACCOUNTING OF ASSISTANCE.—In the annual reports required by section 634 of the Foreign Assistance Act of 1961, the President shall provide to the Congress a full, complete, and detailed accounting of all assistance provided during the fiscal years 1986 and 1987 for Latin America and the Caribbean under the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(b) INFORMATION TO BE INCLUDED.—The report provided pursuant to subsection (a) shall include for each fiscal year, among other things, the following with respect to each authorization account:

(1) The specific projects and other activities carried out in each country.

(2) The number of persons from each country who were provided with training, and the types of training provided.

(3) The defense articles and defense services provided for each country.

(4) The types of goods and commodities provided to each country for economic stabilization purposes under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), and a copy of each agreement for the furnishing of any assistance under that chapter.

(5) The amounts of local currency generated by United States assistance to each country, the uses of those currencies, and the total amount of those currencies still available for use as of the time of the report.

(6) A report on any transfers or reprogrammings of funds, and a description of how transferred or reprogrammed funds modified the amounts requested for each account.

(7) A report on the funds which have been obligated but remain unexpended for each country in each account.

(8) An analysis of the amount of funds and programs provided through nongovernmental as contrasted to governmental channels.

SEC. 710. USE OF PRIVATE AND VOLUNTARY ORGANIZATIONS.

To the maximum extent practicable, assistance under chapter 1 of part I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean should be provided through private and voluntary organizations which have a proven record of development assistance efforts overseas.

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SEC. 713. USE OF EMPLOYEE STOCK OWNERSHIP PLANS IN DEVELOPMENT EFFORTS.

(a) FINDINGS.—The Congress declares that—

(1) employee stock ownership plans in industrial, farming, banking, and other enterprises in Central America and the Caribbean can be an important component in achieving United States goals in Central America and the Caribbean; and

(2) employee stock ownership plans should be used as an instrument in financing growth and transfers of equity in the region, in reorganizing state-owned enterprises into viable employee-owned businesses, in expanding political and economic pluralism, and in strengthening democratic institutions in the region.

(b) PLAN FOR EXPANDED USE OF ESOPS.—The President is urged to develop a plan for the expanded use of employee stock ownership plans in development efforts of the United States in Central America and the Caribbean, with an emphasis on policy and infra-structural changes needed to encourage voluntary employee stock ownership initiatives by multinational corporations and other private sector enterprises which have investments, are considering making new investments, or are interested in management contracts and joint ventures in the region.

(c) TASK FORCE.—To assist in this effort, there is established a Presidential Task Force on Project Economic Justice (hereafter in this section referred to as the "Task Force"), which shall consist of individuals appointed by the President who are distinguished leaders of the private sector of the United States, including significant representation of union representatives of workers in successful companies with employee stock ownership plans and of nationally recognized experts in all phases of design, implementation, and operation of employee stock ownership plans. The President shall designate one of the members of the Task Force to serve as Chairman. The Chairman of the Task Force shall appoint a volunteer fundraising committee, and all the expenses of the Task Force shall be paid without the use of public funds.

(d) REPORT.—Not later than December 31, 1985, the Task Force shall prepare and transmit to the President and the Congress a report on the expanded use of employee stock ownership plans in the development efforts of the United States in Central America and the Caribbean, including specific recommendations on strategies for using employee stock ownership plans as a means of accelerating the rate of private sector capital formation in Central America and the Caribbean that is systematically linked to expanding ownership and profit-sharing opportunities for all employees.

SEC. 714. INTERNATIONAL ADVISORY COMMISSION FOR THE CARIBBEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) many of the social, agricultural, educational, and economic problems which confront nations in the Caribbean Region result primarily from social and economic injustice and inadequate economic and agricultural development;

(2) such problems are not addressed sufficiently by current United States policies toward that region;

(3) the development of the Caribbean Region is of vital importance to the economic and strategic interests of the United States and its allies; and

(4) for purposes of defining development plans, providing an international forum for Caribbean Region development issues, and providing expert advice to donor-aid countries, an international commission is needed as the prime institution for promoting economic cooperation and development in the Caribbean Region.

(b) INVITATIONS TO PARTICIPATE IN COMMISSION.—

(1) INVITATION TO CARIBBEAN COUNTRIES.—The President may invite the countries which comprise the Caribbean Region to participate with the United States in a commission to be known as the International Advisory Commission for the Caribbean Region (hereafter in this section referred to as the "Commission").

(2) INVITATION TO CERTAIN OTHER COUNTRIES.—The President may also invite the Netherlands, the United Kingdom, France, Canada, the Commonwealth of Puerto Rico, and the Virgin Islands to participate in the Commission.

(c) FUNCTIONS OF COMMISSION.—It is the sense of the Congress that the Commission should—

(1) examine social, agricultural, educational, and economic issues which affect the Caribbean Region; and

(2) consult with leaders of the countries in the Caribbean Region and with representatives from public and private organizations involved in matters related to the Caribbean Region in order to evaluate the problems and needs of such countries.

(d) FUNDING FOR ORGANIZATIONAL MEETING OF COMMISSION.—Of the funds authorized to be appropriated to carry out section 106 of the Foreign Assistance Act of 1961 (relating to development assistance for energy, private and voluntary organizations, and selected development activities), up to a total of $100,000 for fiscal years 1986 and 1987 may be made available to—

(1) pay reasonable administrative expenses associated with the organizational meeting of the Commission; and

(2) pay reasonable travel and lodging expenses incurred by commissioners from other participant governments incident to their attendance at the organizational meeting of the Commission.

(e) REQUEST TO CONGRESS RELATING TO UNITED STATES PARTICIPATION IN THE COMMISSION.—The President should provide cost estimates and request authorization from the Congress in order to provide for the participation of the United States in the Commission (other than United States participation associated with the organizational meeting).

(f) APPOINTMENT OF UNITED STATES REPRESENTATIVE AND OBSERVERS.—Upon the creation of the Commission—

(1) the President should consider appointing one individual as the United States representative to the Commission;

(2) the Speaker of the House of Representatives should consider appointing two Members of the House, one from each major political party, as observers at the Commission; and

(3) the majority leader of the Senate should consider appointing two Members of the Senate, one from each major political party, as observers at the Commission.

SEC. 715.[36] * * *

SEC. 716. RURAL ELECTRIFICATION.

It is the sense of the Congress that funds appropriated for the fiscal years 1986 and 1987 under section 103(a)(2) of the Foreign Assistance Act of 1961 (relating to development assistance for agriculture, rural development, and nutrition) should be used for a comprehensive rural electrification program in Central America in order to establish conditions of stability and a foundation for economic development.

SEC. 717. FACILITATING INTERNATIONAL COMMERCE THROUGH MEXICO.

(a) FINDING.—Recognizing that increased levels of balanced international trade are an essential component in an economic development program for the region and that the United States has traditionally been the most important trading partner for each of the nations of Latin America, it is the sense of the Congress that current procedures and laws of the Government of Mexico, and practices of its officials, constitute a significant impediment to the transit of vehicles carrying the commodities of international trade through Mexican territory.

(b) NEGOTIATIONS AND COOPERATIVE STEPS CONCERNING TRANSIT.—As the Government of Mexico has played a valuable role in assisting and encouraging the economic and political development of the region, and in offering advice to the United States as to constructive policies this nation might pursue with respect to peace and prosperity in the area, the Secretary of State, acting independently or with representatives of other Latin America nations, shall initiate negotiations with the Government of Mexico aimed at eliminating or reducing those impediments to international trade. The agenda for such negotiations should include discussions to encourage the Government of Mexico to accede to existing international custom conventions on international in-transit shipments. Such actions are to be taken in concert with the institution by the United States, and the nations of the region where the transiting shipments originate, of appropriate and cooperative steps to make sealed-truck, no-inspection transit administratively acceptable to the Government of Mexico and other transited countries. Similar bilateral or multilateral negotiations by the Secretary of State with nations respecting the same international customs conventions is also encouraged.

(c) REPORT.—The Secretary of State shall report the status of these negotiations to Congress by January 1, 1986.

SEC. 718. CONDEMNING HUMAN RIGHTS VIOLATIONS AND THE SUBVERSION OF OTHER GOVERNMENTS BY THE GOVERNMENT OF CUBA.

(a) CONDEMNATION OF CERTAIN ACTION BY THE GOVERNMENT OF CUBA.—The Congress condemns—

(1) the consistent pattern of gross violations of internationally recognized human rights by the Cuban Government, including—

[36] Sec. 715 amended sec. 726 of the International Security and Development Cooperation Act, 1981 (Public Law 97–113).

(A) cruel, inhumane, and degrading treatment and punishment of prisoners;

(B) the suppression of free speech, press, and assembly; and

(C) restrictions on religious activity and the freedom to emigrate; and

(2) the provision by the Cuban government of material aid and personnel support for the purposes of subversion.

(b) CALL UPON THE GOVERNMENT OF CUBA.—The Congress calls upon the Government of Cuba to restore civil liberties and cease in the violation of human rights of the Cuban people and cease the subversion of other governments through material and personnel support.

SEC. 719. REPORTS ON FOREIGN DEBT IN LATIN AMERICA.

(a) FINDINGS.—The Congress finds that—

(1) the foreign debt of Latin American countries has soared from $27,000,000,000 in 1970 to over $350,000,000,000 in 1983;

(2) the foreign debt of Latin American countries is a serious obstacle to their economic progress, threatens their stability, and endangers the democratic processes in those nations;

(3) the economic and political futures of many of the Latin American countries hang in the balance and depend upon a successful resolution of the foreign debt crisis; and

(4) the confidence of the American people in the United States system of banking is also involved in a successful resolution of the foreign debt crisis.

(b) REPORT.—Not later than January 1, 1986, the Secretary of State shall prepare and transmit to the Congress a report on—

(1) the magnitude of the foreign debt crisis in the Western Hemisphere;

(2) the impact of the foreign debt crisis on the economies of the countries of Latin America;

(3) the degree to which the national security interests of the United States are implicated in this crisis;

(4) the steps being taken and the policy being pursued by the United States aimed at dealing with this crisis;

(5) the degree to which the foreign debt crisis affects the system of banking in the United States; and

(6) the steps being taken and the policy being pursued by the United States Government aimed at dealing with this crisis.

SEC. 720. ECONOMIC ASSISTANCE FOR URUGUAY.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $15,000,000 for fiscal year 1986 and $15,000,000 for fiscal year 1987 shall be available only for Uruguay.

SEC. 721. CANADIAN EXPORTS TO THE UNITED STATES.

(a) CATTLE AND HOGS.—(1) The Congress finds that—

(A) livestock prices have been in decline for some time due to excessive supply partially caused by dramatic increases in importation of live cattle and hogs from Canada, which has in-

creased by 1,000 percent in the last decade in the case of hogs alone;

(B) American livestock producers are suffering from the same general economic crisis affecting all of agriculture, and many will face liquidation or foreclosure in the near future; and

(C) the disparity between the United States and the Canadian dollar amounts to 32 to 34 percent and results in even further increases in Canadian hogs and cattle being imported into the United States.

(2) Therefore, it is the sense of the Congress that the President should direct appropriate officials of the executive branch, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward immediate reduction in the Canadian export of cattle and hogs to the United States.

(b) SOFTWOOD TIMBER.—(1) The Congress finds that—

(A) softwood timber prices have been in decline for some time due to excessive supply partially caused by dramatic increases in importation of processed softwood timber from Canada, which has increased from 18 percent of the United States market in the last two years to 35 to 40 percent today;

(B) American timber producers are suffering from this economic crisis, and the difficulty in acquiring timber from the National Forest System; and

(C) the disparity between the United States and the Canadian dollar amounts to 32 to 34 percent and results in even further increases in processed softwood timber being imported into the United States.

(2) Therefore, it is the sense of the Congress that the President should direct appropriate officials of the executive branch, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward immediate reduction in the Canadian export of softwood timber to the United States.

SEC. 722. NICARAGUA.

(a) SETTLEMENT OF THE CONFLICT.—The Congress—

(1) strongly supports national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful settlement to the Nicaraguan conflict; and

(2) finds that the United States should, in assisting efforts to reach comprehensive and verifiable final agreements based on the Contadora Document of Objectives, encourage the Government of Nicaragua to pursue a dialogue with the armed opposition forces and their political representatives for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections.

(b) UNITED STATES CONCERNS ABOUT NICARAGUAN FOREIGN AND DOMESTIC POLICIES.—The Congress finds and declares the following:

(1) Despite positive actions by the Congress signaling support for negotiated solutions to conflicts in Central America, there are disturbing trends in Nicaragua's foreign and domestic policies, including—

(A) President Daniel Ortega's April 1985 trip to the Soviet Union at a time when the Congress signaled its strong disapproval of increasing Nicaraguan-Soviet ties;

(B) the Sandinista government's close military ties with Cuba, the Soviet Union, and its Warsaw Pact allies; the disappointing and insufficient reduction of the number of Cuban advisors in Nicaragua by only 100 out of an approximately 2,500; and the continuing military buildup that Nicaragua's neighbors consider threatening;

(C) the Sandinista government's curtailment of individual liberties, political expression, freedom of worship, and the independence of the media;

(D) the subordination of military, judicial, and internal security functions to the ruling political party; and

(E) the Sandinista government's efforts to export its influence and ideology.

(2) If Nicaragua does not address the concerns described in paragraph (1), the United States has several options to address this challenge to peace and stability in the region, including political, diplomatic, and trade sanctions. In addition, the United States—

(A) should through appropriate regional organizations, such as the Organization of American States, seek to maintain multilateral pressure on Nicaragua to address these concerns; and

(B) should, if called upon to do so, give serious consideration to supporting any sanctions adopted by such an organization.

(3) In assessing whether or not progress is being made in addressing these concerns, the Congress will expect prompt and significant initiatives by the Government of Nicaragua such as—

(A) the removal of foreign military advisors from Nicaragua;

(B) the end to Sandinista support for insurgencies in other countries in the region, including the cessation of military supplies to the rebel forces fighting the democratically elected government in El Salvador;

(C) restoration of individual liberties, political expression, freedom of worship, and the independence of the media; and

(D) progress toward international reconciliation and a pluralistic democratic system, including steps to liberalize institutions in order to allow the internal opposition in Nicaragua to become a viable partner in the Nicaraguan political process.

(c) RESOLUTION OF THE CONFLICT IN NICARAGUA.—

(1) BASIS FOR POLICY.—The Congress finds that—

(A) the people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and

loss of life, has thrown the country into a serious political, social, and economic upheaval, and is of serious concern to the nations of the region and to the United States;

(B) this conflict is fundamentally a continuation of efforts of the Nicaraguan people to attain a representative government at peace with its neighbors, efforts which began under the Somoza regime; and

(C) the United States recognized these noble aspirations of the Nicaraguan people in the June 23, 1979, resolution of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States, which reads as follows:

"WHEREAS:

"The people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and loss of life, and has thrown the country into a serious political, social and economic upheaval;

"The inhumane conduct of the dictatorial regime governing the country, as evidenced by the report of the Inter-American Commission on Human Rights, is the fundamental cause of the dramatic situation faced by the Nicaraguan people; and

"The spirit of solidarity that guides Hemisphere relations places an unavoidable obligation on the American countries to exert every effort within their power, to put an end to the bloodshed and to avoid the prolongation of this conflict which is disrupting the peace of the Hemisphere;

"THE SEVENTEENTH MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS,

"DECLARES:

"That the solution of the serious problem is exclusively within the jurisdiction of the people of Nicaragua.

"That in the view of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs this solution should be arrived at on the basis of the following:

"1. Immediate and definitive replacement of the Somoza regime.

"2. Installation in Nicaraguan territory of a democratic government, the composition of which should include the principal representative groups which oppose the Somoza regime and which reflects the free will of the people of Nicaragua.

"3. Guarantee of the respect for human rights of all Nicaraguans without exception.

"4. The holding of free elections as soon as possible, that will lead to the establishment of a truly democratic government that guarantees peace, freedom, and justice.

"RESOLVES:

"1. To urge the member states to take steps that are within their reach to facilitate an enduring and peaceful solution of the Nicaraguan problem on the bases set forth above, scrupulously respecting the principle of nonintervention and abstaining from any action that might be in conflict with the above bases or be incompatible with a peaceful and enduring solution to the problem.

"2. To commit their efforts to promote humanitarian assistance to the people of Nicaragua and to contribute to the social and economic recovery of the country.

"3. To keep the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs open while the present situation continues.".

(2) THE GOVERNMENT OF NICARAGUA.—The Congress further finds that—

(A) the Government of National Reconstruction of Nicaragua formally accepted the June 23, 1979, resolution as a basis for resolving the Nicaraguan conflict in its "Plan to Achieve Peace" which was submitted to the Organization of American States on July 12, 1979;

(B) the June 23 1979, resolution and its acceptance by the Government of National Reconstruction of Nicaragua was the formal basis for the removal of the Somoza regime and the installation of the Government of National Reconstruction;

(C) the Government of National Reconstruction, now known as the Government of Nicaragua and controlled by the Frente Sandinista (the FSLN), has flagrantly violated the provisions of the June 23, 1979, resolution, the rights of the Nicaraguan people, and the security of the nations in the region, in that it—

(i) no longer includes the democratic members of the Government of National Reconstruction in the political process;

(ii) is not a government freely elected under conditions of freedom of the press, assembly, and organization, and is not recognized as freely elected by its neighbors, Costa Rica, Honduras, and El Salvador;

(iii) has taken significant steps towards establishing a totalitarian Communist dictatorship, including the formation of FSLN neighborhood watch committees and the enactment of laws that violate human rights and grant undue executive power;

(iv) has committed atrocities against its citizens as documented in reports by the Inter-American Commission on Human Rights of the Organization of American States;

(v) has aligned itself with the Soviet Union and Soviet allies, including the German Democratic Republic, Bulgaria, Libya, and the Palestine Liberation Organization;

(vi) has committed and refuses to cease aggression in the form of armed subversion against its neighbors in violation of the Charter of the United Nations, the Charter of the Organization of American States, the Inter-American Treaty of Reciprocal Assistance, and the 1965 United Nations General Assembly Declaration on Intervention; and

(vii) has built up an army beyond the needs of immediate self-defense, at the expense of the needs of

the Nicaraguan people and about which the nations of the region have expressed deepest concern.

(3) THE NICARAGUAN DEMOCRATIC OPPOSITION.—The Congress further finds that—

(A) as a result of these violations, the Government of Nicaragua has lost the support of virtually all independent sectors of Nicaraguan society who initially supported the removal of the Somoza regime (including democratic political parties of the left, center, and right; the leadership of the Church; free unions; and the business, farmer, and professional sectors) and who still seek democracy, reject the rule of the Frente Sandinista, and seek the free elections promised in 1979;

(B) the Nicaraguan political opposition has joined with the armed opposition groups in issuing the San Jose Manifesto of March 1, 1985, calling for a national dialogue under mediation by the Nicaraguan Bishops Conference to peacefully attain the fulfillment of the Government of Nicaragua's commitments to the Organization of American States, including "the democratization of Nicaragua, conscious that democracy is the only means to carry out an authentic revolution and secure our national identity and sovereignty";

(C) on June 12, 1985, in San Salvador, El Salvador, the political and armed opposition groups representing the entire democratic political spectrum of Nicaragua formed the United Nicaraguan Opposition and affirmed their "historical commitment to achieve for Nicaragua the reconciliation of her children, to establish the foundation for democracy and the moral and material reconstruction of the nation"; and

(D) the United Nicaraguan Opposition further declared its intention to "give priority at all times to a political solution which will ease the suffering of our people".

(4) CONCERNS IN THE REGION AND UNITED STATES RESPONSIBILITIES.—The Congress further finds that—

(A) Nicaragua's neighbors, Costa Rica, El Salvador, and Honduras, have expressed, individually and through the Contadora process, their belief that their peace and freedom is not safe so long as the Government of Nicaragua excludes from power most of Nicaragua's political leadership and is controlled by a small sectarian party, without regard to the will of the majority of Nicaraguans; and

(B) the United States, given its role in the installation of the current Government of Nicaragua, has a special responsibility regarding the implementation of the commitments made by that Government in 1979, especially to those who fought against Somoza to bring democracy to Nicaragua with United States support.

(5) RESOLUTION OF THE CONFLICT.—The Congress—

(A) condemns the Government of Nicaragua for violating its solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(B) affirms that the Government of Nicaragua will be regarded as having achieved political legitimacy when it fulfills its 1979 commitment to the Organization of American States to implement genuinely democratic elections, under the supervision of the Organization of American States, in which all elements of the Nicaraguan resistance can peacefully participate under conditions recognized as necessary for free elections by international bodies;

(C) urges the Government of Nicaragua to enter a national dialogue, as proposed by the Nicaraguan democratic resistance in San Jose, Costa Rica, on March 1, 1985, under mediation by the Nicaraguan Bishops Conference in order to peacefully resolve the current crisis through internationally recognized elections in which all elements of Nicaraguan society can freely participate;

(D) supports the Nicaraguan democratic resistance in its efforts to peacefully resolve the Nicaraguan conflict and to achieve the fulfillment of the Government of Nicaragua's solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(E) supports efforts by the Contadora nations, the Organization of American States, and other appropriate regional organizations to maintain multilateral pressure on Nicaragua to fulfill its commitments; and

(F) requests that the Secretary of State transmit the text of this subsection to the Foreign Ministers of the member states of the Organization of American States.

(d) PROHIBITION RELATING TO MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA.—Notwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available by this Act (except the funds authorized to be appropriated in this section), by the Foreign Assistance Act of 1961, or by the Arms Export Control Act shall be used to provide assistance of any kind, either directly or indirectly, to any person or group engaging in an insurgency or other act of rebellion against the Government of Nicaragua. The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua.

(e) LIMITATION ON USE OF FUNDS AGAINST NICARAGUA.—None of the funds authorized to be appropriated in this or any other Act can be used to fund directly, or indirectly, activities against the Government of Nicaragua which have not been authorized by, or pursuant to, law and which would place the United States in violation of our obligations under the Charter of the Organization of American States, to which the United States is a signatory, or under international law as defined by treaty commitments agreed to, and ratified by, the Government of the United States.

(f) FOOD AID TO THE NICARAGUAN PEOPLE.—In cooperation with Cardinal Miguel Obando y Bravo and private and voluntary organizations, the President should explore and promote means for pro-

viding food aid to the Nicaraguan people through private and voluntary organizations and the Catholic Church.

(g) HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—(1) Effective upon the date of enactment of this Act, there are authorized to be appropriated $27,000,000 for humanitarian assistance to the Nicaraguan democratic resistance. Such assistance shall be provided to such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense.

(2) The assistance authorized by this subsection is authorized to remain available for obligation until March 31, 1986.

(3) One-third of the assistance authorized by this subsection shall be available for obligation at any time after the appropriation of funds pursuant to such authorization, an additional one-third shall be available for obligation upon submission of the first report required by subsection (j), and the remaining one-third shall be available for obligation upon submission of the second such report.

(4) The President shall establish appropriate procedures to ensure that any humanitarian assistance provided by the United States Government to the Nicaraguan democratic resistance is used only for the intended purpose and is not diverted (through barter, exchange, or any other means) for acquisition of weapons systems, ammunition, or other equipment, vehicle, or material which can be used to inflict serious bodily harm or death.

(5) As used in this subsection, the term "humanitarian assistance" means the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

(h) ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT.—Effective upon the date of enactment of this Act, there are authorized to be appropriated $2,000,000, which are authorized to remain available until expended, for payment by the Secretary of State for the expenses arising from implementation by the Contadora nations (Mexico, Panama, Colombia, and Venezuela) of an agreement among the countries of Central America based on the Contadora Document of Objectives of September 9, 1983, including peacekeeping, verification, and monitoring systems.

(i) POLICIES WITH RESPECT TO NICARAGUA.—The President is hereby urged and requested—

(1) to pursue vigorously the use of diplomatic and economic measures to resolve the conflict in Nicaragua, including simultaneous negotiations—

(A) to implement the Contadora Document of Objectives of September 8, 1983; and

(B) to develop, in close consultation and cooperation with other nations, trade and economic measures to complement such policies of the United States and to encourage the Government of Nicaragua to take the necessary steps to resolve the conflict;

(2) to suspend the economic sanctions imposed by the President on May 1, 1985, and the United States military maneu-

vers in Honduras and off the coast of Nicaragua, if the Government of Nicaragua agrees—

(A) to a cease fire,

(B) to open a dialogue with all elements of the opposition, including the Nicaraguan democratic resistance, and

(C) to suspend the state of emergency in Nicaragua;

(3) to call upon the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) to resume bilateral discussions with the Government of Nicaragua with a view to encouraging—

(A) a church-mediated dialogue between the Government of Nicaragua and all elements of the opposition, including the Nicaraguan democratic resistance, in support of internal reconciliation as called for by the Contadora Document of Objectives; and

(B) a comprehensive, verifiable agreement among the nations of Central America, based on the Contadora Document of Objectives.

(j) REPORTS.—The President shall submit a report to the Congress 90 days after the date of enactment of this Act, and every 90 days thereafter, on any actions taken to carry out subsections (g) and (h). Each such report shall include—

(1) a detailed statement of any progress made in reaching a negotiated settlement referred to in subsection (i)(1), including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide humanitarian assistance with the funds provided pursuant to subsection (g); and

(3) a discussion of the alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to comply with the request referred to in subsection (i)(3).

(k) SUBMISSION OF REQUEST FOR ADDITIONAL ASSISTANCE FOR THE CENTRAL AMERICA PEACE PROCESS.—If the President determines at any time after the enactment of this Act that—

(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have produced an agreement, or show promise of producing an agreement, or

(2) other trade and economic measures will assist in a resolution of the conflict, or to stabilization in the region,

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the furtherance of the Central America peace process.

(l) STATEMENT TO BE INCLUDED.—The President's request pursuant to subsection (k) shall include a detailed statement as to progress made to resolve the conflict in the region.

(m) CONSULTATION WITH THE CONGRESS.—In formulating a request pursuant to subsection (k), the President shall consult with the Congress.

(n) HOUSE PROCEDURES.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House

of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (k).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (k)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Central America peace process that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(o) SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (k) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (k) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473), except that—

(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

(2) amendments to the joint resolution are in order.

(p)[37] * * * [Repealed—1987]

(q) STATEMENT TO BE INCLUDED.—The President's request pursuant to subsection (p) shall include a detailed statement as to why the negotiations or other measures have failed to resolve the conflict in the region.

(r) CONSULTATION WITH THE CONGRESS.—In formulating a request pursuant to subsection (p), the President shall consult with the Congress.

(s)[38] * * * [Repealed—1987]

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[37] Subsec. (p) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–441). It formerly read as follows:

"SUBMISSION OF REQUEST FOR ADDITIONAL ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—If the President determines at any time after the enactment of this Act that—

"(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have failed to produce an agreement, or

"(2) other trade and economic measures have failed to resolve the conflict

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.".

[38] Subsec. (s) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–441). It formerly read as follows:

"HOUSE PROCEDURES.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (p).

"(2) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (p)—

"(A) the matter after the resolving clause of which is as follows: 'That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91672.';

"(B) which does not have a preamble; and

"(C) the title of which is as follows: 'Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.'.

"(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

"(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

"(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points or order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

"(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(t)[39] * * * [Repealed—1987]

(u) CONGRESSIONAL RULEMAKING POWERS.—Subsections (n), (o), (s), and (t) are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule in the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

TITLE VIII—AFRICA

SEC. 801. BALANCE-OF-PAYMENTS SUPPORT FOR COUNTRIES IN AFRICA.

(a) ESF COMMODITY IMPORT AND SECTOR PROGRAMS.—Agreements with countries in Africa which provide for the use of funds made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for the fiscal years 1986 and 1987 to finance imports by those countries (under commodity import programs or sector programs) shall require that those imports be used to meet long-term development needs in those countries in accordance with the following criteria:

(1) Spare parts and other imports shall be allocated on the basis of evaluations, by the agency primarily responsible for administering part I of that Act, of the ability of likely recipients to use such spare parts and imports in a maximally productive, employment generating, and cost effective way.

(2) Imports shall be coordinated with investments in accordance with the recipient country's plans for promoting economic development. The agency primarily responsible for administering part I of that Act shall assess such plans to determine whether they will effectively promote economic development.

(3) Emphasis shall be placed on imports for agricultural activities which will expand agricultural production, particularly

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"(C) An amendment to the joint resolution is not in order.

"(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

"(6) As used in this subsection, the term 'legislative day' means a day on which the House is in session.".

[39] Subsec. (t) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100–202). It formerly read as follows:

"SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (p) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (p) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473), except that—

"(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

"(2) amendments to the joint resolution are in order.".

activities which expand production for export or production to reduce reliance on imported agricultural products.

(4) Emphasis shall also be placed on a distribution of imports having a broad development impact in terms of economic sectors and geographic regions.

(5) In order to maximize the likelihood that the imports financed by the United States under such chapter are in addition to imports which would otherwise occur, consideration shall be given to historical patterns of foreign exchange uses.

(6)(A) Seventy-five percent of the foreign currencies generated by the sale of such imports by the government of the country shall be deposited in a special account established by that government and, except as provided in subparagraph (B), shall be available only for use in accordance with the agreement for economic development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and which are the types of activities for which assistance may be provided under sections 103 through 106 of that Act.

(B) The agreement shall require that the government of the country make available to the United States Government such portion of the amount deposited in the special account as may be determined by the President to be necessary for requirements of the United States Government.

(b) ANNUAL EVALUATIONS.—The agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall conduct annual evaluations of the extent to which the criteria set forth in this subsection have been met.

SEC. 802.[40] ECONOMIC SUPPORT ASSISTANCE FOR SOUTHERN AFRICA.

(a) FUNDS FOR SOUTHERN AFRICA REGIONAL PROGRAMS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $30,000,000 for fiscal year 1986 and not less than $30,000,000 for fiscal year 1987 shall be available only for regional programs in southern Africa. Not less than 50 percent of each of these amounts shall be allocated to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming this important regional institution, especially in the following sectors: transportation, agriculture research and training, manpower development, and institutional support for the SADCC secretariat.

(b) STUDIES RELATING TO SOUTHERN AFRICA REGIONAL PROGRAMS.—(1) The administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall conduct a study which evaluates—

(A) the assistance which that agency provides to the Southern Africa Development Coordination Conference and other Af-

[40] Sec. 4(b)(1) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505) repealed subsecs. (c) and (d) of this section. Those subsections stated eligibility criteria for funds for South Africa educational training programs and for the Human Rights Fund for South Africa through chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal years 1986 and 1987.

rican regional institutions and economic development organizations, and

(B) ways to improve such assistance.

(2) The administrator shall also conduct a study which assesses what type of bureaucratic mechanism within that agency might be established to coordinate assistance to all African regional institutions.

(3) The administrator shall submit the results of the studies conducted pursuant to this subsection to the Congress within 3 months after the date of enactment of this Act.

SEC. 803. POLICY TOWARD SOUTH AFRICAN "HOMELANDS".

(a) FINDINGS.—The Congress finds that—

(1) the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race, are principles which are fully supported by the American people;

(2) the forced relocation of blacks by the Government of the Republic of South Africa to designated "homelands" divides families, as families are required to remain in the "homelands" while fathers seek work in the so-called "white areas";

(3) the forced removal of persons living in so-called "black spots" in "white" rural areas in South Africa denies them the fundamental right to live and to farm on land they have legally occupied for years, and subjects them to arbitrary arrest and detention when they seek these rights;

(4) compared to "white" South Africa, the designated "homelands", which are meant to accommodate the largest South African population group on a fraction of South African territory and were established without the consent of the vast majority of the governed, are characterized by high rates of infant mortality, unemployment, and malnutrition and by a severe shortage of medical services;

(5) the policy of the Government of the Republic of South Africa denies blacks their rightful claim to full South African citizenship; and

(6) the recent violence in South Africa must be seen as an inevitable result of the denial of the full rights of citizenship.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the policy of separate development and the forced relocation of the people of the Republic of South Africa are inconsistent with fundamental American values and internationally recognized principles of human rights;

(2) the Government of the United States should continue to regard as citizens of South Africa all persons born within the internationally recognized boundaries of the Republic of South Africa, and not differentiate among these citizens on the basis of the South African Government's claim to have granted independence to various "homelands";

(3) at such times that any "homeland" official applies for a visa for travel to the United States, such visa should not be granted unless that official holds a passport which is recognized as valid by the Government of the United States; and

(4) the Government of the United States should urge that the forced relocation of South African citizens be discontinued and that policies be adopted for all South Africa's citizens which protect the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race.

SEC. 804. ASSISTANCE FOR ZAIRE.

(a) ECONOMIC SUPPORT ASSISTANCE.—Funds allocated for assistance for Zaire under chapter 4 of part II of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 and 1987 shall be used only for assistance which is provided in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961. Such assistance shall be provided, to the maximum extent practicable, through private and voluntary organizations.

(b) MILITARY ASSISTANCE.—For each of the fiscal years 1986 and 1987—

(1) the value of assistance provided under chapter 2 of part II of the Foreign Assistance Act of 1961 for Zaire may not exceed $7,000,000; and

(2) financing may not be provided under the Arms Export Control Act of Zaire.

SEC. 805. ASSISTANCE FOR TUNISIA.

(a) POLICY CONCERNING SECURITY ASSISTANCE.—The United States provides security assistance to Tunisia in recognition of the traditional friendship between the United States and Tunisia and our common interests in the region. The provision of such assistance is also based on the expectation that political stability and development in Tunisia will be best advanced through continued growth of democratic institutions.

(b) EARMARKING OF MAP AND ESF.—For each of the fiscal years 1986 and 1987—

(1) not less than $15,000,000 of the amounts authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, and

(2) not less than $20,000,000[41] of the amounts authorized to be appropriated to carry out chapter 4 of part II of that Act, shall be available only for Tunisia.

SEC. 806. POLITICAL SETTLEMENT IN SUDAN.

(a) FINDINGS.—The Congress finds that—

(1) friendship and mutual interests bind the United States and Sudan; and

(2) the peace, security, and economic development of Sudan depend in large part on addressing the problems associated with the traditional north- south division in that country through political rather than military means.

(b)[42] UNITED STATES POLICY.—It is, therefore, the policy of the United States that the provision of security assistance to Sudan

[41] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1301), appropriated for Foreign Military Sales for fiscal year 1986: "not less than $27,000,000 of concessional credits shall be provided only for Tunisia.".

[42] Sec. 542 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–236), provided:

shall be based on the expectation that the Government of Sudan will make progress toward reaching a political settlement with all parties to the conflict in the south of Sudan.

SEC. 807. ELECTIONS IN LIBERIA.

In recognition of the special relationship that the United States has with Liberia and of the wide variety of interests that the United States has in Liberia, security assistance for Liberia for fiscal years 1986 and 1987 is based on the expectation of a successful completion of free and fair elections, on a multiparty basis, in October 1985 as proposed by the Government of Liberia and on a return to full civilian, constitutional rule as a consequence of those elections.

SEC. 808. WESTERN SAHARA.

(a) UNITED STATES POLICY.—The policy of the United States shall be to support a negotiated political solution to the conflict in the Western Sahara taking into account the principle of self-determination as outlined in the 1981 Nairobi resolution and to encourage all parties to the conflict to reach a peaceful internationally recognized settlement. As part of this policy, the United States should carefully consider each type of military assistance it furnishes to any of the parties to the conflict and should seek to insure that the furnishing of such military assistance is consistent with United States policy which seeks a negotiated settlement.

(b) FURTHER STATEMENT OF POLICY.—It is the further policy of the United States to support Morocco's legitimate defense needs and to discourage aggression by any country in North Africa against another.

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SEC. 812.[43] FAILURE OF THE ETHIOPIAN GOVERNMENT TO RESPONSIBLY AMELIORATE FAMINE CONDITIONS. * * * [Repealed—1991]

SEC. 813. ASSISTANCE FOR THE PEOPLE'S REPUBLIC OF MOZAMBIQUE.

(a) ECONOMIC ASSISTANCE.—The funds authorized to be appropriated for fiscal years 1986 and 1987 to carry out chapter 1 of part

"None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.".

[43] Sec. 118 of the Further Continuing Appropriations, 1992 (Public Law 102–145, as amended), repealed sec. 812, subsecs. (c) and (d) of which provided the following:

"(c) PROHIBITION ON IMPORTS AND EXPORTS.—(1) The President shall determine, within 30 days after the date of enactment of this Act, whether the Ethiopian regime is conducting a deliberate policy of starvation of its people and has not granted fundamental human rights to its citizens. The President shall submit that determination, and the basis for the determination, to the Congress.

"(2) If the President determines that such a policy is being conducted and that such rights are not being granted, paragraph (3) shall take effect if the Congress enacts a joint resolution approving that determination.

"(3) If the conditions specified in paragraph (1) and (2) are met—

"(A) goods and services of Ethiopian origin may not be imported into the United States; and

"(B) except for emergency relief, rehabilitation, and recovery assistance, goods, and services of United States origin may not be exported (directly or indirectly) to Ethiopia.

"(d) PROHIBITION ON ECONOMIC ASSISTANCE.—The President shall suspend all forms of economic assistance to the Government of Ethiopia. This section shall not be construed to prevent the furnishing of international disaster assistance under section 491 of the Foreign Assistance

Continued

I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 that are allocated for bilateral assistance to the People's Republic of Mozambique shall be used solely for assistance to the private sector of the economy of Mozambique to the maximum extent practicable. To the maximum extent practicable, such funds shall be channeled to non-governmental entities in Mozambique.

(b) MILITARY ASSISTANCE.—(1) None of the funds authorized to be appropriated for fiscal year 1986 or fiscal year 1987 to carry out chapter 2 of part II (relating to grant military assistance) or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 shall be used to provide assistance to the People's Republic of Mozambique unless the President makes the certification described in paragraph (2) before providing any such assistance for that fiscal year.

(2) The certification required by paragraph (1) is a certification by the President to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate that the Government of the People's Republic of Mozambique—

(A) is making a concerted and significant effort to comply with internationally recognized human rights;

(B) is making continued progress in implementing essential economic and political reforms, including the restoration of private property and respect for the right to engage in free enterprise in all sectors of the economy;

(C) has implemented a plan by September 30, 1986, to reduce the number of foreign military personnel to no more than 55; and

(D)(i) in the case of a certification with respect to assistance for fiscal year 1986, is committed to holding free elections at a date no later than September 30, 1986, and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in Mozambique which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to—

(I) the electoral process with internationally recognized observers; and

(II) the elimination of all restrictions on the formation and activities of opposition political parties; and

(ii) in the case of a certification with respect to assistance for fiscal year 1987, held free elections by September 30, 1986.

TITLE IX—ASIA

SEC. 901. THE PHILIPPINES.[44]

(a) DEMOCRACY IN THE PHILIPPINES.—It is the sense of the Congress that the United States should encourage the revitalization of

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Act of 1961 or economic assistance which will directly benefit people in accordance with section 116 of that Act.".

[44] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–221), provided:

democracy in the Philippines. To that end, the Congress affirms its intention to grant future aid to the Philippines according to the determination of the Congress that United States security interests are enhanced and sufficient progress is made by the Government of the Philippines in—

(1) guaranteeing free, fair, and honest elections in 1986 and 1987, or sooner should any such elections occur;

(2) ensuring the full, fair, and open prosecution of those responsible for the murder of Benigno Aquino, including those involved in the cover-up;

(3) ensuring freedom of speech and freedom of the press, and unrestricted access to the media on the part of all candidates for public office in the local and provincial elections of 1986 and the Presidential election of 1987;

(4) establishing the writ of habeas corpus and the termination of the Presidential Detention Action and all other forms of detention without charge or trial;

(5) releasing all individuals detained or imprisoned for peaceful political activities;

(6) making substantial progress in terminating extrajudicial killings by the Philippine military and security forces and the prosecution of those responsible for such killings in the past;

(7) implementing structural economic reforms and a strengthening of the private sector, including elimination of corruption and monopolies; and

(8) enhancing the professional capability of the Philippine armed forces and security forces (including the Philippine Constabulary and the Civilian House Defense Forces).

(b) PRIMARY PURPOSE OF UNITED STATES ASSISTANCE.—The Congress finds and declares that the primary purpose of United States assistance to the Philippines should be to maintain and foster friendly relations between the people of the Philippines and the people of the United States and to encourage the restoration of internal security, both of which goals can be best served by the achievement of an open and stable democracy.

(c) CONGRESSIONAL OVERSIGHT.—The Congress, in determining future aid levels for the Philippines, will take into account not only our military bases agreement with that country, but also the extent to which the objectives and goals specified in subsections (a) and

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"ECONOMIC SUPPORT FUND

"That not less than an additional sum of $200,000,000 shall be available only for the Philippines: * * *."

Title I, Chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99–349; 100 Stat. 726), further provided:

"SPECIAL ASSISTANCE TO THE PHILIPPINES

"ECONOMIC SUPPORT FUND

"For an additional amount for the 'Economic Support Fund', $100,000,000, to remain available until March 31, 1987: *Provided,* That this amount shall be available only for the Philippines: *Provided further,* That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

"MILITARY ASSISTANCE

"For an additional amount for 'Military Assistance', $50,000,000, to remain available until March 31, 1987: *Provided,* That this amount shall be available only for the Philippines: *Provided further,* That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.".

(b) have been implemented. The Congress may defer assistance for the Philippines under both chapter 2 of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act if—

(1) significant progress is not achieved with respect to the objectives and goals specified in subsections (a) and (b), or

(2) the Congress finds that such assistance is used to violate the internationally recognized human rights of the Filipino people.

(d)[45] * * * [Repealed—1986]

(e) NONLETHAL ASSISTANCE.—Assistance provided for the Philippines for fiscal year 1986 under the Arms Export Control Act or under chapter 2, of part II of the Foreign Assistance Act of 1961 shall be nonlethal in character.

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SEC. 903. DISADVANTAGED CHILDREN IN ASIA.

(a) * * *

(b) ADDITIONAL STEPS TO HELP AMERASIAN CHILDREN.—The Congress finds that Amerasian children are currently the object of discrimination in the countries in Asia where they now reside. Therefore, the President shall report to the Congress on the quality of life of these children and on what additional steps, such as facilitating adoptions, the United States could take to enhance the lives of these children.

SEC. 904.[46] ASSISTANCE FOR AFGHANISTAN.

(a) AUTHORIZATION.—The President may make available funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

(b)[47] EARMARKING OF FUNDS.—Each fiscal year, not less than $15,000,000 of the aggregate amount of funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 shall be available only for humanitarian assistance to the Afghan people pursuant to subsection (a) of this section.

(c) EFFECTIVE DATES.—This section shall take effect on the date of enactment of this Act, except that subsection (b) shall not apply to fiscal year 1985.

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[45] Sec. 556 of the Foreign Assistance and Related Programs Appropriations Act (in sec. 101(f) of Public Law 99–591; 100 Stat. 334), repealed sec. (d). It formerly read as follows:

"(d) AMOUNTS OF ASSISTANCE.—Of the amounts authorized to be appropriated for each of the fiscal years 1986 and 1987—

"(1) to carry out the Arms Export Control Act (relating to foreign military sales financing), not more than $20,000,000 may be used for assistance for the Philippines;

"(2) to carry out chapter 2 of part II of the Foreign Assistance Act of 1981 (relating to grant military assistance), not more than $50,000,000 may be used for assistance for the Philippines; and

"(3) to carry out chapter 4 of part II of the Foreign Assistance Act of 1981 (relating to the economic support fund), $110,000,000 shall be available only for the Philippines.".

[46] 22 U.S.C. 2374 note.

[47] Sec. 541 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–236), provided:

"Not less than $300,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.".

SEC. 905. ASSISTANCE FOR THE CAMBODIAN PEOPLE.

The President may make available to the noncommunist resistance forces in Cambodia up to $5,000,000 for fiscal year 1986, and up to $5,000,000 for fiscal year 1987, of the funds authorized to be appropriated to carry out chapter 2 (relating to grant military assistance) or chapter 4 (relating to the economic support fund) of part II of the Foreign Assistance Act of 1961, notwithstanding any other provision of law.

SEC. 906. PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE.

(a) PROHIBITION.—Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military of paramilitary operations in Cambodia or elsewhere in Indochina.

(b) DEOBLIGATION OF CERTAIN FUNDS.—All funds appropriated before the date of enactment of this section which were obligated but not expended for activities having the purpose or effect described in subsection (a) shall be deobligated and shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—This section shall not be construed as limiting the provision of food, medicine, or other humanitarian assistance to the Cambodian people.

SEC. 907. POLITICAL SETTLEMENT IN SRI LANKA.

(a) FINDINGS.—The Congress finds that—

(1) the Government and people of Sri Lanka and the Government and people of the United States share a common devotion to independence, democracy, and human rights;

(2) the United States is concerned over the armed clashes between the security forces of the Government of Sri Lanka and some Sri Lankans who seek through violent means, including terrorist attacks, to divide that nation;

(3) there have been acts of terrorism committed against members of the Sri Lankan security forces, as well as against civilians, and there have been human rights abuses by members of the security forces against civilians, particularly Tamils, despite the efforts of the Government, which the Congress believes must be intensified, to put an end to those abuses;

(4) the differences and grievances in Sri Lanka cannot be resolved through the use of force; and

(5) the United States is a proud participant through its economic assistance programs in Sri Lanka's highly regarded development efforts and looks forward to enhanced cooperation and assistance in the context of a political settlement in Sri Lanka leading to the kind of peaceful climate in which additional aid could be effectively utilized.

(b) POLITICAL SETTLEMENT.—It is, therefore, the sense of the Congress that—

(1) all parties in Sri Lanka, from all communities in and out of government, should renew their efforts to achieve a joint po-

litical settlement which meets the legitimate concerns of all the people of Sri Lanka, while preserving the territorial integrity of Sri Lanka; and

(2) all parties outside Sri Lanka should do nothing which would impede progress toward such a settlement.

SEC. 908. UNITED STATES POLICY TOWARD THE REPUBLIC OF KOREA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of Korea has taken several significant and encouraging steps in liberalizing the political system in that country;

(2) among the steps which have facilitated a more democratic environment are the release of hundreds of student demonstrators, the lifting of a political ban on more than 300 opposition leaders, and the holding of a vigorously contested election for the National Assembly in which the opposition made substantial gains;

(3) despite these steps, the people of the Republic of Korea, who have become increasingly better educated and prosperous as a result of Korea's extraordinarily rapid economic development, have the desire and the capability to participate more fully and effectively in the government of their own country; and

(4) while internationally recognized human rights are clearly respected much more in the Republic of Korea than in the Democratic People's Republic of Korea, continued progress toward democratization in the south is in the interests of both the Republic of Korea and the United States, inasmuch as long-term political stability cannot be assured in the absence of further progress towards democratic government.

(b) UNITED STATES POLICY.—It is the policy of the United States to provide assistance to the Republic of Korea in order to help that country defend itself against external aggression. It is the hope of the United States that the continuing close relations between our two countries, including such assistance, will encourage the establishment of a genuinely democratic system in the Republic of Korea, in which internationally recognized human rights, including freedom of the press, freedom of association, and freedom of assembly are observed.

TITLE X—FOOD AND AGRICULTURAL ASSISTANCE

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SEC. 1008. LONG-TERM AGRICULTURAL COMMODITY AGREEMENTS WITH FOOD DEFICIT COUNTRIES.

As part of the United States foreign assistance program, the President should explore the possibility of concluding long-term agricultural commodity agreements to help stabilize and increase the flow of concessional and commercial foodstuffs with food deficit countries. The President shall prepare and transmit to the Congress a report on his efforts to achieve such long-term agreements by June 1, 1986.

TITLE XI—PEACE CORPS

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SEC. 1103.[48] LIMITATION ON LENGTH OF PEACE CORPS EMPLOYMENT.

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SEC. 1104.[48] PEACE CORPS NATIONAL ADVISORY COUNCIL.

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TITLE XII—MISCELLANEOUS PROVISIONS RELATING TO FOREIGN ASSISTANCE

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SEC. 1205.[49] REPORTS ON ECONOMIC CONDITIONS IN CERTAIN COUNTRIES.

(a) EXTERNAL DEBT BURDEN OF CERTAIN COUNTRIES RECEIVING UNITED STATES ASSISTANCE.—The Congress finds that the Governments of Egypt, Israel, Turkey, and Portugal each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs.

(b) ANNUAL REPORTS ON ECONOMIC CONDITIONS.—In order to assist the Congress in examining United States assistance for those countries, the President shall report to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, not later than January 15 of each year, regarding economic conditions prevailing in Egypt, Israel, Turkey, and Portugal which may affect their respective ability to meet their international debt obligations and to stabilize their economies.

SEC. 1206. EGYPTIAN-ISRAELI RELATIONS.

The Congress notes the recent effort of Egypt to move the peace process forward. However, the Congress continues to be concerned about the less than normal relations between Egypt and Israel. It is the sense of the Congress that all United States foreign assistance to Egypt is provided in the expectation that the Egyptian Government will continue in its efforts to bring peace to the region and that it will continue to support and fulfill the provisions of the Camp David Accords and the Egyptian-Israeli Peace Treaty.

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SEC. 1210. REPORT ON UNITED STATES ASSISTANCE TO COAL EXPORTING NATIONS.

Not later then 30 days after the date of enactment of this Act, the President shall submit to the appropriate committees of the Congress a report describing the status and terms of, and containing all other pertinent information relating to, any United States Government assistance which is provided to foreign nations that produce or export coal for the purpose of financing or assisting

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[48] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[49] 22 U.S.C. 2346 note. Sec. 209(e)(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), exempted the reports required pursuant to sec. 1205 from the application of sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.".

in the development of coal production, transportation, export, or other coal-related activities or operations.

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TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301.[50] EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on October 1, 1985.

SEC. 1302.[51] CODIFICATION OF POLICY PROHIBITING NEGOTIATIONS WITH THE PALESTINE LIBERATION ORGANIZATION

(a) UNITED STATES POLICY.—The United States in 1975 declared in a memorandum of agreement with Israel, and has reaffirmed since, that "The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338.".

(b) REAFFIRMATION AND CODIFICATION OF POLICY.—The United States hereby reaffirms that policy. In accordance with that policy, no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the Palestine Liberation Organization or any representatives thereof (except in emergency or humanitarian situations) unless and until the Palestine Liberation Organization recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338 and renounces the use of terrorism, except that no funds authorized to be appropriated by this or any other Act may be obligated or made available for the conduct of the current dialogue on the Middle East process with any representative of the Palestine Liberation Organization if the President knows and advises the Congress that the representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of a United States citizen.[52]

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[50] 22 U.S.C. 2151 note.

[51] 22 U.S.C. 2151 note. Sec. 531 of the Foreign Assistance Appropriations Act, 1986 (Sec. 101(i) of Public Law 99–190; 99 Stat. 1307), provided the following:

"In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.". Sec. 530 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–231) contained identical language.

Sec. 527 of the Foreign Assistance and Related Agencies Appropriations Act 1987 (see. 101(f) of Public Law 99–591; 100 Stat. 3341–230) provided:

"Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.".

[52] Sec. 108 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 15; approved February 16, 1990), added text to this point from ", except that no funds * * *".

SEC. 1303.[53] COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD.

(a) PURPOSE.—Because the fabric of a society is strengthened by visible reminders of the historical roots of the society, it is in the national interest of the United States to encourage the preservation and protection of the cemeteries, monuments, and historic buildings associated with the foreign heritage of United States citizens.

(b) ESTABLISHMENT.—There is established a commission to be known as the Commission for the Preservation of America's Heritage Abroad (hereafter in this section referred to as the "Commission").

(c) DUTIES.—The Commission shall—

(1) identify and publish a list of those cemeteries, monuments, and historic buildings located abroad which are associated with the foreign heritage of United States citizens from eastern and central Europe, particularly those cemeteries, monuments, and buildings which are in danger of deterioration or destruction;

(2) encourage the preservation and protection of such cemeteries, monuments, and historic buildings by obtaining, in cooperation with the Department of State, assurances from foreign governments that the cemeteries, monuments, and buildings will be preserved and protected; and

(3) prepare and disseminate reports on the condition of and the progress toward preserving and protecting such cemeteries, monuments, and historic buildings.

(d) MEMBERSHIP.—(1) The Commission shall consist of 21 members appointed by the President, 7 of whom shall be appointed after consultation with the Speaker of the House of Representatives and 7 of whom shall be appointed after consultation with the President pro tempore of the Senate.

(2)(A) Except as provided in subparagraphs (B) and (C), members of the Commission shall be appointed for terms of 3 years.

(B) Of the members first appointed after consultation with the Speaker of the House of Representatives, 5 shall be appointed for 2 years.

(C) A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the member's predecessor was appointed.

(D) A member may retain membership on the Commission until the member's successor has been appointed.

(3) The President shall designate the Chairman of the Commission from among its members.

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[53] 16 U.S.C. 469j. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B of Public Law 108–447; 118 Stat. 2809), provided the following:

"COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

"SALARIES AND EXPENSES

"For expenses for the Commission for the Preservation of America's Heritage Abroad, $499,000, as authorized by section 1303 of Public Law 99–83.".

(e) MEETINGS. The Commission shall meet at least once every six[54] months.

(f) COMPENSATION AND PER DIEM.—(1) Members of the Commission shall receive no pay on account of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(g) AUTHORITIES.—(1) The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may appoint such personnel (subject to the provisions of title 5 of the United States Code which govern appointments in the competitive service) and may fix the pay of such personnel (subject to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates) as the Commission deems desirable.

(3) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332(a)).

(4) Upon request of the Commission, the head of any Federal department or agency, including the Secretary of State, may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section.

(5) The Commission may secure directly from any department or agency of the United States, including the Department of State, any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(6) The Commission may accept, use, and dispose of gifts or donations of money or property.

(7) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(8) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) REPORTS.—The Commission shall transmit an annual report to the President and to each House of Congress as soon as practicable after the end of each fiscal year. Each report shall include a detailed statement of the activities and accomplishments of the

[54] Sec. 620 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (division A, sec. 101(b) of Public Law 105–277; 112 Stat. 2681) struck out "three" and inserted in lieu thereof "six".

Commission during the preceding fiscal year and any recommendations by the Commission for legislation and administrative actions.

SEC. 1304.[55] FEDERAL COAL EXPORT COMMISSION.

(a) ESTABLISHMENT.—The Secretary of Commerce shall establish, within ninety days after the date of enactment of this Act, a Federal Coal Export Commission (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of thirty members appointed by the Secretary of Commerce, as follows:

(1) FEDERAL GOVERNMENT REPRESENTATIVES.—Ten members shall be representatives of the International Trade Administration, the Department of Energy, the Department of State, the Department of Transportation, the Office of the United States Trade Representative, and a Federal institution involved in export financing.

(2) PRIVATE SECTOR REPRESENTATIVES.—

(A) Five members shall be representatives of export coal producers, including traders and brokers.

(B) Five members shall be representatives of coal labor.

(C) Five members shall be representatives of transporters of export coal, including representatives of rail and barge carriers and port authorities.

(D) Five members shall be representatives of institutions having a substantial interest in United States export coal financing.

(c) EXPENSES.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) COOPERATION.—All Federal departments and agencies are authorized to cooperate with the Commission and to furnish information, appropriate personnel, and such assistance as may be agreed upon by the Commission and the Federal department or agency involved.

(e) ACTIVITIES.—The Commission shall convene not less than four times a year for consultation on activities leading to increased cooperation among entities involved in United States coal exports, with the goal of expanding the United States share of the international coal market. Activities of the Commission shall include, but are not limited to, the identification of—

(1) diplomatic channels to facilitate the exportation of United States coal and methods to increase the coordination of diplomatic efforts relating to such exports;

(2) domestic and international impediments to coal exports;

(3) foreign markets for United States export coal, with emphasis on increasing United States coal sales to developing nations and expanding the participation of the United States International Development Cooperation Agency in such an effort;

[55] 15 U.S.C. 4011 note.

(4) availability of, and methods of, financing United States coal exports, including the feasibility of increasing Federal export financial and economic assistance; and

(5) methods to promote, market, and coordinate United States coal on the international market.

The Commission shall also examine the potential for small- and medium-sized coal companies to enter the export coal trade through export trading companies with respect to the marketing, transportation, and financial services which such trading companies may provide pursuant to the Export Trading Company Act of 1982.

(f) REPORT.—The Commission shall submit to the President and the Congress, within two years after its first meeting, a report which details its findings pursuant to subsection (e) and, based upon such findings, makes recommendations which would lead to the expansion of the United States share of the international metallurgical and steam coal market.

(g) TERMINATION.—The Commission shall cease to exist upon submission of its report pursuant to subsection (f).

q. International Security and Development Assistance Authorizations Act of 1983

Partial text of Public Law 98–151 [H.J. Res. 413], 97 Stat. at 964, approved November 14, 1983

A JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1984.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1984, and for other purposes, namely:

Sec. 101. (a) * * *

(b)(1)[1] * * *

(2) Section 101(b)(2) of this joint resolution may be cited as the "International Security and Development Assistance Authorizations Act of 1983".

AUTHORIZATIONS OF APPROPRIATIONS

There is authorized to be appropriated to the President $1,315,000,000 for the fiscal year 1984 to carry out section 23 of the Arms Export Control Act. The total principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act shall not exceed $4,446,500,000 for the fiscal year 1984.

There are authorized to be appropriated for the fiscal year 1984 the following amounts to carry out the following provisions of the Foreign Assistance Act of 1961:

(1) $725,213,000 to carry out section 103.
(2) $244,600,000 to carry out section 104(b).
(3) $133,400,000 to carry out section 104(c).
(4) $121,477,000 to carry out section 105.
(5) $160,000,000 to carry out section 106.
(6) $103,000,000 to carry out section 121.
(7) $30,000,000 to carry out section 214.
(8) $266,214,000 to carry out chapter 3 of part I.
(9) $47,000,000 to carry out section 481.
(10) $25,000,000 to carry out section 491.
(11) $3,074,000,000 to carry out chapter 4 of part II.
(12) $639,700,000 to carry out section 503.
(13) $56,452,000 to carry out chapter 5 of part II.
(14) $46,200,000 to carry out chapter 6 of part II.
(15) $22,000,000 to carry out section 661.

[1] Sec. 101(b)(1) is cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984."

(16) $370,000,000 to carry out section 667.

There is authorized to be appropriated to the President to carry out the African Development Foundation Act $3,000,000 for the fiscal year 1984.

There is authorized to be appropriated to carry out the Peace Corps Act $116,000,000 of the fiscal year 1984.

Section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds appropriated for "Migration and Refugee Assistance" or for the Inter-American Foundation by the joint resolution of October 1, 1983 (Public Law 98–107), as amended by this joint resolution.

ASSISTANCE FOR ISRAEL AND EGYPT [2]

* * * * * * *

CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR

Not more than 70 percent of the amount available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until—

(1) Salvadoran authorities have substantially concluded all investigative actions in the case of the National Guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the Department of State (including the letters dated July 8 and September 23, 1983); and

(2) Salvadoran authorities have brought the accused to trial and have obtained a verdict.

Not more than 90 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until the President has determined and certified to the Congress that—

(1) the Government of El Salvador has not taken any action which would alter, suspend, or terminate the land reform program for phase I or phase III promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) the Government of El Salvador continues to make documented progress on implementing the land reform program.

MINORITY SET-ASIDE

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for the fiscal year 1984 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of

[2] This para. amended sec. 31 of the Arms Export Control Act and sec. 532 of the Foreign Assistance Act of 1961, to provide authorization levels for Israel and Egypt for fiscal year 1984.

section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically Black colleges and universities, and private and voluntary organizations which are controlled by individuals who are Black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

MINORITY RESOURCE CENTER

None of the funds authorized to be appropriated for the fiscal year 1984 to carry out the Foreign Assistance Act of 1961 may be used to eliminate the Minority Resource Center as a separate and distinct entity within the Agency for International Development, including implementation of a consolidation of the Minority Resource Center with the Office of Small and Disadvantaged Business Utilization under section 133(c)(8) of the International Development and Food Assistance Act of 1977.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

It is the sense of the Congress that for the fiscal year 1984 up to $24,000,000 of the funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, and up to $10,000,000 of the funds available to carry out chapter 4 of part II of such Act, should be made available for development assistance for Haiti, subject to the limitation contained in the third paragraph of this heading.

To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

Funds available for fiscal year 1984 to carry out chapter 1 of part I or chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti, and credits may be extended and guarantees may be issued under the Arms Export Control Act for Haiti, only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making a concerted and significant effort to improve the human rights situation in Haiti by implementing the political reforms which are essential to the development of democracy in Haiti, including the establishment of political parties, free elections, and freedom of the press.

Six months after the date of enactment of this section, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each numbered provision contained in the third paragraph of this heading.

Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1984 may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

PRIVATE SECTOR REVOLVING FUND

The amendment contained in section 407 of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, is hereby enacted.[3]

ANTITERRORISM ASSISTANCE PROGRAM

The amendments contained in title II of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, are hereby enacted,[4] except that, for purposes of such enactment, section 575 of the Foreign Assistance Act of 1961 shall read as follows:

"SEC. 575. APPROPRIATIONS.—There is authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1984. Amounts appropriated under this section are authorized to remain available until expended.".

* * * * * * *

[3] This amendment added a new sec. 108 to the Foreign Assistance Act of 1961.
[4] These amendments added a new chapter 8 to part II of the Foreign Assistance Act of 1961.

r. International Security and Development Cooperation Act of 1981

Partial text of Public Law 97–113 [S. 1196], 95 Stat. 1519, approved December 29, 1981; as amended by Public Law 97–233 [H.J. Res. 494], 96 Stat. 260, approved August 10, 1982; Public Law 98–53 [Conditions on Aid to El Salvador, H.R. 1271], 97 Stat. 287, approved July 15, 1983; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 247, approved August 8, 1985; Public Law 101–162 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990; H.R. 2991], 103 Stat. 1030, approved November 21, 1989; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1981 consists of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act, the Peace Corps Act, Public Law 480, and to several former foreign aid annual authorization acts. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for the fiscal years 1982 and 1983 for international security and development assistance and for the Peace Corps, to establish the Peace Corps as an autonomous agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security and Development Cooperation Act of 1981".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

* * * * * * *

SPECIAL DEFENSE ACQUISITION FUND

Sec. 108. (a)[1] * * *

[1] Sec. 108(a) amended the Arms Export Control Act by adding a new chapter 5 concerning the Special Defense Acquisition Fund.

(b) Section 138 of title 10, United States Code, is amended by adding immediately following subsection (f) the following new subsection:

"(g) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act may not exceed $300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter.".[2]

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TITLE II—ECONOMIC SUPPORT FUND

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ACQUISITION OF AGRICULTURAL COMMODITIES AND RELATED PRODUCTS UNDER COMMODITY IMPORT PROGRAMS

Sec. 203.[3] The Congress directs the President to allocate at least 15 percent of the funds which are made available each fiscal year under this title for commodity import programs for use in financing the purchase of agricultural commodities and agricultural related products which are of United States-origin.

TITLE III—DEVELOPMENT ASSISTANCE

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

Sec. 301. (a) * * *

(b)(1) It is the sense of the Congress that the United States should strongly support the efforts of developing countries to improve infant feeding practices, in particular through the promotion of breast feeding. As a demonstration of that support, the President is authorized to use up to $5,000,000 of the funds made available for the fiscal year 1982 to carry out the purposes of sections 103 and 104(c) of the Foreign Assistance Act of 1961 in order to assist developing countries establish or improve programs to encourage improved infant feeding practices. In carrying out this paragraph, the Agency for International Development should provide funds for necessary research to obtain better information on the precise nature and magnitude of problems relating to infant feeding practices, including the use of infant formula, in developing countries.

(2) The President shall, as part of the congressional presentation documentation for the fiscal years 1983 and 1984, include information relevant to the implementation of this subsection, including—

(A) a description of actions taken by the Agency for International Development to promote breast feeding and to improve supplemental infant feeding practices in developing countries through funds made available in this subsection and through its regular programs in the fields of health, nutrition, and population activities;

[2] Sec. 1103 of the Department of Defense Authorization Act, 1983 (Public Law 97–252; 96 Stat. 738), amended subsec. (g) by inserting the ceiling figure for fiscal year 1984.

[3] 22 U.S.C. 2346 note.

(B) a summary of the results of studies authorized by this subsection on the nature and magnitude of problems in developing countries related to infant feeding practices; and

(C) a summary of reports by member countries of the World Health Organization on their actions to implement the International Code of Marketing of Breast Milk Substitutes.

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TITLE IV—FOOD FOR PEACE PROGRAMS

* * * * * * *

SELF-HELP MEASURES TO INCREASE AGRICULTURAL PRODUCTION; VERIFICATION OF SELF-HELP PROVISIONS

Sec. 403. (a) * * *

(b) * * *

(c)[4] The amendments made by this section shall not be effective if the Agriculture and Food Act of 1981 is enacted (either before or after the enactment of this Act) and contains the same amendments.

* * * * * * *

TITLE V—OTHER ASSISTANCE PROGRAMS

* * * * * * *

INTERNATIONAL NARCOTICS CONTROL

Sec. 502. (a)(1)[5] * * *

(2)[6] Assistance provided from funds appropriated, before the enactment of this Act, to carry out section 481 of the Foreign Assistance Act of 1961 may be made available for purposes prohibited by subsection (d) of such section as in effect immediately before the enactment of this subsection.

(3)[6] Funds appropriated for the fiscal year 1980 to carry out section 481 of the Foreign Assistance Act of 1961 which were obligated for assistance for the Republic of Colombia may be used for purposes other than those set forth in section 482(a)(2) of that Act as in effect immediately before the enactment of the International Security and Development Cooperation Act of 1980.

(4)[6] Paragraphs (2) and (3) of this subsection shall apply only to the extent provided in advance in an appropriations Act. For such purpose, the funds described in those paragraphs are authorized to be made available for the purposes specified in those paragraphs.

* * * * * * *

[4] Subsecs. (a) and (b) of sec. 403 contained amendments to Public Law 83–480. The Agriculture and Food Act of 1981, referred to in subsec. (c) was enacted on December 22, 1981 (Public Law 97–98; 95 Stat. 1213), and contained the same amendments as sec. 403. The amendments made by subsecs. (a) and (b), therefore, did not come into force.

[5] Para. (1) amended sec. 481(d) of the FA Act of 1961.

[6] 22 U.S.C. 2291 note.

TITLE VI—PEACE CORPS

ESTABLISHMENT AS AN INDEPENDENT AGENCY

Sec. 601. (a)[7] * * *
(b)[8] * * *

* * * * * * *

RESTORATION OF CERTAIN AUTHORITIES FORMERLY CONTAINED IN THE FOREIGN SERVICE ACT

Sec. 604. (a)[9] * * *
(b)[10] * * *
(c)[11] * * *

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TITLE VII—MISCELLANEOUS PROVISIONS

* * * * * * *

INSPECTOR GENERAL

Sec. 705.[12] * * *

* * * * * * *

EMERGENCY HUMANITARIAN HELP FOR THE PEOPLE OF POLAND

Sec. 708. (a) The people of Poland, with whom the people of the United States have a longstanding friendship, now face serious domestic food shortages which will be worsened by large-scale loss of their livestock this winter if feed supplies do not arrive quickly. Therefore, the President is urged, for urgent humanitarian reasons, to use existing authorities promptly in order to provide to the people of Poland, under as favorable terms as possible, feed grains from Commodity Credit Corporation stocks or other appropriate commodities.

(b) For the longer term, the President is encouraged to pursue discussions with other Western countries about a multilateral effort to help the people of Poland achieve self-sustaining economic recovery in the years ahead.

(c)[13] * * *

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[7] Sec. 601(a) amended the Peace Corps Act by adding a new sec. 2A providing for the Peace Corps as an independent agency. For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[8] For text of freestanding provisions of sec. 601, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[9] Sec. 604(a) amended sec. 10 of the Peace Corps Act by adding new subsecs. (i) and (j). For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[10] Sec. 604(b) amended sec. 5(h) of the Peace Corps Act. For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[11] For text of sec. 604(c), see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[12] Sec. 705 amended sec. 2 and 11 of and added a new sec. 8A to the Inspector General Act of 1978 (Public Law 95–452; 99 Stat. 1101). Sec. 705 also amended the FA Act of 1961 to conform with the new sec. 8A.

[13] Subsec. (c) amended the Foreign Assistance Act of 1961 by adding a new sec. 540 providing $5,000,000 for Poland during fiscal year 1982.

USE OF CERTAIN POLISH CURRENCIES

Sec. 709. (a) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, or any other provision of law, the currencies or credits received by the United States from the April 1981 sale and from the October 1981 sale of United States Government-held surplus dairy products to Poland shall, to such extent as may be provided in advance in an appropriation Act, be used by the President in Poland to serve United States interests, including use for activities of common benefit to the people of the United States and the people of Poland, such as joint programs in energy, agriculture, education, science, health, and culture, or for humanitarian activities.

(b) Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies or credits shall not affect or reduce appropriations otherwise available for the purposes described in subsection (a).

FINDINGS REGARDING GLOBAL SECURITY

Sec. 710. (a) The Congress finds that the security of the United States and other countries is increasingly affected by a broad range of global problems including shortages or potential shortages of food, oil, water, wood, and other basic mineral and natural resources; desperate poverty; sickness; population pressures; environmental deterioration, including soil erosion and water pollution; and large-scale and destabilizing refugee problems.

(b) The Congress finds that hunger, disease, and extreme poverty are among the most critical of these global problems. As ever greater numbers of people perceive the disparity between their own continuing deprivation and the prosperity of others, and judge their predicament to be neither just nor inevitable, it becomes increasingly likely that there will be unrest and violence with consequent disruption of the flow of essential materials, adverse effects on the world economy, decreased likelihood of cooperative efforts toward meeting the other critical problems threatening national and global security, and increased likelihood of confrontation between nations which possess nuclear arms.

(c) Therefore, the Congress finds that the Nation's understanding of global and national security must be broad enough to include the problems cited in this section, and that adequate protection of the security of the United States requires effective action on these global problems, and in particular on the problems of hunger, disease, and extreme poverty.

WORLD FOOD SECURITY RESERVES

Sec. 711. (a) The Congress finds that—

(1) the Congress recently passed and the President signed into law an Act which provides for establishment of a United States food security reserve of up to four million metric tons of wheat to be used for emergency food assistance;

(2) the food import needs of developing countries will increase over the next ten years; and

(3) other grain exporting countries could take additional steps to assure continuity of food assistance during food crisis years.

(b) The President shall encourage other grain exporting countries to establish their own food security reserves or take other measures that complement the United States food security reserve.

(c) The President shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate within one year after the enactment of this Act on the actions he has taken and the response of other countries to these proposals.

FINDINGS AND DECLARATION OF POLICY REGARDING WORLD HUNGER

Sec. 712. The Congress, affirming the value of human life, finds and declares that the elimination of hunger and its causes is of fundamental moral significance and, further, that it is in the political, economic, and security interests of the United States. Therefore, the Congress declares that the elimination of hunger and its causes shall be a primary objective of United States relations with the developing countries.

REAFFIRMATION OF SUPPORT FOR HUMAN RIGHTS PROVISIONS

Sec. 713. (a) The Congress reaffirms its support for the various statutory provisions which have been enacted in order to promote internationally recognized human rights.

(b) It is the sense of the Congress that a strong commitment to the defense of human rights should continue to be a central feature of United States foreign policy.

IMMIGRANT VISAS FOR TAIWAN

Sec. 714.[14] The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China).

LEBANON

Sec. 715. It is the sense of the Congress that the Government of the United States should continue to support diplomatic efforts to resolve the current crisis in Lebanon, and to pursue a comprehensive and coordinated policy in Lebanon guided by the following principles:

(1) maintenance of an effective cease-fire throughout Lebanon;

(2) resolution of the issue of the Syrian missiles deployed in Lebanon;

(3) freedom, security, and opportunity for the Christian and all other Lebanese communities, including the Moslem, Druze, Armenian, and Jewish communities in Lebanon;

[14] 8 U.S.C. 1152 note.

(4) reaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, without partition, free from terrorism and violence, and free to determine its future without Soviet or other outside interference;

(5) generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for those Lebanese citizens who have suffered from the terrorism and violence of recent events;

(6) restoration of Lebanon's sovereignty free from outside domination or occupation; and

(7) support for a free and open national election.

USE OF CHEMICAL AND TOXIN WEAPONS

Sec. 716. (a) The Congress condemns the use of, and the provision for use of, chemical agents and toxin weapons against the peoples of Laos, Kampuchea, or Afghanistan.

(b) It is the sense of the Congress that the President should, acting through the Permanent Representative of the United States to the United Nations and all other appropriate diplomatic agents, seek definite measures to bring to an end actions by any party or government in using, and providing for use, chemical agents or toxin weapons against the peoples of Laos, Kampuchea, and Afghanistan, in violation of the spirit and the provisions of—

(1) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow on April 10, 1972);[15]

(2) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (signed at Geneva on June 17, 1925);[15] and

(3) customary international law.

(c) It is further the sense of Congress that the President should—

(1) allocate the highest possible priority to the development of further evidence clarifying the nature and origins of the chemical agents and toxin weapons being used against the peoples of Laos, Kampuchea, and Afghanistan; and

(2) vigorously seek a satisfactory explanation from the Government of the Soviet Union regarding the strong circumstantial and presumptive evidence of its role in the use, or provision for use, of such weapons.

(d) The Congress reiterates the concern expressed in House Resolution 644 (96th Congress), adopted by the House of Representatives on May 19, 1980, regarding the outbreak of pulmonary anthrax near Sverdlosk on April 3, 1979, and expresses its disappointment that the Soviet Union has failed adequately to respond to requests for data explaining this incident as provided in the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

[15] For text, see *Legislation on Foreign Relations Through 1988*, vol. V, sec. F.

(e) It is further the sense of Congress that the negotiation of a treaty prohibiting the development, production, and stockpiling of chemical weapons, with reliable verification provisions, should be given a high priority by the United States Government and by all foreign governments.

FINANCIAL OBLIGATIONS [16] TO THE UNITED NATIONS

Sec. 717. (a) The Congress finds and declares that—

(1) the financing of the United Nations is the collective responsibility of all member nations;

(2) the International Court of Justice has determined that the expenses of the United Nations incurred in its peacekeeping operations are properly included as a part of the regular expenses of the United Nations; and [17]

(3) peacekeeping operations are vital to the mission of the United Nations and must be adequately financed if such operations are to continue.[17]

(b) It is the sense of the Congress that the President, acting through the Permanent Representative of the United States to the United Nations, should undertake appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their [18] assessments with respect to the peacekeeping operations of the United Nations.

CONDEMNATION OF LIBYA FOR ITS SUPPORT OF INTERNATIONAL TERRORIST MOVEMENTS

Sec. 718. (a) The Congress condemns the Libyan Government for its support of international terrorist movements, its efforts to obstruct positive movement toward the peaceful resolution of problems in the Middle East region, and its actions to destabilize and control governments of neighboring states in Africa.

(b) The Congress believes that the President should conduct an immediate review of concrete steps the United States could take, individually and in concert with its allies, to bring economic and political pressure on Libya to cease such activities, and should submit a report on that review to the Congress within one hundred and eighty days after the date of enactment of this Act. Such a review should include the possibility of tariffs on or prohibitions against the import of crude oil from Libya.

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[16] Sec. 701(1) of the FRIENDSHIP Act (Public Law 103–199; 103 Stat. 2317) struck out "OF THE SOVIET UNION" from the section heading.

[17] Sec. 701(2) of the FRIENDSHIP Act (Public Law 103–199; 103 Stat. 2317) inserted "and" at the end of paragraph (2), replaced "; and" at the end of para. (3) with a period, and struck out para. (4), which had read as follows:

"(4) the Government of the Union of Soviet Socialist Republics is currently $180,000,000 in arrears on its payments to the United Nations, primarily as a result of its refusal to pay for the peacekeeping operations of the United Nations.".

[18] Sec. 701(3) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "a diplomatic initiative to obtain payment by the Government of the Union of Soviet Socialist Republics of all its outstanding financial obligations to the United Nations, including its" and inserted in lieu thereof "appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their".

UNITED STATES CITIZENS ACTING IN THE SERVICE OF INTERNATIONAL TERRORISM

Sec. 719. (a) It is the sense of the Congress that the spread of international terrorism poses a grave and growing danger for world peace and for the national security of the United States. As a part of its vigorous opposition to the activities of international terrorist leaders and the increase of international terrorism, the United States should take all steps necessary to ensure that no United States citizen is acting in the service of terrorism or of the proponents of terrorism.

(b) Not later than six months after the enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which includes—

(1) a description of all legislation, currently in force, and of all administrative remedies, presently available, which can be employed to prevent the involvement, service, or participation by United States citizens in activities in support of international terrorism or terrorist leaders;

(2) an assessment of the adequacy of such legislation and remedies, and of the enforcement resources available to carry out such measures, to prevent the involvement, service, or participation by United States citizens in activities in support of international terrorism or terrorist leaders; and

(3) a description of available legislative and administrative alternatives, together with an assessment of their potential impact and effectiveness, which could be enacted or employed to put an end to the participation of United States citizens in activities in support of international terrorism or terrorist leaders.

NONALIGNED COUNTRIES

Sec. 720. (a) In considering whether to provide assistance, make sales, extend credits, or guarantee loans under the provisions of the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act, to any country represented at the Meeting of Ministers of Foreign Affairs and Heads of Delegations of the Non-Aligned Countries to the 36th General Session of the General Assembly of the United Nations on September 25 and 28, 1981, the President shall take into account whether such country has dissociated itself from the communique issued following the meeting.

(b) Within thirty days after the date of enactment of this section, the President shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the countries which have dissociated themselves from the nonaligned countries communique and on their methods of dissociation.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

Sec. 721.[19] (a)(1) It is the sense of the Congress that up to $15,000,000 of the funds available for the fiscal year 1982 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 should be made available for development assistance for Haiti, subject to the limitation in subsection (b) of this section.

(2) To the maximum extent practicable, assistance for Haiti for the fiscal year 1982 under chapter 1 of part I of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(b) Funds available for the fiscal year 1982 to carry out chapter 1 of part I or chapter 2 or chapter 5 of part II of the Foreign Assistance Act of 1961 may be expended for Haiti, and credits and guarantees extended for the fiscal year 1982 under the Arms Export Control Act may be approved for use for Haiti, only if the President determines that the Government of Haiti—

(1) is cooperating with the United States in halting illegal emigration from Haiti:

(2) is not aiding, abetting, or otherwise supporting illegal emigration from Haiti;

(3) has provided assurances that it will cooperate fully in implementing United States development assistance programs in Haiti (including programs for prior fiscal years); and

(4) is not engaged in a consistent pattern of gross violations of internationally recognized human rights.

(c) Six months after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report on the extent to which the actions of the Government of Haiti are consistent with paragraphs (1), (2), (3), and (4) of subsection (b) of this section.

(d) Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1982 and for the fiscal year 1983 may be used for programs with Haiti to assist in halting significant illegal emigration from Haiti to the United States.

COMPREHENSIVE ANALYSIS OF FOREIGN ASSISTANCE

Sec. 722. (a) It is the sense of Congress that at a time when major retrenchments and reappraisals are being made in domestic programs, it is also logical that, while maintaining past international commitments, the magnitude and direction of future foreign assistance programs should also be reviewed. As part of such a review process, the President is requested to provide a comprehensive report to the Congress on his approach to foreign assistance. Such report shall include an analysis and recommendations on the following issues:

(1) the relationship between foreign assistance and defense expenditures as means of conducting foreign policy;

(2) the appropriate mix between military and economic assistance;

[19] 22 U.S.C. 2151 note.

(3) the strengths and weaknesses, and appropriate mix, of bilateral and multilateral assistance programs;

(4) the relevance of the basic human needs approach to current aid policy;

(5) the performance of other aid donors, and the benefits they derive from their programs;

(6) criteria for determining the appropriate size and composition of country programs;

(7) the appropriateness of the current mix of grants and loans, and the possibility of combining them with new or existing guarantee, insurance, and export credit programs;

(8) specific means to more actively engage the private sector in assistance programs; and

(9) the usefulness of current functional categories in constructing the development assistance budget.

(b) The Congress requests that the President provide to the Congress a preliminary report by March 31, 1982, and a final report by June 30, 1982, with respect to the issues referred to in subsection (a).

EXTERNAL DEBT BURDENS OF EGYPT, ISRAEL, AND TURKEY

Sec. 723. The Congress finds that the Governments of Egypt, Israel, and Turkey each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs. In order to assist the Congress in examining United States assistance for these countries, the President shall report to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, not later than one hundred and twenty days after the date of enactment of this Act and not later than one year after the date of enactment of this Act, regarding economic conditions prevailing in Egypt, Israel, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies. These reports shall also analyze the impact on Egypt's economy of Arab sanctions against Egypt.

NICARAGUA

Sec. 724. (a) In furnishing assistance under this Act to the Government of Nicaragua, the President shall take into account the extent to which that Government has engaged in violations of internationally recognized human rights (including the right to organize and operate labor unions free from political oppression, the right to freedom of the press, and the right to freedom of religion) and shall encourage the Government of Nicaragua to respect those rights.

(b) In furnishing assistance under this Act to the Government of Nicaragua, the President shall take into account the extent to which that Government has fulfilled its pledge of July 1979 to the member states of the Organization of American States—

(1) to establish full respect for human rights in Nicaragua in accordance with the United Nations Universal Declaration of

the Rights and Duties of Man and the Charter on Human Rights of the Organization of American States;

(2) to allow the free movement in Nicaragua of the Inter-American Commission on Human Rights; and

(3) to establish the framework for free and democratic elections so that the people of Nicaragua may elect their representatives to city councils, to constitutional assembly, and to Nicaragua's highest-ranking authorities, with such framework to include, but not be limited to, the full and complete opportunity for political activity of the Nicaraguan people.

(c) Assistance to the Government of Nicaragua under this Act shall be terminated if the President determines and reports to the Congress that the Government of Nicaragua cooperates with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries, or that Soviet, Cuban, or other foreign combat military forces are stationed or situated within the borders of Nicaragua and the presence of such forces constitutes a threat to the national security of the United States or to any Latin American ally of the United States.

(d) Any agreement between the United States and the Government of Nicaragua regarding the use of funds appropriated to carry out this Act, which are to be made available in the form of loans, shall specifically require that to the maximum extent possible such loan funds, and any local currency generated in conjunction therewith, shall be used for assistance to the private sector. Local currency loan programs in Nicaragua shall be monitored and audited in accordance with section 624(g) of the Foreign Assistance Act of 1961.

(e) For each six-month period in which any funds are expended under this Act for Nicaragua, the President shall submit to the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate, a report accounting fully and in itemized detail for the amounts obligated and actually expended in Nicaragua.

Sec. 725.[20] **Assistance and Sales for Argentina.** * * * [Repealed—1989]

REPEAL OF LIMITATIONS ON ASSISTANCE, SALES, AND SALES CREDITS FOR CHILE

Sec. 726. (a) Section 406 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2370 note) is repealed.

(b)[21] Notwithstanding any other provision of law—

[20] Title V of Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1030) repealed sec. 725 (22 U.S.C. 2370 note). Sec. 725 had (a) repealed sec. 620B of the Foreign Assistance Act of 1961, and (b) required the President to provide to Congress a detailed report certifying that (1) the Government of Argentina made significant progress in complying with internationally recognized principles of human rights; and (2) the provision of such assistance, credits, loan guarantees, defense articles, defense services, or export licenses was in the national interests of the United States, as a condition for those forms of assistance listed in para. (2).

[21] 22 U.S.C. 2370 note. Sec. 544(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2019), continued for FY 1992 by Public Law 102–145, provided the following:

(1) no assistance may be furnished under chapter 2, 4, 5, or 6 of part II of the Foreign Assistance Act of 1961 to Chile;

(2) no sale of defense articles or services may be made under the Arms Export Control Act to Chile:

(3) no credits (including participation in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to Chile; and

(4) no export licenses may be issued under section 38 of the Arms Export Control Act to or for the Government of Chile;

unless and until the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report certifying—

(A) that the Government of Chile has made significant progress in complying with internationally recognized principles of human rights;

(B) that the provision of such assistance, articles or services is in the national interest of the United States; and

(C) that the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt.

(c)[22] The prohibition contained in subsection (b) does not prohibit the sale, or the licensing for export, of cartridge actuated devices, propellant actuated devices, components, parts, tools, technical manuals, time compliance to technical orders (TCTOs), or TCTO retrofits for aircraft of the F–5E/F, A/T–37, or C–130E/H type owned by the Chilean Air Force,[23] so long as the items are provided only for purposes of enhancing the safety of the aircraft crew.

ASSISTANCE FOR EL SALVADOR

Sec. 727. (a) It is the sense of the Congress that assistance furnished to the Government of El Salvador, both economic and military, should be used to encourage—

"CHILE

"SEC. 544. (a) Funds appropriated by this Act under the heading 'Economic Support Fund' may be used under the authority of section 534(b) (4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.".

In Public Notice 1333 of September 30, 1990, the Secretary of State certified that "(A) the Government of Chile has made significant progress in complying with internationally recognized principles of human rights; (B) the provision of the assistance, articles and services described in provisions (1)–(4) of sections 726(b) of the Act to Chile is in the national interest of the United States; and (C) the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt." (56 F.R. 4886; February 6, 1991).

See also 22 CFR Part 126, International Traffic in Arms Regulations, and amendments to same, effective October 29, 1991 (56 F.R. 55630; October 29, 1991).

[22] Subsec. (c) was added by sec. 715 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 247).

[23] Sec. 544(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2019), struck out "and technical manuals for aircraft of the F–5E/F or A/T–37 type which were sold to the Chilean Air Force by the United States before January 1, 1976", and inserted in lieu thereof text beginning at "components, parts, tools, * * *".

(1) full observance of internationally recognized human rights in accordance with sections 116 and 502B of the Foreign Assistance Act of 1961;

(2) full respect for all other fundamental human rights, including the right of freedom of speech and of the press, the right to organize and operate free labor unions, and the right to freedom of religion;

(3) continued progress in implementing essential economic and political reforms, including land reform and support for the private sector;

(4) a complete and timely investigation of the deaths of all United States citizens killed in El Salvador since October 1979;

(5) an end to extremist violence and the establishment of a unified command and control of all government security forces in this effort;

(6) free, fair, and open elections at the earliest date; and

(7) increased professional capability of the Salvadoran Armed Forces in order to establish a peaceful and secure environment in which economic development and reform and the democratic processes can be fully implemented, thereby permitting a phased withdrawal of United States military training and advisory personnel at the earliest possible date.

(b) It is the sense of the Congress that the United States economic assistance to El Salvador should put emphasis on revitalizing the private sector and supporting the free market system. The Congress recognizes that the lack of foreign exchange to buy imported raw materials and intermediate goods is a major impediment to the ability of the Salvadoran economy to provide jobs. The Congress also recognizes that the funds budgeted for economic assistance are only a fraction of the foreign exchange needed, and United States economic aid should be used, wherever possible, to stimulate private sector lending. Therefore, the Congress urges the President to set aside a portion of the economic support funds to provide guarantees to private United States banks willing to give credits to the Salvadoran private sector.

RESTRICTIONS ON MILITARY ASSISTANCE AND SALES TO EL SALVADOR

Sec. 728.[21] (a)(1) The Congress finds that peaceful and democratic development in Central America is in the interest of the United States and of the community of American States generally, that the recent civil strife in El Salvador has caused great human suffering and disruption to the economy of that country, and that substantial assistance to El Salvador is necessary to help alleviate that suffering and to promote economic recovery within a peaceful and democratic process. Moreover, the Congress recognizes that the efforts of the Government of El Salvador to achieve these goals are affected by the activities of forces beyond its control.

(2) Taking note of the substantial progress made by the Government of El Salvador in land and banking reforms, the Congress declares it should be the policy of the United States to encourage and support the Government of El Salvador in the implementation of these reforms.

(3) The United States also welcomes the continuing efforts of President Duarte and his supporters in the Government of El Salvador to establish greater control over the activities of members of the armed forces and government security forces. The Congress finds that it is in the interest of the United States to cooperate with the Duarte government in putting an end to violence in El Salvador by extremist elements among both the insurgents and the security forces, and in establishing a unified command and control of all government forces.

(4) The United States supports the holding of free, fair, and open elections in El Salvador at the earliest date. The Congress notes the progress being made by the Duarte government in this area, as evidenced by the appointment of an electoral commission.

(b) In fiscal years 1982 and 1983, funds may be obligated for assistance for El Salvador under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961, letters of offer may be issued and credits and guarantees may be extended for El Salvador under the Arms Export Control Act, and members of the Armed Forces may be assigned or detailed to El Salvador to carry out functions under the Foreign Assistance Act of 1961 or the Arms Export Control Act, only if not later than thirty days after the date of enactment of this Act and every one hundred and eighty days thereafter, the President makes a certification in accordance with subsection (d).

(c) If the President does not make such a certification at any of the specified times then the President shall immediately—

(1) suspend all expenditures of funds and other deliveries of assistance for El Salvador which were obligated under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 after the date of enactment of this Act;

(2) withhold all approvals for use of credits and guarantees for El Salvador which were extended under the Arms Export Control Act after the date of enactment of this Act;

(3) suspend all deliveries of defense articles, defense services, and design and construction services to El Salvador which were sold under the Arms Export Control Act after the date of enactment of this Act; and

(4) order the prompt withdrawal from El Salvador of all members of the Armed Forces performing defense services, conducting international military education and training activities, or performing management functions under section 515 of the Foreign Assistance Act of 1961.

Any suspension of assistance pursuant to paragraphs (1) through (4) of this subsection shall remain in effect during fiscal year 1982 and during fiscal year 1983 until such time as the President makes a certification in accordance with subsection (d).

(d) The certification required by subsection (b) is a certification by the President to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate of a determination that the Government of El Salvador—

(1) is making a concerted and significant effort to comply with internationally recognized human rights;

(2) is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces:

(3) is making continued progress in implementing essential economic and political reforms, including the land reform program;

(4) is committed to the holding of free elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to—

(A) a renouncement of further military or paramilitary activity; and

(B) the electoral process with internationally recognized observers.

Each such certification shall discuss fully and completely the justification for making each of the determinations required by paragraphs (1) through (4).

(e)[24] On making the first certification under subsection (b) of this section, the President shall also certify to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that he has determined that the Government of El Salvador has made good faith efforts both to investigate the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice those responsible for those murders. The second certification required under this section may be made only if it includes a determination by the President that the Government of El Salvador (1) has made good faith efforts since the first such certification was made to investigate the murders of those six United States citizens and to bring to justice those responsible for those murders, and (2) has taken all reasonable steps to investigate the disappearance of journalist John Sullivan in El Salvador in January 1981.[25] The fourth certification required under this section may be made only if it includes a determination by the President that, since the third such certification was made, the Government of El Salvador (1) has made good faith efforts both to investigate the murders of the seven United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice all those responsible for those murders, and (2) has taken all reasonable steps to investigate the killing of Michael Kline in El Salvador in October 1982.[26]

REPORTING REQUIREMENT RELATING TO EL SALVADOR

Sec. 729. (a) Not later than ninety days after the date of enactment of this section, the President shall prepare and transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth—

(1) the viewpoints of all major parties to the conflict in El Salvador and of the influential actors in the Salvadoran polit-

[24] By memorandum of August 10, 1982, the President delegated the functions conferred upon him under subsec. (e) to the Secretary of State (47 F.R. 38099; August 30, 1982).

[25] This sentence was added by Public Law 97–233 (96 Stat. 260).

[26] This sentence was added by Public Law 98–53 (97 Stat. 287).

ical system regarding the potential for and interest in negotiations, elections, and a settlement of the conflict; and

(2) the views of democratic Latin American nations, Canada, the Organization of American States, and European allies of the United States regarding a negotiated settlement to such conflict.

(b) It is the sense of the Congress that the President shall, as soon as possible, send a special envoy or use other appropriate means to consult with and gather information from appropriate representatives of the parties to the Salvadoran conflict, democratic governments of Latin America, Canada, and European allies of the United States regarding the attainment of a negotiated settlement in El Salvador.

RESTRICTIONS ON AID TO EL SALVADOR

Sec. 730. None of the funds authorized to be appropriated by this Act may be made available for the provision of assistance to El Salvador for the purpose of planning for compensation, or for the purpose of compensation, for the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or of the properties or stock shares which may be pertaining thereto.

EL SALVADORAN REFUGEES

Sec. 731.[27] It is the sense of the Congress that the administration should continue to review, on a case-by-case basis, petitions for extended voluntary departure made by citizens of El Salvador who claim that they are subject to persecution in their homeland, and should take full account of the civil strife in El Salvador in making decisions on such petitions.

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REPEALS

Sec. 734. (a) * * *

(b) * * *

(c) Except as otherwise explicitly provided by their terms, amendments to the Foreign Assistance Act of 1961 and the Arms Export Control Act which are applicable only to a single fiscal or calendar year or which require reports or other actions on a nonrecurring basis shall be deemed to have expired and shall be removed from law upon the expiration of the applicable time periods for the fulfillment of the required actions.

REPORT ON NUCLEAR ACTIVITIES

Sec. 735. Beginning with the fiscal year 1983 and for each fiscal year thereafter, the President shall prepare and transmit to the Congress, as part of the presentation materials for foreign assistance programs proposed for the fiscal year, a classified report describing the nuclear programs and related activities of any country

[27] 8 U.S.C. 1157 note.

for which a waiver of section 669 or 670 of the Foreign Assistance Act of 1961 is in effect, including an assessment of—

(1) the extent and effectiveness of International Atomic Energy Agency safeguards at that country's nuclear facilities; and

(2) the capability, actions, and intentions of the government of that country with respect to the manufacture or acquisition of a nuclear explosive device.

* * * * * * *

PROHIBITIONS RELATING TO NUCLEAR TRANSFERS AND NUCLEAR DETONATIONS

Sec. 737.[28] (a) The Congress finds that any transfer of a nuclear explosive device to a non-nuclear-weapon state or, in the case of a non-nuclear-weapon state, any receipt or detonation of a nuclear explosive device would cause grave damage to bilateral relations between the United States and that country.

(b) * * *

(c) * * *

[28] 22 U.S.C. 2429a note.

s. International Security and Development Cooperation Act of 1980

Partial text of Public Law 96–533 [H.R. 6942], 94 Stat. 3131, approved December 16, 1980, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 264, approved August 8, 1985; Public Law 100–461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; and by Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1980 consists of amendments to the Foreign Assistance Act of 1961, the International Development and Cooperation Act of 1979, the Arms Export Control Act, the International Security Assistance and Arms Export Control Act of 1976, the Export Administration Act of 1979, the Department of State Authorization Act, Fiscal Years 1980/1981, Public Law 480, the Peace Corps Act, and the Domestic Volunteer Service Act. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for the fiscal year 1980 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

Section 1. This Act may be cited as the "International Security and Development Cooperation Act of 1980".

TITLE I—MILITARY AND RELATED ASSISTANCE AND SALES PROGRAMS

* * * * * * *

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

Sec. 106. (a) * * *

(b) * * *

(c) * * *

(d)[1] The principal amount of the loans guaranteed under section 24(a) of such Act for the fiscal year 1981 with respect to Egypt, the Sudan, Greece, and Turkey shall be repaid, and with respect to Somalia may be repaid, in not less than twenty years, following a grace period of ten years on repayment of principal.

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Sec. 108.[2] **Export Controls on Certain Items on the Munitions List.** * * * [Repealed—1981]

Sec. 109.[3] **Leasing of Defense Property.** * * * [Repealed—1981]

EXPORTATION OF URANIUM DEPLETED IN THE ISOTOPE 235

Sec. 110.[4] Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 when such exports are subject to the controls established under the Arms Export Control Act or the Export Administration Act of 1979.

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Sec. 118.[5] **Military or Paramilitary Operations in Angola.** * * * [Repealed—1985]

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[1] 22 U.S.C. 2764.

[2] Sec. 108, which had required two reports from the President on which defense articles and defense services, if any, should be removed from the U.S. Munitions List and whether sec. 620B of the Foreign Assistance Act of 1961 (blocking aid and arms sales to Argentina) should be amended, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). These reports were submitted to Congress by the President on May 12, 1981.

[3] Sec. 109, which had required the President to report to Congress 30 days prior to leasing defense property to a foreign government for a period of more than 6 months, was repealed by sec. 109(d)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). See chapter 6 of the Arms Export Control Act for current law concerning leases of defense articles.

[4] 22 U.S.C. 2778a.

[5] Sec. 118, titled "Military or Paramilitary Operations in Angola", was repealed by sec. 811 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 264). Subsec. (e) of the former section repealed an earlier law which placed limitations on certain assistance to, and activities in, Angola. Sec. 118 formerly read as follows:

"MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA

"Sec. 118.(a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola unless and until—

"(1) the President determines that such assistance should be furnished in the national security interests of the United States;

"(2) the President submits to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

"(A) a description of the amounts and categories of assistance which he recommends be furnished and the identity of the proposed recipients of such assistance; and

"(B) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement of the reasons supporting such determination; and

"(3) the Congress enacts a joint resolution approving the furnishing of such assistance.

PROHIBITION ON MILITARY ASSISTANCE TO NICARAGUA

Sec. 119.[6] None of the funds authorized to be appropriated by this title shall be made available for any aid or assistance to Nicaragua.

TITLE II—ECONOMIC SUPPORT FUND

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TITLE III—DEVELOPMENT ASSISTANCE PROGRAMS

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ASSISTANCE TO THE EASTERN CARIBBEAN

Sec. 313. (a) The Congress urges the President to use up to $7,000,000 for the fiscal year 1981 for bilateral development assistance for the countries of the eastern Caribbean.

(b)[7] * * * [Repealed—1981]

ASSISTANCE FOR EQUATORIAL GUINEA

Sec. 314. The President is urged to provide up to $3,000,000 of the funds authorized to be appropriated for the fiscal year 1981 by this title for assistance to Equatorial Guinea if he deems that conditions in that country warrant such assistance.

CARIBBEAN DEVELOPMENT BANK

Sec. 315. Notwithstanding section 620(r) of the Foreign Assistance Act of 1961, the President may, after consultation with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, make arrangements at his discretion for the assumption by the recipient members of the Caribbean Development Bank of any loans made to the Bank under the authority of that Act.

WORLD HUNGER

Sec. 316.[8] (a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961, the Director of the United

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"(b) If introduced within 30 days after the submission of the report required by paragraph (2) of subsection (a), a resolution under paragraph (3) of subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act.

"(c) The prohibition contained in subsection (a) does not apply with respect to assistance which is furnished solely for humanitarian purposes.

"(d) The provisions of this section may not be waived under any other provision of law.

"(e) Section 404 of the International Security Assistance and Arms Export Control Act of 1976 is repealed.".

[6] 22 U.S.C. 2151 note.

[7] Subsec. (b), which had required a report from the President by February 1, 1981, regarding the implementation of this section, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report on February 6, 1981.

[8] Sec. 539 of the Foreign Operations, Export Financing,and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

Continued

States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues.

REDUCTION OF POSTHARVEST LOSSES OF FOOD

Sec. 317.[9] It is the sense of the Congress that—

(1) the President should reaffirm the policy of the United States Government to support the goal established by the United Nations General Assembly of reducing by 50 percent postharvest losses of food in developing countries; and

(2) the President, acting through the Agency for International Development, should increase substantially the proportion of funds made available under the Foreign Assistance Act of 1961 for the purpose of assisting, together with other donor countries and with developing countries, in the reduction of postharvest losses of food in developing countries.

TITLE IV—OTHER ASSISTANCE PROGRAMS

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INTERNATIONAL NARCOTICS CONTROL

Sec. 402. (a) * * *

(b) * * *

(c) Notwithstanding the provisions of section 482(a)(2) of the Foreign Assistance Act of 1961 as in effect immediately prior to the enactment of this Act, funds appropriated for the fiscal year 1980 to carry out the purposes of section 481 of that Act which were obligated for assistance for Colombia may be used for fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program.

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"PROHIBITION ON PUBLICITY OR PROPAGANDA

"SEC. 539. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided*, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.".

[9] 22 U.S.C. 2151 note.

EAST TIMOR

Sec. 408. It is the sense of the Congress that the President should take all appropriate measures to—

(1) continue to support and encourage relief operations by the Government of Indonesia and by international relief agencies in East Timor;

(2) assist the Government of Indonesia to facilitate the reuniting of families separated because of developments in recent years in East Timor; and

(3) encourage the Government of Indonesia to allow access to East Timor by international journalists.

TITLE V—AFRICAN DEVELOPMENT FOUNDATION

SHORT TITLE

Sec. 501.[10] This title may be cited as the "African Development Foundation Act".

FINDINGS

Sec. 502.[11] The Congress finds that—

(1) social and economic development ultimately depends on the active participation of individuals within a society and on the enhancement of opportunities for those individuals;

(2)[12] the development of individuals and institutions in African countries can benefit by the provision of support for community-based self-help activities;

(3) by enacting title IX of chapter 2 of part I of the Foreign Assistance Act of 1961, and recent amendments to that Act, the Congress has sought to enable the poor to participate in the process of development;

(4)[12] the Inter-American Foundation, established by Congress in the Foreign Assistance Act of 1969 to support the efforts of the people of Latin America and the Caribbean to solve their development problems, has demonstrated a successful approach to development; and

(5)[12] an African Development Foundation similar in structure to the Inter-American Foundation, but adapted to the specific needs of Africa, can complement current United States development programs in Africa.

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[10] 22 U.S.C. 290h note.

[11] 22 U.S.C. 290h.

[12] Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(h)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will add "and" at the end of para. (2), replace a semicolon with a period at the end of para. (3), and strike out paras. (4) and (5).

ESTABLISHMENT

Sec. 503.[13] (a) There is established a body corporate to be known as the "African Development Foundation" (hereafter in this title referred to as the "Foundation").

(b) The Foundation shall establish a principal office in the United States and may establish such branch offices in Africa as may be necessary to carry out its functions.

PURPOSES

Sec. 504.[14] (a) In order to enable the people of African countries to develop their potential, fulfill their aspirations, and enjoy better, more productive lives the purposes of the Foundation shall be—

(1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;

(2) to support self-help activities at the local level designed to enlarge opportunities for community development;

(3) to stimulate and assist effective and expanding participation process; and

(4) to encourage the establishment and growth of development institutions which are indigenous to particular countries in Africa and which can respond to the requirements of the poor in those countries.

(b) The Foundation shall carry out the purposes specified in subsection (a) in cooperation with, and response to, organizations indigenous to Africa which are representative of the needs and aspirations of the poor in Africa and, in carrying out such purposes, the Foundation shall, to the extent possible, coordinate its development assistance activities with the activities of the United States Government and private, regional, and international organizations.

FUNCTIONS

Sec. 505.[15] (a)(1) In order to carry out the purposes set forth in section 504, the Foundation may make grants, loans, and loan guarantees to any African private or public group (including public international organizations),[16] association, or other entity engaged in peaceful activities for—

(A) the fostering of local development institutions and the support of development efforts initiated by communities themselves;

(B) the development of self-evaluation techniques by participants in projects supported under this section, for the purpose of transferring experience gained in such projects to similar development activities;

(C) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa;

(D) the procurement of such technical or other assistance as is deemed appropriate by the recipient of such grant, loan, or guarantee, to carry out the purposes of this title; and

[13] 22 U.S.C. 290h–1.
[14] 22 U.S.C. 290h–2.
[15] 22 U.S.C. 290h–3.
[16] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268–13) added the parenthetical text.

(E) other projects that would carry out the purposes set forth in section 504.

(2) The total amount of grants, loans and loan guarantees that may be made under this section for a project may not exceed $250,000.

(3) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this title.

(b) In making grants, loans, and loan guarantees under subsection (a), the Foundation shall give priority to projects which community groups undertake to foster their own development and in the initiation, design, implementation, and evaluation of which there is the maximum feasible participation of the poor. Where appropriate and in keeping with the purposes of this title, the Foundation may make such grants, loans, and loan guarantees to African entities which are representative and knowledgeable of, and sensitive to, the needs and aspirations of the poor and which would disburse funds acquired under such grants, loans, and loan guarantees to other African entities to carry out the purposes of this title.

POWERS

Sec. 506.[17] (a) The Foundation, as a corporation—

(1) shall have perpetual succession unless dissolved by an Act of Congress;

(2) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction;

(3) may adopt, alter, and use a seal, which shall be judicially noticed;

(4) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Foundation;

(5) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $10,000 in any fiscal year;

(7) may, as necessary for carrying out the functions of the Foundation, employ and fix the compensation of not to exceed the following number of persons at any one time: 25 during the fiscal year 1981, 50 during the fiscal year 1982, and 75 thereafter;

(8) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Foundation;

[17] 22 U.S.C. 290h–4.

(9) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this title;

(10) may use the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(11) may, with the consent of any agency of the United States, use the information, services, facilities, and personnel of that agency in carrying out the purposes of this title; and

(12) shall have such other powers as may be necessary and incident to carrying out this title.

(b) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used from carrying out the purposes of this title. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(c) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

(d) Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

MANAGEMENT

Sec. 507.[18] (a)(1) The management of the Foundation shall be vested in a board of directors (hereafter in this title referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member of the Board to serve as Chairperson of the Board and one member to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes. Members of the Board shall be appointed so that no more than four members of the Board are members of any one political party.[19]

(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms

[18] 22 U.S.C. 290h–5.

[19] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1209) added the last sentence to this section. Title II also provided that this amendment "shall not affect an appointment made to the Board prior to the date of enactment of this Act" [November 21, 1989].

of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

(b) Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

(c) A majority of the Board shall constitute a quorum.

(d)(1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president of the Foundation shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.[20]

(2) Experts and consultants may be employed by the Board as authorized by section 3109 of title 5, United States Code.

(e)(1) The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. The advisory council may include African recipients of grants, loans, or loan guarantees under this title.

(2) The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

(3) Members of the advisory council shall receive no compensation for their services but may be allowed travel and other expenses in accordance with section 5703 of title 5, United States Code, which are incurred by them in the performance of their functions under this subsection.

GOVERNMENT CORPORATION CONTROL ACT

Sec. 508.[21] The Foundation shall be subject to title I of the Government Corporation Control Act.

LIMITATION ON SPENDING AUTHORITY

Sec. 509.[22] Any authority provided by this title involving the expenditure of funds (other than the funds made available pursuant to section 510) shall be effective for a fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 510.[23] There are authorized to be appropriated to carry out this title, in addition to amounts otherwise available for that pur-

[20] The current rate of compensation at level IV of the Executive Schedule is $140,300 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

[21] 22 U.S.C. 290h–6.

[22] 22 U.S.C. 290h–7.

[23] 22 U.S.C. 290h–8. The authorizations for fiscal year 1986 and fiscal year 1987 were provided by sec. 510 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 264). Authorizations for previous years include: fiscal year 1982—

Continued

pose, $3,872,000 for fiscal year 1986 and $3,872,000 for fiscal year 1987. Funds appropriated under this section are authorized to remain available until expended.

Sec. 511.[24] **Expiration of Authorities** * * * [Repealed—1989]

TITLE VI—PEACE CORPS

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Sec. 603.[25] **Utilization of Returned Peace Corps Volunteers** * * * [Repealed—1981]

TITLE VII—MISCELLANEOUS PROVISIONS

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INTERAGENCY GROUP ON HUMAN RIGHTS AND FOREIGN ASSISTANCE

Sec. 710. It is the sense of the Congress that—

(1) the Interagency Group on Human Rights and Foreign Assistance has been an effective mechanism for coordinating and implementing United States human rights policies;

(2) the President should consider establishing the Interagency Group on a more permanent basis;

(3) the Interagency Group should examine proposals for not only economic assistance but also for security assistance; and

(4) the President should report his recommendations for strengthening the Interagency Group to the Congress no later than July 1, 1981.

$2,000,000; fiscal year 1983—$2,000,000; fiscal year 1984—$3,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2005—no authorization.

Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), waived the requirements for authorization, and title II of that Act (118 Stat. 2809) provided the following:

"AFRICAN DEVELOPMENT FOUNDATION

"For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, $19,000,000, to remain available until September 30, 2006: *Provided,* That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: *Provided further,* That interest earned shall be used only for the purposes for which the grant was made: *Provided further,* That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: *Provided further,* That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.".

[24] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1209) repealed sec. 511 (22 U.S.C. 290h–9). Section 511 formerly read as follows:

"The authority of the Foundation to make grants, loans, and loan guarantees and otherwise to carry out the purposes of this title shall expire on September 30, 1990, except that this section shall not preclude the Foundation from acquiring obligations prior to that date which mature subsequent to that date or from assuming liability prior to that date as a guarantor of obligations which mature subsequent to that date or from continuing as a body corporate and exercising any of its powers subsequent to that date for purposes of the orderly liquidation of its activities.".

[25] Sec. 603, which had required a report from the Director of the Peace Corps on a plan for more effective utilization of returned Peace Corps volunteers, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The Director submitted this report to Congress on January 15, 1981.

PEACE IN THE MIDDLE EAST

Sec. 711.[26] (a) It is the sense of the Congress that all parties to the Arab-Israeli conflict need to reaffirm their unequivocal commitment to the peace process in order to achieve further progress toward a comprehensive settlement, to reinforce the principles of the Camp David accords, and to take actions to encourage parties not currently involved in the peace process to become active participants in peace efforts.

(b) It is further the sense of the Congress that to further these goals (1) all parties to the conflict should accept Israel's unequivocal right to exist within secure and recognized borders; (2) the Governments of Israel and Egypt should maintain and strengthen their commitment to the process of normalization of relations and continue actions to support that commitment; (3) the Governments of Israel and Egypt should reaffirm their commitment to United Nations Resolution 242 and its applicability, in all its aspects, to territories under negotiations; and (4) the governments of countries in the Middle East should assure that their policies and actions are consistent with the objectives of achieving peace and of involving other parties in the peace process.

ASSISTANCE FOR JORDAN

Sec. 712. It is the sense of the Congress that for Jordan to receive any funds authorized to be appropriated by this Act, it should be judged by the President that Jordan is acting in good faith to achieve peace in the Middle East and that the expenditure of such funds for Jordan will serve to further peace in the Middle East.

Sec. 713.[27] **External Debt Burdens of Egypt, Israel, Portugal, and Turkey** * * * [Repealed—1981]

Sec. 714.[28] **Soviet Military Personnel and Activities in Cuba** * * * [Repealed—1981]

CUBAN REFUGEES

Sec. 715. (a) The Congress finds that—

(1) the flow of refugees for political, economic, or other compelling reasons is a growing and world-wide phenomenon;

(2) the United States represents freedom of thought and action and economic opportunity and has historically played a major role in providing a home to the refugees of the world;

(3) an orderly and lawful refugee process is necessary for the furtherance of United States domestic well-being;

(4) continuation of the traditional compassionate and humanitarian policy of the United States regarding entry to its shores

[26] 22 U.S.C. 3401 note.

[27] Sec. 713, which had required a report from the President regarding the economic conditions prevailing in Egypt, Israel, Portugal, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on January 19, 1981. A similar report concerning Egypt, Israel, and Turkey is required by sec. 723 of Public Law 97–113.

[28] Sec. 714, which had required quarterly and annual reports to Congress regarding the military capabilities and deployment of Soviet military personnel in Cuba and Soviet military assistance to the armed forces of Cuba, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

of refugees and other victims of oppression is threatened by the precipitate influx of large numbers of Cubans fleeing their country;

(5) the United States has sought to negotiate with the Government of Cuba to establish a lawful, safe, and orderly process by which Cubans may be allowed to leave their country; and

(6) the Cuban refugee crisis is a problem of international concern and other nations should contribute to its resolution.

(b)(1) The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation with respect to the large number of Cuban natives who have recently fled or are attempting to flee Cuba. Such steps should include seeking the agreement of other countries to admit some of those persons into their respective countries and to contribute funds and other assistance for the resettlement of those persons.

(2) In order to encourage countries throughout the world which are recipients of United States bilateral and multilateral assistance to permit and to help finance the resettlement of Cuban and other refugees within their borders, the President shall, to the maximum extent feasible, attempt to channel such assistance to countries which have demonstrated a willingness to provide assistance to Cuban and other refugees.

(c) It is the sense of the Congress that, in carrying out subsection (b)(1), the President should seek the discussion, in an appropriate international forum such as the United Nations or the Organization of American States, of the situation involving the flight of large numbers of Cuban natives from Cuba, of the resettlement of Cuban refugees, and of means by which a more orderly process may be established to handle future crises of a similar nature.

INCARCERATION AND DEPORTATION OF CERTAIN CUBANS

Sec. 716.[29] The Congress finds that the United States Government has already incarcerated recently arrived Cubans who are admitted criminals, are security threats, or have incited civil disturbances in Federal processing facilities. The Congress urges the Executive branch, consistent with United States law, to seek the deportation of such individuals.

PROHIBITION ON ASSISTANCE TO THE GOVERNMENTS OF CUBA, VIETNAM, AND CAMBODIA

Sec. 717. None of the funds authorized to be appropriated by this Act may be used to provide assistance to the Governments of Cuba, Vietnam, or Cambodia. Nothing in this section shall be construed to prohibit food assistance or humanitarian assistance which is distributed directly to the people of Cambodia.

COOPERATION OF OTHER GOVERNMENTS IN THE BOYCOTT OF THE 1980 SUMMER OLYMPIC GAMES IN MOSCOW

Sec. 718. In determining the levels of assistance to be provided to a foreign government with funds authorized to be appropriated

[29] 8 U.S.C. 1522 note.

by this Act, the President shall take into account the position of that government with respect to the United States proposed boycott of the 1980 summer Olympic games in Moscow.

ELECTIONS IN UGANDA

Sec. 719. The President shall encourage the holding of free, open elections in Uganda and shall, in considering assistance for Uganda with funds authorized to be appropriated by this Act, take into account whether such elections are held.

Sec. 720.[30] **Report To Congress On the Implementation of the Lancaster House Declaration of Rights in Zimbabwe** * * * [Repealed—1981]

Sec. 721.[31] **Restriction on Assistance to El Salvador** * * * [Repealed—1981]

[30] Sec. 720, which had required a report from the President every 60 days during fiscal year 1981 (if Zimbabwe received assistance under this Act) regarding the internal situation in Zimbabwe, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[31] Sec. 721, which had prohibited the use of assistance for El Salvador during fiscal year 1981 for the purpose of planning for compensation, or for the purpose of compensation, for the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or of the properties or stock shares which may be pertaining thereto, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

t. International Security Assistance Act of 1979

Partial text of Public Law 96–92 [H.R. 3173] 93 Stat. 701, approved October 29, 1979, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1529 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1979 consists of amendments to the Foreign Assistance Act of 1961 and the Arms Export Control Act.

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security Assistance Act of 1979".

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STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

Sec. 6. (a) * * *

(b)[1] * * * [Repealed—1981]

* * * * * * *

AUTHORIZATION AND AGGREGATE CEILING FOR FOREIGN MILITARY SALES CREDITS

Sec. 17. (a) * * *

(b)[2] Of the principal amount of loans guaranteed for the fiscal year 1980 under section 24 of the Arms Export Control Act—

(1) with respect to Turkey, not to exceed $50,000,000,

(2) with respect to Greece, not to exceed $42,000,000, and

(3) with respect to Sudan, not to exceed $25,000,000,

[1] Sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed subsec. (b), which had required a report from the President regarding the stockpiling authorities for the Republic of Korea. The President submitted this report to Congress on January 2, 1980.

[2] 22 U.S.C. 2271 note.

shall be repaid in not less than 20 years, following a grace period of 10 years on repayment of principal.

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NATIONAL DISCLOSURE POLICY FOR SENSITIVE WEAPONS TECHNOLOGY

Sec. 20. (a)[3] * * * [Repealed—1981]
(b) * * *

* * * * * * *

TRANSFER OF WAR RESERVE MATERIEL AND OTHER PROPERTY TO TAIWAN

Sec. 23.[4] (a) Notwithstanding any other provision of law, during the calendar year 1980 the President is authorized to transfer to Taiwan under such terms and conditions as he may deem appropriate, such United States war reserve materiel that was located on Taiwan on January 1, 1979, as he may determine.

(b) Notwithstanding any other provision of law, during the calendar years 1979 and 1980 the President is authorized to transfer to Taiwan, under such terms and conditions as he may deem appropriate, such rights of the United States in property (other than war reserve materiel) that was located on Taiwan on January 1, 1979, as he may determine.

AMMUNITION SOLD TO THAILAND

Sec. 24. The Royal Thai Government shall be released from its contractual obligation to pay to the United States Government such amount as is due on or before October 30, 1979, as a condition precedent under the letter of offer accepted by the Royal Thai Government on April 12, 1977, to the transfer of title to the last increment of United States ammunition stocks sold to the Royal Thai Government under such letter of offer pursuant to the Memorandum of Agreement of March 22, 1977, relating to the storage of ammunition in Thailand.

Sec. 25.[5] **Assistance for Jordan** * * * [Repealed—1981]

SHABA AIRLIFT

Sec. 26. Notwithstanding any other provision of law, the President is authorized to make available the services of the Department of Defense for the purpose of facilitating the removal from Zaire of those foreign armed forces which were transported to Zaire by the United States at the time of the crisis in Shaba Province in 1978.

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[3] Sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed subsec. (a), which had required a report from the President concerning the results of a review of the interagency procedures and disclosure criteria used by the U.S. in determining whether sensitive weapons technology will be transferred to other countries. The President submitted this report to Congress on March 25, 1980.

[4] 22 U.S.C. 3302 note.

[5] Sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 25, which had required a determination and report by the President that Jordan was acting in good faith to achieve further progress toward a comprehensive peace settlement in the Middle East before funds could be used for assistance to Jordan during fiscal year 1980. Such a determination was transmitted to Congress on January 10, 1980.

FISCAL YEAR 1979 SUPPLEMENTAL AUTHORIZATION FOR TURKEY

Sec. 27.[6] (a) It is hereby determined that the national interests of the United States would be served by the furnishing of additional economic support fund assistance to Turkey in order to promote the economic and political stability of that country, and to strengthen its ability to fulfill its responsibilities as a member of the North Atlantic Treaty Organization.

(b) In furtherance of subsection (a) of this section, and in addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961 $100,000,000 for the fiscal year 1979, which amount shall be available only for Turkey.[7]

(c) Amounts appropriated under this section may be made available until expended.

(d) Notwithstanding any assistance authorized for Turkey under this Act, it remains the policy of the United States that all foreign troops in Cyprus, except those stationed in Cyprus under the auspices of the United Nations, should be withdrawn from Cyprus.

(e) It is the sense of the Congress that the recent announcement by the leaders of the Greek Cypriots and the Turkish Cypriots to resume intercommunal negotiations is an encouraging recognition by the parties that the human rights and fundamental freedoms of all the citizens of the Republic of Cyprus will be respected. The Congress urges all parties to the negotiations to demonstrate good faith in the negotiations and to move promptly toward a full, just, and lasting settlement.

Sec. 28.[8] **Prohibition on Assistance to Panama** * * * [Repealed—1981]

[6] 22 U.S.C. 2346c note.

[7] Supplemental Appropriations Act, 1979 (Public Law 96–38; 93 Stat. 102), provided an additional $100,000,000 for the Economic Support Fund for Turkey, "to remain available until expended".

[8] Sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Sec. 28, which had prohibited assistance to Panama during fiscal year 1980 (unless the President determined that such assistance was in the U.S. national interest). The President transmitted such a determination to Congress on December 28, 1979.

u. International Development Cooperation Act of 1979

Partial text of Public Law 96–53 [H.R. 3324], 93 Stat. 359, approved August 14, 1979, as amended by Public Law 96–465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2162, approved October 17, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3148, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983; and by Public Law 105–277 [Foreign Affairs Reform and Restructuring Act of 1998 (division G); H.R. 4328], 112 Stat. 2681), approved October 21, 1998

NOTE.—Except for the provisions noted below, the International Development Cooperation Act of 1979 consists of amendments to the Foreign Assistance Act of 1961, the International Development and Food Assistance Act of 1978, the International Development and Food Assistance Act of 1977, Public Law 480, Title 5 of the United States Code, and the Peace Corps Act. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development Cooperation Act of 1979".

TITLE I—DEVELOPMENT ASSISTANCE

* * * * * * *

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 114. (a) * * *

(b) Notwithstanding any other provision of law, funds appropriated for the fiscal year 1979 to meet the annual obligations of membership of the United States in the United Nations and its specialized agencies may be made available for the furnishing of

technical assistance by the United Nations and its specialized agencies.

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Sec. 124.[1] **Prohibition on Assistance to Panama** * * * [Repealed—1981]

ASSISTANCE TO LATIN AMERICAN AND CARIBBEAN COUNTRIES

Sec. 125.[2] It is the sense of the Congress that the United States should place greater emphasis on public and private resources for development programs in Latin America and the Caribbean which address problems common to the Western Hemisphere. It is further the sense of the Congress that provision of such assistance to Latin American and Caribbean countries, including transitional developing countries, is consistent with the purposes of part I of the Foreign Assistance Act of 1961.

INCREASED CONTRIBUTIONS FOR DEVELOPMENT ASSISTANCE

Sec. 126.[2] In recognition of the rapidly growing economic strength and ability to contribute to international development and security efforts of other nations, it is the sense of the Congress that the President should take all appropriate steps to negotiate with those nations with adequate financial resources to provide assistance to increase their contributions for development assistance through multilateral programs as well as through bilateral efforts.

TITLE II—FOOD FOR PEACE

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TITLE III—PEACE CORPS

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TITLE IV—INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

STATEMENT OF POLICY

Sec. 401.[3] As declared by Congress in the Foreign Assistance Act of 1961, a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives. The Congress reaffirms the profound humanitarian and foreign policy concerns of the United States in the economic and social progress of the developing countries and in the alleviation of the worst physical manifestations of poverty in these countries.

In furtherance of that objective, the Congress recognizes that developing countries require extensive scientific and technological ca-

[1] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 124, which had prohibited assistance for Panama during fiscal year 1980 unless the President determined that such aid was in the national interest.
[2] 22 U.S.C. 2151 note.
[3] 22 U.S.C. 3501.

pacity in order to deal effectively with their development problems, relate to the industrialized nations, and constructively participate in the shaping of a stable world order.

It is therefore in the mutual interest of the United States and the developing countries to increase scientific and technological cooperation and jointly to support long-term research on critical problems that impede development and limit the efficient use of the world's human, natural, and capital resources.

PURPOSES AND ESTABLISHMENT OF THE INSTITUTE

Sec. 402.[4] (a) To strengthen the capacity of the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries, the President is authorized to establish an Institute for Scientific and Technological Cooperation (hereafter in this title referred to as the "Institute"), which shall be subject to the foreign policy guidance of the Secretary of State.

(b) The Institute shall be guided by the policies set forth in sections 101 and 102 of the Foreign Assistance Act of 1961 and shall direct a substantial share of its resources to those objectives.

FUNCTIONS OF THE INSTITUTE

Sec. 403.[5] (a) In carrying out its purposes, the Institute shall—

(1) assist developing countries to strengthen their own scientific and technological capacity in order for them to undertake the research and experimentation necessary for development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on research relating to technologies which are labor-intensive or which do not generate additional unemployment or underemployment and with emphasis on those problems which are the greatest impediment to improvement in the lives of the majority of the poor;

(3) foster the exchange of scientists and other technological experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in scientific and technological cooperation with developing countries; and

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries.

[4] 22 U.S.C. 3502.
[5] 22 U.S.C. 3503.

(b) In carrying out the functions specified in subsection (a), the Institute shall take particular care to review all of its programs, projects, and other activities to ensure that technologies which are developed, utilized, or promoted are assessed with regard to minimizing any new problems and that participants in such programs, projects, and activities are fully aware of the need for such review with respect to any technology-related activities for which they are responsible.

(c) For purposes of carrying out the functions of the Institute, the President may utilize, in addition to authorities conferred by this title, such authority contained in the Foreign Assistance Act of 1961, the Foreign Service Act of 1980,[6] title V of the Foreign Relations Authorization Act, Fiscal Year 1979, and title IV of the International Development and Food Assistance Act of 1978, as the President deems necessary.

(d) The Institute shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social, and technological development in developing countries.

(e) The President shall prescribe appropriate procedures to assure coordination of the activities of the Institute with other activities of the United States Government in furthering the use of science and technology in the cause of development.

GENERAL AUTHORITIES

Sec. 404.[7] (a) To carry out the purposes and functions of the Institute, the President may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized by this title while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property, and services of any kind by gift, devise, bequest, grant, or otherwise in furtherance of the purposes of the Institute;

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

[6] This reference to the Foreign Service Act of 1980 was inserted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(11) of Public Law 96–465 (94 Stat. 2162).

[7] 22 U.S.C. 3504.

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of the business of the Institute;

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or outside the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this title;

(11) adopt, alter, and use an official seal for the Institute, which shall be judicially noticed; and

(12) take such other actions as may be necessary and incidental to carrying out the functions of the Institute.

(b) Any authority provided by this section involving the expenditures of appropriated funds shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

DIRECTOR OF THE INSTITUTE

Sec. 405.[8] (a) There shall be a Director of the Institute (hereafter in this title referred to as the "Director") who shall be the chief executive officer of the Institute. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate payable for level III of the Executive Schedule under section 5314 of title 5 of the United States Code.

(b) The President may exercise any authorities conferred upon him by this title through the Director or any other agency or officer of the United States Government as he shall direct. The Director or head of any such agency or any such officer may delegate to any of his subordinates authority to perform any of such functions.

DEPUTY DIRECTOR AND OTHER STATUTORY OFFICERS

Sec. 406.[9] (a) A Deputy Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall receive compensation at the rate payable for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

(b) The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe.

(c) The President may establish up to two additional positions in the Institute to be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

[8] 22 U.S.C. 3505.
[9] 22 U.S.C. 3506.

COUNCIL ON INTERNATIONAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Sec. 407.[10] (a) In order to further the purposes of the Institute, the President is authorized to establish a Council on International Scientific and Technological Cooperation (hereafter in this title referred to as the "Council").

(b)(1) The Council shall—

(A) advise the Director with respect to the policies, programs, planning, and procedures of the Institute;

(B) make recommendations to the Director on the use of the resources available to the Institute; and

(C) advise the Director on matters involving the activities of the Institute overseas and appropriate relationship with the private sector, within and outside the United States.

(2) The Council shall prepare an annual report setting forth the major recommendations made and advice given pursuant to paragraph (1) of this subsection.

(c) The Director shall seek the advice of the Council before making any decision with respect to the selection or termination of, or any significant change in, the areas and issues in which the Institute conducts its activities, and with respect to the transfer of specific programs and projects from any other Government agency to the Institute. The Council shall have the authority to review all new programs and initiatives before their implementation and to make recommendations with regard to the approval or disapproval of new programs and initiatives having a cost in excess of $500,000 or a duration greater than two years.

(d) The Council shall consist of up to twenty-five members appointed by the President, one of whom the President shall designate as Chairman. The members of the Council shall be appointed for terms of four years, except that the members first appointed shall be appointed for terms of one, two, three, or four years, as designated by the President at the time of their appointment, so that the terms of approximately one-fourth of the members of the Council expire in any year. The members of the Council shall be selected from among—

(1) citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, science and technology, or their interest in the scientific and technological problems of developing countries;

(2) citizens of foreign countries who by their knowledge and expertise are capable of providing advice and guidance to the Institute on the application of science and technology to the problems of developing countries, except that not more than one-third of the membership of the Council shall consist of members who are citizens of foreign countries; and

(3) officials of the United States Government, except that not to exceed five members of the Council may be appointed under this paragraph, one of whom shall be the Secretary of State or his designee.

[10] 22 U.S.C. 3507.

(e) Members of the Council who are not officials of the United States Government shall be entitled to compensation, not to exceed the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code, while in the performance of their duties under this title, and to reimbursement for expenses and per diem in lieu of subsistence while away from their homes or regular places of business in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Members of the Council who are not officials of the United States Government shall not be deemed officers, employees, or otherwise in the service or employment of the United States Government for any purpose, except that members of the Council who are United States citizens shall be deemed Government employees for the purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(f) The Council may appoint from among its members an Executive Committee, and such other committees it deems necessary, to assist it in exercising its powers and functions. The Executive Committee shall consist of seven members, one of whom shall be the Chairman of the Council and not more than three of whom shall be employees of the United States Government. The Executive Committee shall exercise such powers and functions as are delegated to it by the Council.

INSTITUTE FELLOWSHIPS

Sec. 408.[11] (a) The President is authorized to award up to twenty fellowships annually for periods up to two years, such awards to be renewable for an additional period not to exceed two years, to individuals who have demonstrated exceptional competence and ability in the fields of scientific, technological, economic, or social endeavor selected by the Institute for concentration. The awards shall be made so as to encompass a wide diversity of disciplines and backgrounds, and shall be made on the basis of criteria established by the President upon the advice of the Council. Up to ten of the awards in any year may be made to citizens of countries other than the United States. Individuals awarded fellowships shall be designated as Institute Fellows.

(b) The President may assign Institute Fellows to undertake such activities, in the United States or abroad, as will further the purposes of the Institute.

(c) The amount of the awards made pursuant to this section shall be established by the President, but shall not in any case exceed the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code. In addition, where appropriate, the President may make provisions for transportation, housing (when assigned outside country of residence), subsistence (or per diem in lieu thereof), and health care or health or accident insurance for Institute Fellows and their dependents while engaged in activities authorized by this title.

[11] 22 U.S.C. 3508.

(d) Except as provided otherwise in this section, Institute Fellows shall not be deemed employees or otherwise in the service or employment of the United States Government. Institute Fellows shall be considered employees for purposes of compensation of injuries under chapter 81 of title 5 of the United States Code and the tort claim provisions of chapter 171 of title 28 of the United States Code. In addition, Institute Fellows who are United States citizens shall be considered Government employees for purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) Alien participants in any program of the Institute, including Institute Fellows and their dependents, may be admitted to the United States, if otherwise qualified as non-immigrants under section 101(a)(15) of the Immigration and Nationality Act, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

CONFLICT OF INTEREST

Sec. 409.[12] Members of the Council and Institute Fellows shall avoid any action, in their activities with respect to the Institute, which might result in, or create the appearance of, a conflict of interest, including but not limited to—

(1) using their office or position for private gain;

(2) giving preferential treatment to any person;

(3) making recommendations or decisions relating to any activity authorized by this title in other than an impartial and independent manner;

(4) misusing Government property or official information obtained through their office or position which has not been made available to the general public; or

(5) affecting adversely the confidence of the public in the integrity of the Institute.

AUTHORIZATION OF APPROPRIATIONS

Sec. 410.[13] There are authorized to be appropriated to the President to carry out this title, in addition to funds otherwise available for such purpose, $12,000,000 for the fiscal year 1981.[14] Funds appropriated under this section are authorized to remain available until expended.

Sec. 411.[15] **Annual Report** * * * [Repealed—1983]

CONFORMING AMENDMENTS

Sec. 412. (a) Section 5314 of title 5 of the United States Code, relating to level III of the Executive Schedule, is amended by adding at the end thereof the following:

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[12] 22 U.S.C. 3509.

[13] 22 U.S.C. 3510.

[14] Sec. 312 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3148) added the authorization figure for fiscal year 1981. The authorization for fiscal year 1980 was $23,750,000. However, these funds were never appropriated.

[15] Sec. 1011(a)(6) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1061) repealed sec. 411, which had required an annual report to Congress regarding the operations of the Institute.

"(70) Director, Institute for Scientific and Technological Cooperation."

(b) Section 5315 of title 5 of the United States Code, relating to level IV of the Executive Schedule, is amended by adding at the end thereof the following:

"(128) Deputy Director, Institute for Scientific and Technological Cooperation.".

(c) Section 5316 of title 5 of the United States Code, relating to level V of the Executive Schedule, is amended by adding at the end thereof the following:

"(152) Additional officers, Institute for Scientific and Technological Cooperation (2).".

Sec. 413.[16] **Establishment in International Development Cooperation Agency** * * * [Repealed—1998]

EXPIRATION OF AUTHORITIES

Sec. 414.[17] The authorities contained in this title shall expire on September 30, 1984.

TITLE V—MISCELLANEOUS PROVISIONS

EARMARKING FOR LEBANON OF UNOBLIGATED BALANCES IN THE MIDDLE EAST SPECIAL REQUIREMENTS FUND

Sec. 501. Of the funds continued available for the fiscal year 1979 for the Middle East Special Requirements Fund by section 103 of the Foreign Assistance and Related Programs Appropriations Act, 1979, which are unobligated on the date of enactment of this Act, $5,000,000 shall be available only for Lebanon and may hereafter be continued available only for such country.

MILITARY ASSISTANCE TO SUDAN

Sec. 502.[18] In addition to the amount authorized to be appropriated for grant military assistance for the fiscal year 1980 by section 504(a)(1) of the Foreign Assistance Act of 1961, there is authorized to be appropriated to carry out the purposes of chapter 2 of part II of that Act for the fiscal year 1980 $1,700,000. Not more than $1,700,000 of the funds available to carry out that chapter for the fiscal year 1980 may be allocated and made available for assistance for Sudan. For purposes of the last sentence of section 504(a)(1) and for purposes of section 515(b)(1) of the Foreign Assistance Act of 1961, this section shall be deemed to be part of such section 504(a)(1).

* * * * * * *

[16] Formerly at 22 U.S.C. 3512. The International Development Cooperation Agency was established by sec. 1–101 of Executive Order 12163, effective Oct. 1, 1979. That section, and the Reorganization Plan Numbered 2 of 1979 referred to in former sec. 413, were repealed by sec. 1422(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681). Sec. 413 formerly provided as follows:

"**Sec. 413.** Upon the establishment of the United States International Development Cooperation Agency pursuant to Reorganization Plan Numbered 2 of 1979, the Institute shall be established within such Agency.".

[17] 22 U.S.C. 3513.

[18] 22 U.S.C. 2312 note.

HUMAN RIGHTS REPORTS

Sec. 504. (a) * * *
(b)[19] * * * [Repealed—1981]

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Sec. 506.[20] **Prohibition on Assistance to Vietnam, Cambodia, and Cuba** * * * [Repealed—1981]

NONPROLIFERATION OF NUCLEAR WEAPONS

Sec. 507.[21] (a) In accordance with the Nuclear Non-Proliferation Act of 1978, the Congress strongly urges all nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to that treaty.
(b)[22] * * * [Repealed—1981]

ACCELERATED LOAN REPAYMENTS

Sec. 508. (a) * * *
(b)[23] * * * [Repealed—1981]

REFUGEE CRISIS IN SOUTHEAST ASIA

Sec. 509. (a)(1) The refugee crisis in Indochina is unfolding as one of the great human tragedies of our time.
(2) At least seven hundred and fifty thousand human beings have fled Vietnam, Kampuchea, and Laos since the spring of 1975.
(3) Approximately three hundred thousand human beings currently remain in refugee camps throughout Southeast Asia.
(4) As many as two hundred and fifty thousand human beings may have perished in their attempts to reach freedom and many thousands more face death should the present situation continue.
(5) The international borders are closing to the refugees fleeing from Indochina.
(6) The international community has failed to respond adequately to the crisis, despite the existence of adequate mechanisms to respond.
(b) It is the sense of the Congress that the President should continue to support the efforts of the Secretary General of the United Nations to use appropriate fora to deal with the refugee crisis in Southeast Asia.

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[19] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (b), which had required a report from the Secretary of State on the impact on U.S. foreign relations of the human rights reports required by the Foreign Assistance Act of 1961. The Secretary of State submitted this report to Congress on November 15, 1979.
[20] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 506, which had prohibited aid to Vietnam, Cambodia, and Cuba during fiscal year 1980.
[21] 22 U.S.C. 3201 note.
[22] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (b), which had required a report from the Secretary of State specifying what efforts the Department of State had made to encourage nations which are not parties to the Treaty on Nonproliferation of Nuclear Weapons to become parties to such treaty. The Secretary of State submitted this report to Congress on November 19, 1979.
[23] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (b), which had required that the annual reports on foreign assistance submitted to Congress in 1980 and 1981 describe the efforts made to negotiate accelerated loan repayments.

(c)[24] * * * [Repealed—1981]

CERTAIN TRAVEL EXPENSES

Sec. 510. Section 5924(4)(B) of title 5, United States Code,[25] is amended by striking out "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or" and inserting in lieu thereof "(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, or of the Agency for International Development, or (ii)".

* * * * * * *

EFFECTIVE DATES

Sec. 512. (a) Except as provided in subsection (b) of this section and in section 503(b), this Act shall take effect on October 1, 1979.

(b) Sections 114(b), 123, 501, and 509 of this Act shall take effect on the date of enactment of this Act.

[24] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (c), which had required periodic reports from the President on the prospects for permanent resettlement of Indochinese refugees so that no disruption of the economy of a host country would result.

[25] Sec. 5924 of title 5, U.S.C., provides for certain costs of living allowances for U.S. Government employees living in a foreign area.

v. International Development and Food Assistance Act of 1978

Partial text of Public Law 95–424 [H.R. 12222], 92 Stat. 937, approved October 6, 1978, as amended by Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359 at 378, approved August 14, 1979; Public Law 96–67 [S. 1019], 93 Stat. 415, approved September 21, 1979; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1978 consists of amendments to the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development and Food Assistance Act of 1978".

TITLE I—DEVELOPMENT ASSISTANCE

* * * * * * *

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 117.—(a) * * *
(b)(1) * * *
(2)[1] * * * [Repealed—1981]
(c) * * *
(d) * * *
(e)[2] In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President not to ex-

[1] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out para. (2), which had required a report from the Secretary of State on the progress made by the UNRWA to improve the ration distribution system for Palestine refugees. The Secretary of State submitted this report to Congress on February 5, 1979.
[2] 22 U.S.C. 2222 note. See also sec. 302(a)(1) of the FA Act of 1961.

ceed $1,000,000 for contributions to the World Assembly on Aging to be convened under the auspices of the United Nations, except that the amount so contributed may not exceed 25 percent of the expenditures of such Assembly. Amounts appropriated under this subsection are authorized to remain available until expended.

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LOCUST PLAGUES CONTROL IN AFRICA

Sec. 120.[3] In order to assist in attempts to control locust plagues in Africa, especially in the Horn of Africa, there is authorized to be appropriated to the President, in addition to amounts otherwise authorized for disaster relief purposes, $2,000,000, which amount is authorized to remain available until expended.

* * * * * * *

AFRICAN DEVELOPMENT FOUNDATION

Sec. 122.[4] (a) The Congress declares that the United States should place higher priority on the formulation and implementation of policies and programs to enable the people of African nations to develop their potential, fulfill their aspirations, and enjoy better, more productive lives. In furtherance of these objectives, the Congress finds that additional support is needed for community-based self-help activities in Africa and that an African Development Foundation, organized to further the purposes set forth in section 123 of the Foreign Assistance Act of 1961, can complement current United States development programs in Africa.

(b)[5] * * * [Repealed—1981]

TITLE II—FOOD FOR PEACE

Sec. 201.[6] **Effectiveness of Food Assistance in Meeting Basic Food Needs** * * * [Repealed—1981]

TITLE III—COORDINATION AND ADMINISTRATION OF THE DEVELOPMENT-RELATED PROGRAMS AND POLICIES OF THE UNITED STATES

DECLARATION OF OBJECTIVES

Sec. 301.[7] The Congress declares that the United States Government should place higher priority, in the formulation and implementation of governmental policies, on efforts to help meet the legitimate needs of poor countries for improving the quality of the lives of their populations. The Congress also declares that greater

[3] 22 U.S.C. 2292d.
[4] 22 U.S.C. 2151u note.
[5] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (b), which had required a report from the President on proposals for an African Development Foundation. The President submitted this report to Congress on February 1, 1979.
[6] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 201, which had required a report from the President on the effectiveness of food assistance under Public Law 480 in meeting basic human needs. The President submitted this report to Congress on February 23, 1979.
[7] 22 U.S.C. 2151 note.

effectiveness and efficiency of United States assistance to such countries can be achieved through improved coordination and administrative consolidation.

IMPLEMENTATION OF OBJECTIVES

Sec. 302.[7] In furtherance of the objectives set forth in section 301 the Congress directs the President to institute a strengthened system of coordination of all United States economic policies which impact on the developing countries of the world, including but not limited to policies concerning international trade, commodity agreements, investment, debt, international financial institutions, international and multilateral development agencies and programs, and concessional and grant food assistance, in addition to policies concerning United States bilateral economic development assistance.

Sec. 303.[8] **Report** * * * [Repealed—1981]

TITLE IV—UNIFIED PERSONNEL SYSTEM

ESTABLISHMENT OF A UNIFIED PERSONNEL SYSTEM

Sec. 401.[9] (a) Not later than May 1, 1979,[10] the President shall submit to the Congress, and publish in the Federal Register, regulations establishing a unified personnel system for all employees of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961. In preparing such regulations, the President shall keep the appropriate committees of the Congress fully and currently informed, and shall consult with them on a regular basis, concerning the nature of the unified personnel system to be established.

(b) The regulations submitted to the Congress pursuant to subsection (a)—

(1) may not become effective until after the end of the 90-day period beginning on the date of such submission in order to provide the appropriate committees of the Congress an opportunity to review them; and

(2) shall not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations.

(c) Regulations which take effect pursuant to this section shall have the force and effect of law and shall apply with respect to the personnel of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, notwithstanding any inconsistent provision of law unless that provision of law specifically states that it supersedes regulations issued under this section.

* * * * * * *

[8] Sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 303, which had required a report from the President on steps he has taken to implement this title. The President submitted this report to Congress on March 8, 1979.

[9] 22 U.S.C. 2385a.

[10] The due date for this report was extended from March 15, 1979, by sec. 503 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 378), effective March 15, 1979.

TITLE VI—MISCELLANEOUS PROVISIONS

REDUCTION OF AUTHORIZATION

Sec. 601.[11] The total funds authorized to be appropriated in this Act (excluding funds authorized to be appropriated to carry out section 214 of the Foreign Assistance Act of 1961) shall be reduced by 5 percent.

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA [12]

Sec. 602.[11] Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature, to the Socialist Republic of Vietnam, Cambodia, or Cuba.

Sec. 603.[13] (a)(1)[14] **Reports to Congress on Debt Relief Agreements** * * * [Repealed—1981]

(2) The Secretary of State shall transmit to such committees a copy of the text of any agreement with any foreign government which would result in any such debt relief no less than thirty days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief. The requirements of this paragraph shall not apply with respect to an agreement if a statutory requirement exists that the amount of the debt relief provided by the agreement may not exceed the amount approved for such purposes in advance in an appropriation Act.

(b) Section 4 of the Foreign Disaster Assistance Act of 1974 is repealed.

MISCELLANEOUS REPEALS

Sec. 604. Sections 302(d), 302(e), 302(f), 302(g), 302(h), 304, 494A, 495A, 618, 619, 637(a), 649, 651, 655, 656, 658, and 665, and chapters 6 and 7 of part I, of the Foreign Assistance Act of 1961 are repealed.

EFFECTIVE DATE

Sec. 605. The amendments made by this Act shall take effect on October 1, 1978.

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[11] 22 U.S.C. 2151 note.

[12] Uganda was struck from the section heading and from the list of countries in sec. 602 by Public Law 96–67 (93 Stat. 415).

[13] 22 U.S.C. 2395a. See also sec. 501 of Miscellaneous Appropriations (H.R. 3425 enacted by reference in sec. 1000(a)(5) of Public Law 106–113; 113 Stat. 1535), which stated actions to provide international debt relief.

[14] Sec. 734(a)(5) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out para. (1), which had required that the Secretary of State keep several congressional committees informed of negotiations with foreign governments with respect to any cancellation, renegotiations, rescheduling, compromise, or other form of debt relief for any debt owed to the United States.

w. International Security Assistance Act of 1978

Partial text of Public Law 95–384 [S. 3075], 92 Stat. 730, approved September 26, 1978, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1978 consists of amendments to the Arms Export Control Act, the Foreign Assistance Act of 1961, the Foreign Assistance Act of 1974, the International Security Assistance Act of 1977, the International Security Assistance and Arms Export Control Act of 1976, the Mutual Security Act of 1954, the Foreign Military Sales Act Amendments, 1971, the Export Administration Act of 1969, and the Emergency Security Assistance Act of 1973.

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security Assistance Act of 1978".

* * * * * * *

UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN

Sec. 13.[1] (a) Section 620(x) of the Foreign Assistance Act of 1961 shall be of no further force and effect upon the President's determination and certification to the Congress[2] that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization and that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from

[1] 22 U.S.C. 2370 note.
[2] Such determination and certification, dated September 26, 1978, was submitted to the Congress.

Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement.

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ARMS TRANSFER POLICY

Sec. 15. (a) * * *
(b)[3] * * * [Repealed—1981]

* * * * * * *

SPECIAL SECURITY ASSISTANCE PROGRAM FOR THE MODERNIZATION OF THE ARMED FORCES OF THE REPUBLIC OF KOREA

Sec. 23.[4] (a)(1) The President is authorized until December 31, 1982—

(A) to transfer, without reimbursement, to the Republic of Korea, only in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act, except that no funds heretofore or hereafter appropriated under that Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

(b) In order that transfers of defense articles under subsection (a) will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers, to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capability of defense articles withdrawn from Korea in any case where he determines that—

(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

[3] Sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (b), which had required a report from the President concerning multilateral discussions with other arms suppliers on the issue of restraining the flow of conventional arms to developing countries. The President submitted this report to Congress on December 28, 1979.

[4] 22 U.S.C. 2428b.

(3) a comparable defense capability could be provided by less advance defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

The President shall report to the Congress each determination made under this subsection prior to the transfer of the defense articles described in such determination.

(c) The President shall transmit to the Congress, together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year 1983, a report describing the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea under this section.

(d)[5] * * * [Repealed—1981]

(e)(1) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

(2)[6] * * * [Repealed—1981]

Sec. 24.[7] **United States Relations With the Soviet Union** * * * [Repealed—1993]

Sec. 25.[8] **Report on Review of Arms Sales Controls on Non-Lethal Items** * * * [Repealed—1981]

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

Sec. 26.[7] (a) The Congress finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and

(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any

[5] Sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (d), which had required a report from the President 120 days prior to each phase of troop withdrawal from Korea regarding the viability of such withdrawal.

[6] Sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out para. (2), which had required a report from the President prior to any future withdrawals of U.S. ground forces from Korea concerning a number of issues which might be affected by the withdrawal.

[7] Formerly at 22 U.S.C. 2151 note. Sec. 706 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) repealed sec. 24.

Subsec. (c), which had required a report from the President concerning his review of U.S. policy toward the Soviet Union as outlined in subsec. (b), was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report on January 4, 1979.

[8] Sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 25, which had required a report from the President on a review of arms sales control on non-lethal items. The President submitted this report to Congress on January 26, 1979.

proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.[9]

Sec. 27.[10] **Rhodesia Embargo** * * * [Repealed—1981]

NEGOTIATIONS BETWEEN ISRAEL AND EGYPT

Sec. 28.[11] (a) The Congress finds that—

(1) a lasting settlement of the Arab-Israel conflict is vital to United States national interests as well as to the interests of the countries of the region;

(2) support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy;

(3) direct, face-to-face negotiations between Israel and Egypt without preconditions is a historic opening for peace, and the support of such negotiations by other moderate Arab countries, can best promote a peace settlement based on mutual concessions and accommodations;

(4) the establishment of secure, recognized, and defensible borders between Israel and its neighbors will discourage hostilities; and

(5) full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications, and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab countries to enter into negotiations leading to peace treaties with Israel.

(c) It is further the sense of the Congress that the United States should be responsive to Israel's economic needs and defense requirements, including the provision of additional advanced aircraft, in order to maintain Israel's defense capability which is essential to peace.

* * * * * * *

SAVINGS PROVISION

Sec. 30.[12] Enactment of this Act shall not affect the authorizations of appropriations and limitations of authority applicable to the fiscal year 1978 which are contained in provisions of law amended by this Act (other than sections 31 (a), (b), and (d) of the Arms Export Control Act).

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[9] Pursuant to article X of the treaty, the State Department on December 23, 1978, delivered notice, effective January 1, 1979, that the United States was terminating the treaty. Under article X, the treaty remained in force until January 1, 1980.

[10] Sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 27. It formerly read as follows:

"Sec. 27. In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after December 31, 1978, provided that the President determines that—

"(1) the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues; and

"(2) a government has been installed, chosen by free elections in which all political and population groups have been allowed to participate freely, with observation by impartial, internationally-recognized observers."

[11] 22 U.S.C. 2346a note.

[12] 22 U.S.C. 1754 note.

x. International Development and Food Assistance Act of 1977

Partial text of Public Law 95–88 [H.R. 6714], 91 Stat. 533, approved August 3, 1977, as amended by Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359 at 366, approved August 14, 1979; Public Law 96–465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1977 consists of amendments to the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal year 1978, to amend the Agricultural Trade Development and Assistance Act of 1954 to make certain changes in the authorities of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development and Food Assistance Act of 1977."

TITLE I—INTERNATIONAL DEVELOPMENT ASSISTANCE

* * * * * * *

INSPECTOR GENERAL, FOREIGN ASSISTANCE

Sec. 124. (a)(1) * * *

(2)[1] * * * [Repealed—1981]

(b) Section 5315 of title 5, United States Code, is amended by repealing paragraphs (52) and (53).

(c) The amendments made by this section shall take effect on July 1, 1978.

* * * * * * *

[1] Sec. 2205(11) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2162) struck out para. (2), which concerned the duties and responsibilities of the Inspector General, Foreign Service.

FUTURE UNITED STATES DEVELOPMENT ASSISTANCE

Sec. 131.[2] It is the sense of the Congress that the United States should increase substantially its assistance for self-help development among the world's poorest people. Such assistance should be provided in accordance with the general policies and principles of chapter 1 of part I of the Foreign Assistance Act of 1961, with particular emphasis on encouraging and supporting more equitable patterns of economic growth, especially in the poorest countries, and should be coordinated with similar expanded efforts by international organizations, donor nations, and the recipient countries themselves.

LIMITATION ON USE OF FUNDS; MISSING IN ACTION IN VIETNAM

Sec. 132. (a)[3] * * * [Repealed—1981]

(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

PLAN FOR INCREASED MINORITY BUSINESS PARTICIPATION IN FOREIGN ASSISTANCE ACTIVITIES

Sec. 133.[2] (a) The Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall prepare and transmit to the Congress, not later than 30 days after the date of enactment of this Act, a detailed plan for the establishment of a section on minority business within such agency.

(b) Such plan shall include, but shall not be limited to—

(1) a description of where the section on minority business will be located in such agency's organizational structure and what relevant lines of authority will be established;

(2) a listing of the specific responsibilities that will be assigned to the section on minority business to enable it to increase, in a rational and effective manner, participation of minority business enterprises in activities funded by such agency;

(3) a design for a time-phase system for bringing about expanded minority business enterprise participation, including specific recommendations for percentage allocations of contracts by such agency to minority business enterprises;

(4) a proposed reporting system that will permit objective measuring of the degree of participation of minority business enterprises in comparison to the total activities funded by such agency;

(5) a detailed projection of the administrative budgetary impact of the establishment of the section on minority business; and

(6) a detailed set of objective criteria upon which determinations will be made as to the qualifications of minority business enterprises to receive contracts funded by such agency.

[2] 22 U.S.C. 2151 note.

[3] Sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (a), which had prohibited assistance to or reparations for Cambodia, Vietnam, Laos, or Cuba for fiscal year 1978.

(c)[4] (1) Upon the enactment of the International Development Cooperation Act of 1979, the section on minority business established pursuant to subsection (a) shall be redesignated as the Minority Resource Center (hereafter in this section referred to as the "Center") which shall be responsible for increasing the participation of economically and socially disadvantaged business enterprises in contract, procurement, grant, and research and development activities funded by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 (hereafter in this section referred to as the "agency").

(2) The Center shall—

(A) establish, maintain, and disseminate information to, and otherwise serve as an information clearinghouse for, economically and socially disadvantaged business enterprises regarding business opportunities in development assistance programs funded by the agency;

(B) design and conduct programs to encourage, promote, and assist economically and socially disadvantaged business enterprises to secure direct contracts, host country contracts, operation expatriate contracts, indefinite quantity contracts, subcontracts, projects, grants, and research and development contracts in order for such enterprises to participate in such development assistance programs;

(C) conduct market research, planning, economic and business analyses, and feasibility studies to identify business opportunities in such development assistance programs;

(D) develop support mechanisms which will enable socially and economically disadvantaged businesses to take advantage of business opportunities in such development assistance programs; and

(E) enter into such contracts (to such extent or in such amounts as are provided in appropriation Acts), cooperative agreements, or other transactions as may be necessary in the conduct of its functions under this section.

(3) The Administrator of the agency and the Secretary of State shall provide the Center with such relevant information, including procurement schedules, bids, and specifications with respect to development assistance programs funded by the agency, as may be requested by the Center in connection with the performance of its functions under this section.

(4) There shall be a Director of the Center who shall be the chief executive officer of the Center. The Director shall be appointed by the Administrator of the agency.

(5)(A) For the purposes of this section, the term "economically and socially disadvantaged enterprise" means a business—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

[4] Sec. 123 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366) added subsec. (c), effective August 16, 1979.

(ii) whose management and daily business operations are controlled by one or more such individuals.

(B) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(C) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administrator of the agency shall consider, but not be limited to, the assets and net worth of the socially disadvantaged individual.

(6)[5] * * * [Repealed—1981]

(7) Of the funds available to the agency for operating expenses, up to $950,000 for fiscal year 1980 may be allocated to the Center to carry out its functions under this section.

(8) If the Administrator of the agency determines that such a consolidation would significantly further the purposes of this section and would eliminate unnecessary duplication of activity, the Administrator may consolidate the Center with the Office of Small and Disadvantaged Business Utilization established in the agency by section 15(k) of the Small Business Act. Any such consolidation shall ensure that all the functions specified in paragraph (2) of this subsection continue to be carried out. Before implementing any such consolidation, the Administrator shall submit to the Congress a detailed report setting forth the reasons for the proposed consolidation.

TITLE II—FOOD FOR PEACE

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Sec. 214.[6] **Study of Payments of Ocean Freight Differentials** * * * [Repealed—1981]

EFFECTIVE DATE

Sec. 215. The provisions of this title shall become effective October 1, 1977.

[5] Sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out para. (6), which had required an annual report concerning the activities of the Minority Resource Center. This same information is now required by sec. 634(a)(11) of the Foreign Assistance Act of 1961.

[6] Sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 214, which had required a report from the President on the payments of ocean freight differentials.

y. International Security Assistance Act of 1977

Partial text of Public Law 95–92 [H.R. 6684], 91 Stat. 614, approved August 4, 1977, as amended by Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1977 consists of amendments to the Arms Export Control Act and the Foreign Assistance Act of 1961.

AN ACT To amend the Foreign Assistance Act of 1961 to authorize international security assistance programs for fiscal year 1978, to amend the Arms Export Control Act to make certain changes in the authorities of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1.[1] This Act may be cited as the "International Security Assistance Act of 1977".

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SECURITY SUPPORTING ASSISTANCE PROGRAM FOR EGYPT

Sec. 9.[2] It is the sense of the Congress that the security supporting assistance program for Egypt plays an important role in the Middle East peace effort and that the Executive branch should concentrate its efforts in order to make the program a success.

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Sec. 14.[3] **Prohibition on Assistance for Nuclear Powerplants** * * * [Repealed—1981]

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[1] 22 U.S.C. 2151 note.

[2] 22 U.S.C. 2346 note. Sec. 29(c)(2) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) struck out subsecs. (b) through (e) of sec. 9. These subsections concerned the creation and activities of a Special Interagency Task Force to review the U.S. security supporting assistance program for Egypt.

[3] Sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 14, which had prohibited the use of funds made available under the Foreign Assistance Act of 1961 during fiscal year 1978 to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the U.S. and any other country.

FISCAL YEAR 1977 AUTHORIZATIONS AND LIMITATIONS

Sec. 21.[4] Authorizations of appropriations and limitations of authority applicable to the fiscal year 1977 contained in provisions of law amended by this Act shall not be affected by enactment of this Act.

Sec. 22.[5] **Assistance and Sales to Greece and Turkey** * * * [Repealed—1981]

Sec. 23.[6] **Arms Sales and United States Defense Readiness** * * * [Repealed—1978]

STUDY OF TECHNOLOGY TRANSFERS

Sec. 24.[7] (a) The President shall conduct a comprehensive study of the policies and practices of the United States Government with respect to the national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed. Such study shall examine—

(1) the nature of technology transfer;

(2) the effect of technology transfers on United States technological superiority;

(3) the rationale for transfers of technology from the United States to foreign countries;

(4) the benefits and risks of such transfers;

(5) trends in technology transfers by the United States and other countries;

(6) the need for controls on transfers of technology, including controls on the use of transferred technology, the effectiveness of existing end-use controls, and possible unilateral sanctions if end-use restrictions are violated;

(7) the effectiveness of existing organizational arrangements in the Executive branch in regulating technology transfers from the United States;

(8) the adequacy of existing legislation and regulations with respect to transfers of technology from the United States; and

(9) the possibilities for international agreements with respect to transfers of technology.

(b) In conducting the study required by subsection (a), the President shall utilize the resources and expertise of the Arms Control and Disarmament Agency, the Department of State, the Department of Defense, the Department of Commerce, the National Science Foundation, the Office of Science and Technology Policy, and such other entities within the Executive branch as he deems necessary.

(c)[8] * * * [Repealed—1981]

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[4] 22 U.S.C. 2151 note.

[5] Sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 22, which set out certain conditions for assistance and sales to Greece and Turkey during fiscal year 1978.

[6] Sec. 29(c)(2) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) repealed sec. 23, which had required a report to Congress on the impact of U.S. foreign arms sales and transfers on U.S. defense readiness and national security.

[7] 22 U.S.C. 2751 note.

[8] Sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (c), which had required a report from the

Continued

Sec. 25.[9] **Policy on Zaire** * * * [Repealed—1981]

POLICY STATEMENT ON UNITED STATES ARMS SALES TO ISRAEL

Sec. 26.[7] In accordance with the historic special relationship between the United States and Israel and previous agreements and continuing understandings, the Congress joins with the President in reaffirming that a policy of restraint in United States arms transfers, including arms sales ceilings, shall not impair Israel's deterrent strength or undermine the military balance in the Middle East.

REVIEW OF ARMS SALES CONTROLS ON NON-LETHAL ITEMS

Sec. 27.[7] The President shall undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and non-lethal products and establishing the appropriate level of control for each category.

REPUBLIC OF KOREA

Sec. 28. (a)(1) It is the sense of the Congress that the President should take all effective measures to assure that the Republic of Korea is cooperating fully with the investigation (including any resulting prosecutions) being conducted by the Department of Justice with respect to allegations of improper activity in the United States by agents of the Republic of Korea.

(2)[10] * * * [Repealed—1981]

(b) It is the further sense of the Congress that the President should take all effective measures to assure that the Republic of Korea is cooperating fully with the investigations being conducted by committees of Congress.

PIASTER CONVERSION

Sec. 29.[11] No provision of law shall be construed to prevent payment of claims of former and present Vietnamese employees of the Agency for International Development, who presently reside in the United States, for the conversion of Vietnamese piasters to dollars because such conversion cannot take place in the territory of the former Republic of Vietnam or because the official with whom such piasters were deposited was not a United States disbursing officer.

President regarding the findings made and conclusions reached as a result of the study conducted pursuant to subsec. (a). The President submitted this report to Congress on August 21, 1978.

[9] Sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 25, which had prohibited U.S. aid for Zaire during fiscal year 1978 supporting any military or paramilitary operations in Zaire (unless the President determined that such assistance would be in the U.S. national security interests).

[10] Sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out para. (2), which required a report every 90 days from the President regarding the extent to which Korea was cooperating with the investigation being conducted by the Department of Justice.

[11] 22 U.S.C. 2431 note.

z. International Security Assistance and Arms Export Control Act of 1976

Partial text of Public Law 94–329 [H.R. 13680], 90 Stat. 729, approved June 30, 1976, as amended by Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 735, 737, and 747, approved September 26, 1978; Public Law 96–533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3141, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1554 and 1560, approved December 29, 1981; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Except for the provisions noted below, the International Security Assistance and Arms Export Control Act of 1976 consists of amendments to the Foreign Assistance Act of 1961, Foreign Assistance Act of 1973, the Foreign Military Sales Act, the Foreign Military Sales Act Amendments, 1971, and the Mutual Security Act of 1954.

AN ACT To amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Security Assistance and Arms Export Control Act of 1976".

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INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 106. (a) * * *

(b) * * *

(c)[1] Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

(d)[2] Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable to

[1] 22 U.S.C. 2321a note.
[2] 22 U.S.C. 2347 note.

those purposes or in accordance with the provisions of law currently applicable to those purposes.

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ARMS SALES POLICY

Sec. 201. (a) * * *

(b) Any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act.

Sec. 202. (a) * * *

(b)[3] * * * [Repealed—1978]

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CONTROL OF LICENSES WITH RESPECT TO ARMS EXPORTS AND IMPORTS

Sec. 212. (a) * * *

(b)(1) Section 414 of the Mutual Security Act of 1954 is repealed. Any reference to such section shall be deemed to be a reference to section 38 of the Arms Export Control Act and any reference to licenses issued under section 38 of the Arms Export Control Act shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954.

(2) All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under section 414 of the Mutual Security Act of 1954 shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

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Sec. 217.[4] Report On Sales of Excess Defense Articles * * * [Repealed—1978]

Sec. 218.[4] Study of the Effects of Arms Export Control Provisions * * * [Repealed—1978]

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Sec. 404.[5] Limitation on Certain Assistance to and Activities in Angola * * * [Repealed—1980]

Sec. 405.[6] Soviet Intervention in Angola * * * [Repealed—1993]

Sec. 406.[7] Limitations on Economic Assistance, Military Assistance, Sales, and Sales Credits for Chile * * * [Repealed—1981]

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[3] Sec. 29(c)(1)(A) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) struck out subsec. (b), which had required a study by the President regarding U.S. arms sales policies and practices.

[4] Sec. 29(c)(1) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) repealed secs. 217 and 218.

[5] Sec. 118(e) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3141) repealed sec. 404.

[6] Sec. 703 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) repealed sec. 405.

[7] Sec. 726(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1554) repealed sec. 406, which had prohibited military assistance, sales, the issuance of export licenses under the Arms Export Control Act, Economic Support Fund aid, and peacekeeping programs for Chile and had placed conditions and limitations on economic assistance for Chile during the transition quarter and fiscal year 1977. While sec. 726 lifted this prohibition, it also imposed certain conditions and restrictions on future U.S. aid to Chile.

CONTROL OF MILITARY FORCES IN THE INDIAN OCEAN

Sec. 407.[8] It is the sense of Congress that the President should undertake to enter into negotiations with the Soviet Union intended to achieve an agreement limiting the deployment of naval, air, and land forces of the Soviet Union and the United States in the Indian Ocean and littoral countries. Such negotiations should be convened as soon as possible and should consider, among other things, limitations with respect to—

(1) the establishment or use of facilities for naval, air, or land forces in the Indian Ocean and littoral countries;

(2) the number of naval vessels which may be deployed in the Indian Ocean, or the number of "shipdays" allowed therein; and

(3) the type and number of military forces and facilities allowed therein.

(b)[9] * * * [Repealed—1978]

UNITED STATES CITIZENS IMPRISONED IN MEXICO

Sec. 408.[10] (a) The Congress, while sharing the concern of the President over the urgent need for international cooperation to restrict traffic in dangerous drugs, is convinced that such efforts must be consistent with respect for fundamental human rights. The Congress, therefore, calls upon the President to take steps to insure that United States efforts to secure stringent international law enforcement measures are combined with efforts to secure fair and humane treatment for citizens of all countries.

(b) The Congress requests that the President communicate directly to the President and Government of the Republic of Mexico, a nation with which we have friendly and cooperative relations, the continuing desire of the United States for such relations between our two countries and the concern of the United States over treatment of United States citizens arrested in Mexico.

(2)[11] * * * [Repealed—1978]

EMERGENCY FOOD NEEDS OF PORTUGAL

Sec. 409.[12] It is the sense of the Congress that the President should undertake immediately an evaluation of the emergency food needs of Portugal. It is further the sense of the Congress that the President should take timely action to alleviate such emergency by providing Portugal with food commodities under the provisions of pertinent statutes.

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[8] 22 U.S.C. 2151 note.

[9] Sec. 29(c)(1)(D) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) struck out subsec. (b), which had required a report from the President concerning the steps he had taken to carry out the provisions of section 407.

[10] 22 U.S.C. 2291 note.

[11] Sec. 29(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) struck out para. (2), which had required periodic reports from the Secretary of State concerning progress toward full respect for human and legal rights of U.S. citizens detained in Mexico.

[12] 22 U.S.C. 2293 note.

STRIFE IN LEBANON

Sec. 410.[13] It is the sense of the Congress that the situation in Lebanon, a nation traditionally friendly to the United States, poses a danger to peace in the Middle East. The Congress deplores the armed civil strife and continuing erosion of national institutions which threaten to destroy the political and economic fabric of Lebanon with such tragic impact on all its people. The Congress views with grave concern any outside efforts to exploit the current strife with the purpose of transforming Lebanon into a radical state in confrontation with Israel. The Congress requests that the President use his good offices to secure an end to the civil strife and national discord in Lebanon and to preserve the traditional friendly attitude of Lebanon toward the United States.

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KOREA

Sec. 412.[14] The Congress views with distress the erosion of important civil liberties in the Republic of Korea and requests that the President communicate this concern in forceful terms to the Government of the Republic of Korea within sixty days after enactment.

REPEAL OF INDOCHINA ASSISTANCE

Sec. 413. (a) Part V of the Foreign Assistance Act of 1961 and sections 34, 35, 36, 37, 38, 39, and 40 of the Foreign Assistance Act of 1974 are repealed. All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

(b) Subject to the availability of appropriations therefore, the President is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract which had been funded or approved for funding by the Agency for International Development prior to June 30, 1975, for financing with funds made available under the Foreign Assistance Act of 1961 or the Foreign Assistance Act of 1974, or any equitable claim based upon a letter of intent issued prior to April 30, 1975, in which the Agency had expressed its intention to finance a transaction subject to the availability of funds, between the former Governments of Vietnam or Cambodia (including any of their agencies) or the Government of Laos (or any of its agencies) and any person and to apply with respect to any such contract the authorities of the Foreign Assistance Act of 1961.

(c) Funds made available for the purposes of part V of the Foreign Assistance Act of 1961 and of section 36 of the Foreign Assistance Act of 1974 (including amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200), as having been obligated against appropriations heretofore made)

[13] 22 U.S.C. 2441 note.
[14] 22 U.S.C. 2428 note.

are authorized to be appropriated, and thereafter, to remain available until expended, to meet necessary expenses arising from the actions authorized by subsection (b) of this section and such funds are authorized to remain available until expended to meet necessary expenses arising from the termination of assistance programs authorized by such part and such section 36, which expenses may include but need not be limited to the settlement of claims and associated personnel costs

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INTERIM QUARTER AUTHORIZATIONS

Sec. 506.[15] (a) Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976, shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for the fiscal year 1976 and in accordance with the authorities applicable to operations and activities authorized under this Act or such other law, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

(b) The aggregate total of credits, including participations in credits, extended pursuant to the Arms Export Control Act and of the principal amount of loans guaranteed pursuant to section 24(a) of such Act during the period beginning July 1, 1976, and ending September 30, 1976, may not exceed an amount equal to one-fourth of the amount authorized by section 31(b) of such Act to be extended and guaranteed for the fiscal year 1976.

Sec. 507.[16] **Base Agreements With Spain, Greece, and Turkey** * * * [Repealed—1981]

TITLE VI—MISCELLANEOUS PROVISIONS

EXPEDITED PROCEDURE IN THE SENATE

Sec. 601. (a)(1) The provisions of subsection (b) of this section shall apply with respect to the consideration in the Senate of any resolution required by law to be considered in accordance with such provisions.

(2) Any such law shall—

(A) state whether the term "resolution" as used in subsection (b) of this section, means, for the purposes of such law—

(i) a joint resolution; or

(ii) a resolution of either House of Congress;

(iii) a concurrent resolution; and

(B) specify the certification to which such resolution shall apply.

(b)(1) For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine

[15] 22 U.S.C. 2162 note.

[16] Sec. 734(a)(14) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 507, which had authorized the appropriation of "such sums as may be necessary for the fiscal year 1977" to carry out base agreements with Spain, Greece, and Turkey.

die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (a)(1) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

PROCUREMENTS FROM SMALL BUSINESSES

Sec. 602.[17] In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purpose of carrying out this section.[18]

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USE OF PERSONNEL

Sec. 605.[19] (a) Nothing in this Act is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act and the Foreign Assistance Act of 1961.

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EXTORTION AND ILLEGAL PAYMENTS

Sec. 607.[20] Within 60 days after receiving information which substantiates that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

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[17] 22 U.S.C. 2352 note.

[18] The responsibilities vested to the Administrator of AID under this section were transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 or 1979, however, ceased to be in effect pursuant to sec. 1422(a)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681).

[19] 22 U.S.C. 2751 note.

[20] 22 U.S.C. 2394a.

EXTENSION OF AIRPORT AT PINECREEK, MINNESOTA

Sec. 608. The consent of Congress is hereby granted for the State of Minnesota or a subdivision or instrumentality thereof to enter into an agreement with the Government of Canada, a Canadian Province, or a subdivision or instrumentality of either, providing for the extension of the Pinecreek Airport at Pinecreek, Minnesota, into the Province of Manitoba, Canada, and the operation of the airport by a joint Canadian-American airport authority. The effectiveness of such agreement shall be conditioned on its approval by the Secretary of State.

aa. International Development and Food Assistance Act of 1975

Partial text of Public Law 94–161 [H.R. 9005], 89 Stat. 849, approved December 20, 1975, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1975 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Assistance Act of 1974, and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Development and Food Assistance Act of 1975".

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Sec. 213.[1] **Report Regarding Implementation of Recommendations of World Food Conference** * * * [Repealed—1981]

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LIMITATION ON ASSISTANCE TO CHILE

Sec. 320. Notwithstanding any other provision of law, the total amount of economic assistance (including but not limited to housing guaranties and sales under title I of the Agricultural Trade Development and Assistance Act of 1954) that may be made available to Chile may not exceed $90,000,000 during the fiscal year 1976.

[1] Sec. 734(a)(7) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 213, which had required a report from the President on steps he had taken to carry out the recommendations of the World Food Conference. The President submitted this report to Congress on November 1, 1976.

SETTLEMENT OF DEBT OWED THE UNITED STATES

Sec. 321.[2] No debt owed to the United States by any foreign country with respect to the payment of any loan made under any program funded under this Act may be settled in an amount less than the full amount of such debt unless the Congress by concurrent resolution approves of such settlement.

PARTICIPATION BY OTHER COUNTRIES IN PROVIDING ASSISTANCE TO ISRAEL OR EGYPT

Sec. 322. It is the sense of the Senate that the President should attempt to negotiate an equitable share of participation by the countries of Western Europe, Japan, and the United Nations in providing assistance to Israel or Egypt.

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[2] 22 U.S.C. 2220a note. Sec. 565 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"SPECIAL DEBT RELIEF FOR THE POOREST

"SEC. 565. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

"(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

"(2) credits extended or guarantees issued under the Arms Export Control Act; or

"(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

"(b) LIMITATIONS.—

"(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as 'Paris Club Agreed Minutes'.

"(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

"(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as 'IDA-only' countries.

"(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

"(1) does not have an excessive level of military expenditures;

"(2) has not repeatedly provided support for acts of international terrorism;

"(3) is not failing to cooperate on international narcotics control matters;

"(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

"(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

"(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading 'Debt Restructuring'.

"(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.".

bb. Foreign Assistance Act of 1974

Partial text of Public Law 93–559 [S. 3394], 88 Stat. 1795, approved December 30, 1974, as amended by Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729 at 761, approved June 30, 1976; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the Foreign Assistance Act of 1974 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and the 1971 Act to amend the FMS Act.

AN ACT To amend the Foreign Assistance Act of 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1974".

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Sec. 3.[1] **Ceiling on Fertilizers to South Vietnam** * * * [Repealed—1981]

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Sec. 17.[2] **Review of Military Assistance Program** * * * [Repealed—1978]

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Sec. 25.[3] **Limitation Upon Assistance to or for Chile** * * * [Repealed—1981]

Sec. 26.[4] **Limitation on Military Assistance and Excess Defense Articles to Korea** * * * [Repealed—1981]

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[1] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 3, which had prohibited the use of funds during fiscal year 1975 to procure agricultural fertilizers for South Vietnam and set a ceiling for the procurement of such fertilizers in future years for South Vietnam.

[2] Sec. 29(c)(4) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) repealed sec. 17.

[3] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 25, which had limited assistance to Chile during fiscal year 1975 to $25,000,000 (which could not include military aid or security supporting assistance).

[4] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–118; 95 Stat. 1560) repealed sec. 26, which had set a ceiling of $145,000,000 in military assistance and $165,000,000 in excess defense articles for Korea during fiscal year 1975.

Sec. 27.[5] **Limitation on Assistance for India** * * * [Repealed—1981]

FAMINE OR DISASTER RELIEF

Sec. 28.[6] (a) * * *

(b) Of the funds appropriated to carry out section 639 of the Foreign Assistance Act of 1961, during fiscal year 1975 not less than $25,000,000 shall be made available to Cyprus for the purposes of such section 639.

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Secs. 34–40.[7] * * * [Repealed—1976]

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Sec. 43.[8] * * * [Repealed—1981]

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GORGAS MEMORIAL INSTITUTE

Sec. 47. The first section of the Act entitled "An Act to authorize a permanent annual appropriation for the maintenance and operation of the Gorgas Memorial", approved May 7, 1928,[9] is amended by striking out "$500,000" and inserting "$2,000,000" in lieu thereof.

INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION IN VIETNAM

Sec. 48.[10] (a) There are authorized to be appropriated to the Department of State for fiscal year 1975 not to exceed $16,526,000 for payments by the United States to help meet expenses of the International Commission of Control and Supervision in Vietnam. Funds appropriated under this subsection are authorized to be made available for reimbursement to the Agency for International Development of amounts expended by the Agency during fiscal year 1975 as interim United States payments to help meet expenses of the International Commission of Control and Supervision.

(b) There are authorized to be appropriated to the Department of State not to exceed $11,200,000 for reimbursement to the Agency for International Development of amounts expended by the Agency for International Development to help meet expenses of the International Commission on Control and Supervision in fiscal year 1974.

(c) Reimbursements received by the Agency for International Development under this section may be credited to applicable appro-

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[5] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113 95 Stat. 1560) repealed sec. 27, which had set a limit of $50,000,000 in economic and military assistance for India during fiscal year 1975.

[6] 22 U.S.C. 2399 note.

[7] Sec. 413(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 761) repealed secs. 34, 35, 36, 37, 38, 39, and 40, all relating to U.S. Policy in Indochina.

[8] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 43, which had prohibited the use of funds authorized by this Act from supporting the construction, operation, maintenance, or the supply of fuel for any nuclear powerplant in Israel or Egypt.

[9] 22 U.S.C. 278.

[10] 22 U.S.C. 2431 note.

priations of the Agency and shall be available for the purposes for which such appropriations are authorized to be used during fiscal year 1975.

Sec. 49.[11] **Policy on Assistance to Africa** * * * [Repealed—1981]

POLICY ON THE INDEPENDENCE OF ANGOLA, MOZAMBIQUE, AND GUINEA-BISSAU

Sec. 50.[12] (a)(1) Congress finds that the Government of Portugal's recognition of the right to independence of the African territories of Angola, Mozambique, and Guinea-Bissau marks a significant advance toward the goal of self-determination for all the peoples of Africa, without which peace on the continent is not secure.

(2) Congress finds that progress toward independence for the Portuguese African territories will have a significant impact on the international organizations and the community of nations.

(3) Congress commends the Portuguese Government's initiatives on these fronts as evidence of a reaffirmation of that Government's support for her obligations under both the United Nations Charter and the North Atlantic Treaty Organizations.

(b) Therefore, Congress calls upon the President and the Secretary of State to take the following actions designed to make clear United States support for a peaceful and orderly transition to independence in the Portuguese African territories:

(1) An official statement should be issued of United States support for the independence of Angola, Mozambique, and Guinea-Bissau, and of our desire to have good relations with the future governments of the countries.

(2) It should be made clear to the Government of Portugal that we view the efforts toward a peaceful and just settlement of the conflict in the African territories as consistent with Portugal's obligations under the North Atlantic Treaty Organization partnership.

(3) The United States should encourage United Nations support for a peaceful transition to independence, negotiated settlement of all differences, and the protection of human rights of all citizens of the three territories.

(4) The United States should open a dialog with potential leaders of Angola, Mozambique, and Guinea-Bissau and assure them of our commitment to their genuine political and economic independence.

(5) The economic development needs of the three territories will be immense when independence is achieved. Therefore, it is urged that the United States Agency for International Development devote attention to assessing the economic situation in Angola, Mozambique, and Guinea-Bissau and be ready to cooperate with the future governments in providing the kind of assistance that will help make their independence viable. In addition, the United States Government should take the initia-

[11] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 49, which had required a report from the President on action taken to provide the developing countries of Africa with an equitable share of U.S. economic assistance.

[12] 22 U.S.C. 2166 note.

tive among other donors, both bilateral and multilateral, in seeking significant contribution of development assistance for the three territories.

(6) In light of the need of Angola, Mozambique, and Guinea-Bissau for skilled and educated manpower, a priority consideration should be given to expanding current United States programs of educational assistance to the territories as a timely and substantive contribution to their independence.

(c)[13] * * * [Repealed—1981]

CONVENTIONAL ARMS TRADE

Sec. 51.[14] (a) It is the sense of the Congress that the recent growth in international transfers of conventional arms to developing nations—

(1) is a cause for grave concern for the United States and other nations in that in particular areas of the world it increases the danger of potential violence among nations, and diverts scarce world resources from more peaceful uses; and

(2) could be controlled progressively through negotiations and agreements among supplier and recipient nations.

(b) Therefore, the President is urged to propose to the Geneva Conference of the Committee on Disarmament that it consider as a high priority agenda item discussions among participating nations of that Conference for the purposes of—

(1) agreeing to workable limitations on conventional arms transfers; and

(2) establishing a mechanism through which such limitations could be effectively monitored.

(c)[15] * * * [Repealed—1981]

INVOLVEMENT OF PUERTO RICO IN THE CARIBBEAN DEVELOPMENT BANK

Sec. 52. (a) The President may transmit to the Caribbean Development Bank an instrument stating that the Commonwealth of Puerto Rico has the authority to conclude an agreement of accession with such Bank and to assume rights and obligations pursuant to such agreement. However, such agreement may only be concluded after it has been approved by the United States Secretary of State.

(b) The instrument transmitted by the President to the Caribbean Development Bank under subsection (a) shall state that the United States shall not assume any financial or other responsibility for the performance of any obligation incurred by the Commonwealth of Puerto Rico pursuant to such agreement of accession or pursuant to any other aspect of its membership or participation in such Bank.

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[13] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (c), which had required a report from the President on the implementation of the proposals outlined in subsec. (b). The President submitted this report to Congress on June 4, 1975.

[14] 22 U.S.C. 2551 note.

[15] Sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (c), which had required a report from the President on steps he has taken to carry out this section. The President submitted this report on June 30, 1975.

(c) Such agreement of accession shall provide that the Commonwealth of Puerto Rico may not receive from the Caribbean Development Bank any funds provided to the Bank by the United States.

* * * * * * *

POLICY WITH RESPECT TO COUNTRIES MOST SERIOUSLY AFFECTED BY FOOD SHORTAGES

Sec. 55.[16] (a) The United Nations has designated thirty-two countries as "Most Seriously Affected" by the current economics crisis. These are countries without the internal food production capability or the foreign exchange availability to secure food to meet their immediate food requirements. The Congress calls upon the President and Secretary of State to take the following actions designed to mobilize appropriate resources to meet the food emergency:

(1) Review and make appropriate adjustments in the level of programming of our food and fertilizer assistance programs with the aim of increasing to the maximum extent feasible the volume of food and fertilizer available to those countries most seriously affected by current food shortages.

(2) Call upon all traditional and potential new donors of food, fertilizer, or the means financing these commodities to immediately increase their participation in efforts to address the emergency food needs of the developing world.

(3) Make available to these most seriously affected countries the maximum feasible volume of food commodities, with appropriate regard to the current domestic price and supply situations.

(4) Maintain regular and full consultation with the appropriate committees of the Congress and report to the Congress and the Nation on steps which are being taken to help meet this food emergency. In accordance with this provision, the President shall report to the Congress on a global assessment of food needs for fiscal year 1975, specifying expected food grain deficits and currently planned programming of food assistance, and steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance. Such report should reach the Congress promptly and should be supplemented quarterly for the remainder of fiscal year 1975.

(5) The Congress directs that during the fiscal year ending June 30, 1975, not more than 30 percent of concessional food aid should be allocated to countries other than those which are most seriously affected by current food shortages, unless the President demonstrates to the appropriate Committees of the Congress that use of such food assistance is solely for humanitarian food purposes.

(6) The Congress calls upon the President to proceed with the implementation of resolutions and recommendations adopted by the World Food Conference. The Congress believes that it is incumbent upon the United States to take a leading role

[16] 22 U.S.C. 2175 note.

in assisting in the development of a viable and coherent world food policy which would begin the task of alleviating widespread hunger and suffering prevalent in famine-stricken nations. The President shall report to the Congress within 120 days of enactment of this Act on the implementation of the resolutions and the extent to which the United States is participating in the implementation of resolutions adopted at the World Food Conference.

REPAYMENT OF LOANS IN DEFAULT

Sec. 56.[17] It is the sense of the Congress that any country receiving assistance under the Foreign Assistance Act of 1961 which is in default, at least 90 days prior to the date of enactment of this Act, of any payment of principal or interest due on any loan or credit received from the United States shall promptly pay all such principal and interest. It is further the sense of the Congress that the President shall promptly enter into negotiations with each such country to help effectuate the payment of such principal and interest, or to effectuate the transfer by such country to the United States of goods, services, concessions, or actions beneficial to the United States, in lieu of the payment of such principal and interest.

[17] 22 U.S.C. 2379 note.

cc. Foreign Assistance Act of 1973

Partial text of Public Law 93–189 [S. 1443], 87 Stat. 714, approved December 17, 1973; as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981; and by Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2)], 113 Stat. 1535, approved November 29, 1999

NOTE.—Except for the provisions noted below, the Foreign Assistance Act of 1973 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Military Sales Act, the 1971 Act to amend the FMS Act, and Sec. 414 of the Mutual Security Act of 1954.

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1973".

* * * * * * *

ASIAN DEVELOPMENT BANK

Sec. 28.[1] Section 17 of the Asian Development Bank Act[2] is amended by striking out "$60,000,000 for fiscal year 1972 and $40,000,000 for fiscal year 1973" and inserting in lieu thereof "$100,000,000".

Sec. 29.[3] * * * [Repealed—1974]

TERMINATION OF INDOCHINA WAR

Sec. 30.[1] No funds authorized or appropriated under this or any other law may be expended to finance military or paramilitary operations by the United States in or over Vietnam, Laos, or Cambodia.

LIMITATION ON USE OF FUNDS

Sec. 31.[1] No funds authorized or appropriated under any provision of law shall be made available for the purpose of financing directly or indirectly any military or paramilitary combat operations by foreign forces in Laos, Cambodia, North Vietnam, South Viet-

[1] 22 U.S.C. 2151 note.
[2] For text, see *Legislation on Foreign Relations Through 2004*, vol. III, sec. I.
[3] Sec. 29(b) of the FA Act of 1974 (Public Law 93–559) repealed sec. 29 relating to access to certain military bases abroad.

nam, or Thailand unless (1) such operations are conducted by the forces of that government receiving such funds within the borders of that country, or (2) specifically authorized by law enacted after the date of enactment of this Act.

POLITICAL PRISONERS

Sec. 32.[4] It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

ALBERT SCHWEITZER HOSPITAL

Sec. 33.[4] There is authorized to be appropriated to the President for fiscal year 1974 $1,000,000[5] to make grants, on such terms and conditions as he may specify, to the Albert Schweitzer Hospital in Gabon.

PRISONERS OF WAR AND INDIVIDUALS MISSING IN ACTION

Sec. 34.[4] (a) The Congress declares that—

(1) the families of those one thousand three hundred individuals missing in action during the Indochina conflict have suffered extraordinary torment in ascertaining the full and complete information about their loved ones who are formally classified as missing in action;

(2) United States involvement in the Indochina conflict has come to a negotiated end with the signing of the Vietnam Agreement in Paris on January 27, 1973, and section 307 of the Second Supplemental Appropriations Act, 1973, requires that "None of the funds herein appropriated under this Act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam and South Vietnam or off the shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other Act may be expended for such purpose.";

(3) the question of the return of prisoners of war and accounting for individuals missing in action and dead in Laos is covered by article 18 of the Protocol signed by representatives of the Lao Patriotic Front (Pathet Lao) and the Royal Laotian Government in Vientiane on September 14, 1973 (which implements article 5 of the Agreement signed by the Pathet Lao and that government in Vientiane on February 21, 1973, requiring the release of all prisoners "regardless of nationality" captured and held in Laos), and paragraph C of such article 18 provides that, within "15 to 30 days" from the date of the signing of the Protocol, each side is to report the number of those prisoners and individuals still held, with an indication of their nationality and status, together with a list of names and any who died in captivity; and

[4] 22 U.S.C. 2151 note.

[5] The Foreign Assistance and Related Programs Appropriations Act, 1974 (Public Law 93–240; 87 Stat. 1175), appropriated $1,000,000.

(4) few of the United States men lost in Laos during the military engagements in Indochina have been returned, and with knowledge about many of these men not yet being fully disclosed, and the North Vietnam cease-fire provisions calling for inspection of crash and grave sites and for other forms of cooperation have not been fully complied with.

(b) It is, therefore, the sense of the Congress that—

(1) the provisions for the release of prisoners and an accounting of individuals missing and dead, as provided for in article 18 of the Protocol signed on September 14, 1973, by the Pathet Lao and the Royal Laotian Government, be adhered to in spirit and in deed; and

(2) the faithful compliance with the spirit of the Laotian Agreement and Protocol on the question of individuals missing in action will encourage all parties in Indochina to cooperate in providing complete information on all nationals of any nation who may be captured or missing at any place in Indochina.

RIGHTS IN CHILE

Sec. 35.[6] It is the sense of the Congress that (1) the President should request the Government of Chile to protect the human rights of all individuals, Chilean and foreign, as provided in the Universal Declaration of Human Rights, the Convention and Protocol Relating the Status of Refugees, and other relevant international legal instruments guaranteeing the granting of asylum, safe conduct, and the humane treatment or release of prisoners; (2) the President should support international humanitarian initiatives by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross to insure the protection and safe conduct and resettlement of political refugees, the humane treatment of political prisoners, and the full inspection of detention facilities under international auspices; (3) the President should support and facilitate efforts by voluntary agencies to meet emergency relief needs; and (4) the President should request of the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events occurring in Chile.

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

Sec. 36.[7] (a) The President or his delegate shall seek, as soon as possible, a revision of the Social Progress Trust Fund Agreement (dated June 19, 1961) between the United States and the Inter-American Development Bank. Such revision should provide for the—[8]

[6] 22 U.S.C. 2151 note.

[7] 22 U.S.C. 1942 note.

[8] Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

Continued

(1)[8] periodic transfer of unencumbered capital resources of such trust fund, and of any future repayments or other accruals otherwise payable to such trust fund, to the Inter-American Foundation, to be administered by the Foundation for purposes of part IV of the Foreign Assistance Act of 1969 (22 U.S.C. 290f and following);

(2) utilization of such unencumbered capital resources, future repayments, and other accruals by the Inter-American Development Bank for purposes of sections 1 and 2 of the Latin American Development Act[9] (22 U.S.C. 1942 and 1943) in such a way that the resources received in the currencies of the more developed member countries are utilized to the extent possible for the benefit of the lesser developed member countries; or

(3)[10] both the transfer described in paragraph (1) and the utilization described in paragraph (2).

(b) Any transfer or[11] utilization under this section shall be in such proportions as may be agreed to between the United States and the Inter-American Development Bank.

(c)[11] Any transfer under subsection (a)(1) shall be in the amounts, and in available currencies, determined in consultation with the Inter-American Foundation, to be required for its program purposes.".

(d)[11] The revision of the Social Progress Trust Fund Agreement pursuant to this section shall provide that the President or his delegate shall specify, from time to time, after consultation with the Inter-American Development Bank, the particular currencies to be used in making the transfer of[11] utilization described in the section.

(e)[12] * * * [Repealed—1981]

Sec. 37.[13] **Prohibition on Assistance to North Vietnam** * * * [Repealed—1981]

Sec. 38.[14] **Report Concerning Certain Use of Military Assistance in Africa** * * * [Repealed—1981]

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(h)(2)(A)(i) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike out "provide for the—" at this point, strike out para. (1), and strike out para. designation "(2)".

[9] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[10] Sec. 586(h)(2)(A)(ii) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike out para. (3), upon execution of that section's requirements.

[11] Sec. 586(h)(2)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike out "transfer or" upon execution of that section's requirements. Sec. 586(h)(2)(C) of that Act will strike out subsec. (c), upon execution of that section's requirements, and will redesignate subsec. (d) as subsec. (c).

[12] Sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out subsec. (e), which had required a report from the President on his action taken pursuant to this section. The President submitted this report on January 3, 1974.

[13] Sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 37, which had prohibited the use of funds authorized in this Act (fiscal year 1974) for assistance to North Vietnam.

[14] Sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 38, which had required the President to make a determination with respect to the use, if any, by any non-African country in support of its military activities in its African territories of U.S. economic military, or food assistance. The President submitted this determination to Congress on May 3, 1974.

WORLD FOOD SHORTAGES

Sec. 39.[15] (a) It is the sense of the Congress that the United States should participate fully in efforts to alleviate current and future food shortages which threaten the world. To this end, the President shall—

(1) encourage, support, and expedite studies relating to the long-range implications of the world food situation (including studies of national and world production, distribution, and utilization of agricultural commodities and other foodstuffs) and support the organizing of a world food conference under United Nations auspices in 1974;

(2) request the member nations of the General Agreement on Tariffs and Trade to explore the means of assuring equitable access by all nations to national markets and mineral and agricultural resources;

(3) Consult and cooperate with appropriate international agencies, such as the Food and Agricultural Organization of the United Nations, in determining the need for, the feasibility of, and cost of an equitably-shared basis of, establishing an international system of strategic food reserves; and

(4) report his findings and recommendations to the Congress on the implementation of this section no later than December 31, 1974.

(b) It is further the sense of the Congress that—

(1) in making assessments which would affect or relate to the level of domestic production, the Executive Branch should include in the estimates of overall utilization the expected demands for humanitarian food assistance through such programs as are carried out under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480); and

(2) legislation providing increased flexibility for responding to emergency and humanitarian requirements for food assistance should be considered as promptly as possible to the end that the last sentence of section 401 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), may be amended by striking the period and inserting in lieu thereof a comma and the following: "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act."

USE OF LOCAL CURRENCIES[16]

Sec. 40.[17] Effective July 1, 1974, no amount of any foreign currency (including principal and interest from loan repayments) which accrues in connection with any sale for foreign currency under any provision of law may be used under any agreement entered into after the date of the enactment of this Act, or any revision or extension entered into after such date of any prior or subsequent agreement, to provide any assistance to any foreign country

[15] 22 U.S.C. 2220 note.

[16] See also Mutual Security Act of 1954, as amended (Public Law 83–665; 68 Stat. 832), sec. 502, Use of Foreign Currencies, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[17] 22 U.S.C. 2151 note.

to procure equipment, materials, facilities, or services for the common defense, including internal security unless such agreement is specifically authorized by legislation enacted after such date.

dd. Foreign Assistance Act of 1971

Partial text of Public Law 92–226 [S. 2819], 86 Stat. 20, approved February 7, 1972

AN ACT To amend the Foreign Assistance Act of 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1971".

NOTE.—Except for the provisions quoted here, the Foreign Assistance Act of 1971 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Military Sales Act, the 1971 Act to amend the FMS Act, the Act to authorize participation by the United States in the Interparliamentary Union, the Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization, Part IV of the Foreign Assistance Act of 1969, the Act to provide certain basic authority for the Department of State, the United States Information and Educational Exchange Act of 1948, the Special Foreign Assistance Act of 1971, and Public Law 89–367 (Armed Forces Appropriation Authorization, 1966).

FOOD-FOR-PEACE PROGRAM

Sec. 2.[1] It is the sense of the Congress that funds to administer the food-for-peace program should not be reduced as the result of any reduction in the authorizations provided to carry out the Foreign Assistance Act of 1961.

* * * * * * *

Sec. 304. * * *

(c) * * *

(3) The provisions of this subsection[2] and section 657 of such Act, as added by subsection (b) of this Act, shall apply with respect to each fiscal year commencing on or after July 1, 1971.

PART IV—MISCELLANEOUS PROVISIONS

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[1] 22 U.S.C. 2151 note. See also the Food for Peace Act of 1966 (Public Law 89–808; 80 Stat. 1526), in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[2] This subsection provided that the definition of "Value" appearing in sec. 644(m) was not applicable when the word "Value" was used in sec. 657.

Sec. 403. Paragraph (9) of section 5314 of title 5, United States Code, relating to level III of the Executive Schedule, is amended by inserting before the period at the end thereof the following: "and an Under Secretary of State for Coordinating Security Assistance Programs".

* * * * * * *

Sec. 407.[3] (a) It is the purpose of this section to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in particular, to carry out the purposes and intent of the Legislative Reorganization Acts of 1946 and 1970, with respect to—

(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

(2) providing periodic authorizations of appropriations for that Department and Agency.

* * * * * * *

Sec. 410.[4] The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the "Lodge Commission") which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year.

[3] See also sec. 15 of the State Department Basic Authorities Act of 1956 (Public Law 84–885; 70 Stat. 890), and sec. 701 of the United States Information and Education Exchange Act of 1948 (Public Law 80–402; 62 Stat. 6), in *Legislation on Foreign Relations Through 2004*, vol. II, sec. E.

[4] See also Appropriations Limitation on Contributions to International Organizations (Public Law 92–544; 86 Stat. 1109), *Legislation on Foreign Relations Through 2004*, vol. II, sec. H.

ee. Special Foreign Assistance Act of 1971, as amended

Partial text of Public Law 91–652 [H.R. 19911), 84 Stat. 1942, approved January 5, 1971, as amended by Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 27, 35, approved February 7, 1972

NOTE.—Except for the provisions noted below, the Special Foreign Assistance Act of 1971 consists of amendments to the Foreign Assistance Act of 1961.

AN ACT To provide additional foreign assistance authorizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Foreign Assistance Act of 1971".

Sec. 2. There are authorized to be appropriated to the President for the fiscal year 1971 not to exceed—

(1) $85,000,000 for additional military assistance and $70,000,000 for special economic assistance for Cambodia;

(2) $100,000,000 for economic and military assistance programs to replace funds which were transferred by the President for use in Cambodia;

(3) $150,000,000 for additional military assistance for the Republic of Korea;

(4) $30,000,000 for additional military assistance for Jordan;

(5) $3,000,000 for additional military assistance for Indonesia and $10,000,000 to replace funds transferred from other programs for use in Indonesia;

(6) $5,000,000 for additional military assistance for Lebanon;

(7) $65,000,000 for additional supporting assistance for Vietnam; and

(8) $17,000,000 for additional general military assistance to compensate for a shortage in anticipated recovery of funds from past years' programs.

Sec. 3.[1] The President is authorized, until June 30, 1972, to transfer to the Republic of Korea such defense articles located in Korea and belonging to the Armed Forces of the United States on July 1, 1970, as he may determine, except that no funds heretofore or hereafter appropriated under this Act or the Foreign Assistance Act of 1961 shall be available for reimbursement to any agency of the United States Government for any transfer made pursuant to this section.

[1] 22 U.S.C. 2302 note.

Sec. 4. Except as otherwise provided in this Act, any assistance furnished out of funds appropriated under section 2 of this Act and any transfer made under section 3 of this Act shall be furnished or transferred, as the case may be, in accordance with all of the purposes and limitations applicable by statute to that type of assistance or transfer under the Foreign Assistance Act of 1961 (including the provisions of section 652 of such Act, as added by section 8 of this Act).

* * * * * * *

Sec. 6. (a) * * *

(b)[2] Excess foreign currencies held in Pakistan not allocated on the date of enactment of this section are authorized to be appropriated for a period of one year from such date of enactment to help Pakistan withstand the disaster which has occurred.

Sec. 7.[3] (a) In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for military, paramilitary, police, or other security or intelligence forces[4] in Cambodia.

(b) Military and economic assistance provided by the United States to Cambodia and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Cambodia for its defense.

* * * * * * *

[2] 22 U.S.C. 2261 note.

[3] 22 U.S.C. 2411 note.

[4] Sec. 408 of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20) struck out "Cambodian military forces" and inserted in lieu thereof "military, paramilitary, police, or other security or intelligence forces".

ff. Foreign Military Sales Act Amendments, 1971, as amended

Partial text of Public Law 91–672 [H.R. 15628], 84 Stat. 2053, approved January 12, 1971, as amended by Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 33, approved February 7, 1972; Public Law 93–189 [Foreign Assistance Act of 1973, S. 1443], 87 Stat. 714, 729, approved December 17, 1973; Public Law 93–559 [Foreign Assistance Act of 1974, S. 3394], 88 Stat. 1795, 1799, approved December 31, 1974; Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1579 at 1560, approved December 29, 1981

AN ACT To amend the Foreign Military Sales Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled * * *

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NOTE.—Sections 1–4 of this Act amend the Foreign Military Sales Act (Arms Export Control Act), Public Law 90–629, October 22, 1968.

* * * * * * *

Sec. 5.[1] It is the sense of Congress that (1) the President should continue to press forward urgently with his efforts to negotiate with the Soviet Union and other powers a limitation on arms shipments to the Middle East, (2) the President should be supported in his position that arms will be made available and credits provided to Israel and other friendly states, to the extent that the President determines such assistance to be needed in order to meet threats to the security and independence of such states, and (3) if the authorization provided in the Foreign Military Sales Act, as amended, should prove to be insufficient to effectuate this stated policy, the President should promptly submit to the Congress requests for an appropriate supplementary authorization and appropriation.

Sec. 6.[1] It is the sense of the Congress that—

(1) the President should immediately institute a thorough and comprehensive review of the military aid programs of the United States, particularly with respect to the military assistance and sales operations of the Department of Defense, and

[1] 22 U.S.C. 2751 note.

(2) the President should take such actions as may be appropriate—

(A) to initiate multilateral discussions among the United States, the Union of Soviet Socialist Republics, Great Britain, France, West Germany, Italy and other countries on the control of the worldwide trade in armaments,

(B) to commence a general debate in the United Nations with respect to the control of the conventional arms trade, and

(C) to use the power and prestige of his office to signify the intention of the United States to work actively with all nations to check and control the international sales and distribution of conventional weapons of death and destruction.

Sec. 7.[2] * * *

Sec. 8.[3] (a)[4] * * * [Repealed—1976]

(b)[4] * * * [Repealed—1976]

(c)[4] * * * [Repealed—1976]

(d) The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.[5]

(e)[4] * * * [Repealed—1976]

Sec. 9.[6] * * * [Repealed—1973]

Sec. 10.[7] (a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) To the extent that legislation enacted after the making of an appropriation for foreign assistance (including foreign military sales) authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

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[2] Sec. 734(a)(15) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) repealed sec. 7, which prohibited the sale, grant, loan, or transfer of any international fighter aircraft by the United States to any foreign country other than South Vietnam without specific authorization made in accordance with the Foreign Assistance Act of 1961 or the Foreign Military Sales Act.

[3] 22 U.S.C. 2321b.

[4] Sec. 210(c)(2) of the International Security Assistance and Arms Export Control Act of 1976 struck out subsecs. (a), (b), (c), and (e) of sec. 8, which related to excess defense articles. Sec. 210(c)(2) further stated, "All funds in the suspense account referred to in subsection (a) of such section on July 1, 1976, shall be transferred to the general fund of the Treasury.".

[5] This report, which was originally required on a quarterly basis, was changed to an annual report by sec. 29(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[6] Sec. 26(4) of the FA Act of 1973 (Public Law 93–189; 87 Stat. 714) repealed sec. 9, which related to any transfer of a defense article to another country.

[7] 22 U.S.C. 2412.

(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of this section which specifically repeals or modifies the provisions of this section.

Sec. 11.[8] For purposes of sections 8 and 9—

(1) "defense article" and "excess defense articles" have the same meanings as given them in section 644 (d) and (g), respectively, of the Foreign Assistance Act of 1961; and

(2) "foreign country" includes any department, agency, or independent establishment of the foreign country.

Sec. 12. The joint resolution entitled "Joint resolution to promote the maintenance of international peace and security in Southeast Asia" approved August 10, 1964 (78 Stat. 384; Public Law 88–408), is terminated effective upon the day that the second session of the Ninety-first Congress is last adjourned.

Sec. 13.[9] No funds authorized or appropriated pursuant to this or any other law may be used to transport chemical munitions from the Island of Okinawa to the United States. Such funds as are necessary for the detoxification or destruction of the above described chemical munitions are hereby authorized and shall be used for the detoxification or destruction of chemical munitions only outside the United States. For purposes of this section, the term "United States" means the several States and the District of Columbia.

[8] 22 U.S.C. 2321c.
[9] 50 U.S.C. 1512 note.

gg. Foreign Assistance Act of 1969, as amended

Partial text of Public Law 91–175 [H.R. 14480], 83 Stat. 805, approved December 30, 1969, as amended by Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 34, approved February 7, 1972; Public Law 95–105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 859, approved August 17, 1977; Public Law 97–241 [Department of Defense Authorization Act, 1983; S. 1193], 96 Stat. 273 at 297, approved August 24, 1982; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985, H.R. 2915], 97 Stat. 1017 at 1051, approved November 22, 1983; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 247, approved August 8, 1985; Public Law 99–529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; Public Law 101–246 [Foreign Relations Authorization Act for Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102–138 [Foreign Relations Authorization Act for Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999

NOTE.—Except for Part IV, which related to the Inter-American Social Development Institute (title changed to The Inter-American Foundation Act by sec. 406(1) of the FA Act of 1971) and Part V, which related to amendments to other acts, the Foreign Assistance Act of 1969 consisted of amendments to the Foreign Assistance Act of 1961, as amended.

Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(c)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will repeal sec. 401 of this Act.

* * * * * * *

PART IV—THE INTER-AMERICAN FOUNDATION ACT [1]

Sec. 401.[2] **Inter-American Foundation.**—(a) There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation (hereinafter in this section referred to as the "Foundation").[3]

(b) The future of freedom, security, and economic development in the Western Hemisphere rests on the realization that man is the foundation of all human progress. It is the purpose of this section to provide support for developmental activities designed to achieve conditions in the Western Hemisphere under which the dignity and the worth of each human person will be respected and under which all men will be afforded the opportunity to develop their potential, to seek through gainful and productive work the fulfillment of their aspirations for a better life, and to live in justice and peace. To this end, it shall be the purpose of the Foundation,[4] primarily in cooperation with private, regional, and international organizations, to—

(1) strengthen the bonds of friendship and understanding among the peoples of this hemisphere;

(2) support self-help efforts designed to enlarge the opportunities for individual development;

(3) stimulate and assist effective and ever wider participation of the people in the development process;

(4) encourage the establishment and growth of democratic institutions, private and governmental, appropriate to the requirements of the individual sovereign nations of this hemisphere.

In pursuing these purposes, the Foundation shall place primary emphasis on the enlargement of educational opportunities at all levels, the production of food and the development of agriculture, and the improvement of environmental conditions relating to health, maternal and child care, family planning, housing, free trade union development, and other social and economic needs of the people.

(c) The Foundation shall carry out the purposes set forth in subsection (b) of this section primarily through and with private organizations, individuals, and international organizations by undertaking or sponsoring appropriate research and by planning, initiating, assisting, financing, administering, and executing programs and projects designed to promote the achievement of such purposes.

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[1] Sec. 406(1) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20), inserted the title "Part IV—The Inter-American Foundation Act" in lieu of "Part IV—Inter-American Social Development Institute".

[2] 22 U.S.C. 290f. Sec. 586(c)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will repeal sec. 401 upon execution of the requirements of sec. 586.

[3] The caption of sec. 401 and subsec. (a) thereof, which were amended by sec. 406(2) of the Foreign Assistance Act of 1971, (Public Law 92–226; 86 Stat. 20), formerly read as follows: "Inter-American Social Development Institute.—(a) There is created as an agency of the United States of America a body corporate to be known as the 'Inter-American Social Development Institute' (hereafter in this section referred to as 'Institute').".

[4] Sec. 406(3) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20), amended sec. 401 by substituting "Foundation" in lieu of "Institute" wherever it appeared.

(d) In carrying out its functions under this section, the Foundation shall, to the maximum extent possible, coordinate its undertakings with the developmental activities in the Western Hemisphere of the various organs of the Organization of American States, the United States Government, international organizations, and other entities engaged in promoting social and economic development of Latin America.

(e) The Foundation, as a corporation—

(1) shall have perpetual succession unless sooner dissolved by an Act of Congress;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may make and perform contracts and other agreements with any individual, corporation, or other body of persons however designated whether within or without the United States of America, and with any government or governmental agency, domestic or foreign;

(4)[5] shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;

(5) may, as necessary for the transaction of the business of the Foundation, employ, and fix the compensation of not to exceed one hundred persons at any one time;

(6) may acquire by purchase, devise, bequest, or gift, or otherwise lease, hold, and improve, such real and personal property as it finds to be necessary to its purposes, whether within or without the United States, and in any manner dispose of all such real and personal property held by it and use as general funds all receipts arising from the disposition of such property;

(7) shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(8) may, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section;

(9) may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes;

(10) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(11) shall have such other powers as may be necessary and incident to carrying out its powers and duties under this section.

[5] Sec. 406(4) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20) amended and restated sec. 401(e)(4). It formerly read as follows: "(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid;".

(f) Upon termination of the corporate life of the Foundation all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

(g) The management of the Foundation shall be vested in a board of directors (hereafter in this section referred to as the "Board") composed of nine[6] members appointed by the President, by and with the advice and consent of the Senate, one of whom he shall designate to serve as Chairman of the Board and one of whom he shall designate to serve as Vice Chairman of the Board. Six members of the Board shall be appointed from private life. Three members of the Board shall be appointed from among officers or employees of agencies of the United States concerned with inter-American affairs. Members of the Board shall be appointed for terms of six years, except that of the members first appointed two shall be appointed for terms of two years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A member of the Board appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified. Members of the Board shall be eligible for reappointment. All individuals appointed to the Board shall possess an understanding of and sensitivity to community level development processes. No more than 5 members of the Board may be members of any one political party.[7]

(h) Members of the Board shall serve without additional compensation, but shall be reimbursed for travel expenses, including per diem, in lieu of subsistence, in accordance with section 5703 of title 5, United States Code,[8] while engaged in their duties on behalf of the corporation.

(i) The Board shall direct the exercise of all the powers of the Foundation.

(j) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(k) In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Foundation as the Board finds to be for the best interests of the Foundation, each committee to consist of two or more members of the Board, which committees, together with officers and agents duly authorized by the Board and to the extent

[6] Sec. 403(a) of Public Law 99–529 (100 Stat. 3010) added "nine" and "six", respectively, in lieu of "seven" and "four".

[7] Sec. 173(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 679), added the last sentence. Subpara. (2) of that section further provided that: "The requirements established by the amendment made by paragraph (1) do not affect appointments made to the Board of the Inter-American Foundation before the date of enactment of this Act.".

[8] Sec. 501(b) of Public Law 97–241 (96 Stat. 297) struck out "actual and necessary expenses not in excess of $50 per day, and for transportation expenses" and inserted in lieu thereof "travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code" were inserted in lieu of".

provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation.

(l)[9] (1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) Experts and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5, United States Code.

(m) In order to further the purposes of the Foundation there shall be established a Council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable concerning developmental activities in the Western Hemisphere. The Board shall, from time to time, consult with the Council concerning the objectives of the Foundation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this subsection.

(n) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes set forth in this section. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interest of any corporation, partnership, or organization in which he is directly or indirectly interested.

(o) When approved by the Foundation, in furtherance of its purpose, the officers and employees of the Foundation may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries.

(p) The Secretary of State shall have authority to detail employees of any agency under his jurisdiction to the Foundation under such circumstances and upon such conditions as he may determine. Any such employee so detailed shall not lose any privileges, rights, or seniority as an employee of any such agency by virtue of such detail.

(q)[10] The Foundation shall maintain its principal office in the metropolitan Washington, D.C., area. The Foundation may establish agencies, branch offices, or other offices in any place or places

[9] The current rate of compensation at level IV of the Executive Schedule is $140,300 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004). Sec. 406(5) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20), amended and restated sec. 401(1), which formerly read as follows: "(1) The chief executive officer of the Institute shall be an Executive Director who shall be appointed by the Board of Directors on such terms as the Board may determine. The Executive Director shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title V, United States Code.".

[10] Sec. 173(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 680), amended and restated subsec. (q).

outside the United States in which the Foundation may carry on all or any of its operations and business.

(r) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(s)(1) Notwithstanding any other provision of law, not to exceed an aggregate amount of $50,000,000 of the funds made available for the fiscal years 1970 and 1971 to carry out part I of the Foreign Assistance Act of 1961 shall be available to carry out the purposes of this section. Funds made available to carry out the purposes of this section under the preceding sentence are authorized to remain available until expended.

(2)[11] There are authorized to be appropriated $28,800,000 for the fiscal year 1992 and $31,000,000 for the fiscal year 1993 to carry out this section.

(t) The Foundation shall be subject to the provisions of the Government Corporation Control Act.

(u)[12] When, with the permission of the Foundation, funds made available to a grantee under this section are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purposes for which the grant was made. This subsection applies with respect to both interest earned before and interest earned after the enactment of this subsection.

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[11] Sec. 508 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–426; 91 Stat. 859) added para. (2).

The authorization figures for fiscal years 1992 and 1993 were added by sec. 173(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 679).

Authorizations provided in recent years under this section include the following: Fiscal year 1982—$12,000,000; fiscal year 1983—$12,800,000; fiscal year 1984—$16,000,000; fiscal year 1985—$16,000,000; fiscal year 1986—$11,969,000; fiscal year 1987—$11,969,000; fiscal year 1988—no authorization; fiscal year 1989—no authorization; fiscal year 1990—$16,932,000; fiscal year 1991—$25,000,000; fiscal years 1994 through 2005—no authorization.

Congress did not enact an authorization for fiscal year 2005. Instead, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"INTER-AMERICAN FOUNDATION

"For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, $18,000,000, to remain available until September 30, 2006.".

Title V of that Act (118 Stat. 2809) provided the following:

"LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. * * * *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: * * *.".

* * * * * * *

"AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

"SEC. 532. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.".

[12] Sec. 501(c) of Public Law 97–241 (96 Stat. 297) added subsec. (u).

(v)[13] Funds made available to the Foundation may be used for the expenses described in section 1345 of title 31 of the United States Code (relating to travel, transportation, and subsistence expenses for meetings).

(w)[13] Funds made available to the Foundation may be used for printing and binding without regard to section 501 of title 44, United States Code.

PART V—AMENDMENTS TO OTHER ACTS

* * * * * * *

[13] Sec. 173(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 680), added new subsecs. (v) and (w).

hh. Foreign Assistance Act of 1968

Partial text of Public Law 90–554 [H.R. 15263], 82 Stat. 960, approved October 8, 1968

NOTE.—Except for Part IV, which relates to amendments to other acts, and Part V, which relates to reappraisal of foreign assistance programs, the Foreign Assistance Act of 1968 consists of amendments to the Foreign Assistance Act of 1961, as amended.

* * * * * * *

PART V—REAPPRAISAL OF FOREIGN ASSISTANCE PROGRAMS

DECLARATION OF POLICY

Sec. 501. The Congress declares that, in view of changing world conditions and the continued need to make United States foreign assistance programs an effective implement of United States foreign policy, there should be a comprehensive review and reorganization of all United States foreign assistance programs, including economic development and technical assistance programs, military assistance and sales programs, and programs involving contributions and payments by the United States to international lending institutions and other international organizations concerned with the development of friendly foreign countries and areas.

REAPPRAISAL BY THE PRESIDENT

Sec. 502. (a) In furtherance of the policy of this part, the President is requested to make a thorough and comprehensive reappraisal of United States foreign assistance programs, as described in section 501, and to submit to the Congress, on or before March 31, 1970, his recommendations for achieving such reforms in any reorganization of future foreign assistance programs as he determines to be necessary and appropriate in the national interest in the light of such reappraisal. The President is requested to submit to the Congress, on or before July 1, 1969, an interim report presenting any preliminary recommendations formulated by him pursuant to this section.

(b) It is the sense of the Congress that the reappraisal provided for in subsection (a) should include, but not be limited to, an analysis and consideration of proposals concerning the establishment of a Government corporation or a federally chartered private corpora-

tion designed to mobilize and facilitate the use of United States private capital and skills in less developed friendly countries and areas, including whether such corporation should be authorized to—

(1) utilize Government guarantees and funds as well as private funds;

(2) seek, develop, promote, and underwrite new investment projects;

(3) assist in transferring skills and technology to less developed friendly countries and areas; and

(4) invest in the securities of development financing institutions and assist in the formation and expansion of local capital markets.

ii. Foreign Assistance Act of 1967

Public Law 90–137 [S. 1872], 81 Stat. 445, approved November 14, 1967

NOTE.—The Foreign Assistance Act of 1967 consists of amendments to the Foreign Assistance Act of 1961, the Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization, the Act to authorize participation by the United States in the Interparliamentary Union, and the Mutual Security Act of 1954.

jj. Foreign Assistance Act of 1966

Public Law 89–583 [H.R. 15750], 80 Stat. 795, approved September 19, 1966

NOTE.—The Foreign Assistance Act of 1966 consists wholly of amendments to the Foreign Assistance Act of 1961, as amended.

kk. Foreign Assistance Act of 1965

Public Law 89–171 [H.R. 7750], 79 Stat. 653, approved September 6, 1965

NOTE.—Except for Chapter 4, which relates to an amendment to section 107 of the Agricultural Trade Development and Assistance Act of 1954, the Foreign Assistance Act of 1965 consists of amendments to the Foreign Assistance Act of 1961, as amended.

ll. Foreign Assistance Act of 1964

Partial text of Public Law 88–633 [H.R. 11380], 78 Stat. 1009, approved October 7, 1964

NOTE.—Except for the provision quoted here, the Foreign Assistance Act of 1964 consists of amendments to the Foreign Assistance Act of 1964, the Act to authorize participation by the United States in the Interparliamentary Union, and the Mutual Security Act of 1954.

* * * * * * *

PART V—RELIGIOUS PERSECUTION

Sec. 501.[1] It is the sense of the Congress that the United States deeply believes in the freedom of religion for all people and is opposed to infringement of this freedom anywhere in the world. The Congress condemns the persecution of any persons because of their religion. It is further the sense of Congress that all persons should be permitted the free exercise of religion and the pursuit of their culture.

[1] 22 U.S.C. 2151 note.

mm. Foreign Assistance Act of 1963

Public Law 88–205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963

NOTE.—The Foreign Assistance Act of 1963 consists of amendments to the Foreign Assistance Act of 1961, the Latin American Development Act, the Trade Expansion Act of 1962, the Agricultural Trade Development and Assistance Act of 1954, the Foreign Service Act of 1946, the Act to provide certain basic authority for the Department of State, and the Act to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization.

nn. Foreign Assistance Act of 1962

Public Law 87–565 [S. 2996], 76 Stat. 255, approved August 1, 1962

NOTE.—The Foreign Assistance Act of 1962 consists of amendments to the Foreign Assistance Act of 1961, the Act to provide certain basic authority for the Department of State, the Mutual Educational and Cultural Exchange Act of 1961, and the Act authorizing participation by the United States in the Interparliamentary Union.

2. Foreign Assistance Appropriations

a. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005

Division D of Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

* * * * * * *

DIVISION D—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

NOTE.—Fiscal year 2004 appropriations were continued into fiscal year 2005 in Public Law 108–309 (118 Stat. 1137; approved September 30, 2004), as amended, pending final passage of several annual appropriations bills including foreign assistance appropriations. Public Law 108–309, as amended, may be found beginning at page 955.

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: *Provided further,* That[1] notwithstanding section 1(c) of

[1] 12 U.S.C. 635 note. Sec. 1(a) and (b) of Public Law 103–428 amended sec. 2(b)(6)(H) and (I) of the Export-Import Bank Act of 1945. Sec. 1(c) of that Act, however, provided that the amendments would remain in effect from enactment through September 30, 1997. Sec. 2(b)(6)(H) and (I) provide as follows:

Continued

Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through October 1, 2005.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $59,800,000, to remain available until September 30, 2008: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until September 30, 2023, for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2005, 2006, 2007, and 2008: *Provided further,* That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, and related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any Eastern European country, any Baltic State or any agency or national thereof: *Provided further,* That not later than 30 days after the date of enactment of this Act, the Export-Import Bank shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, containing an analysis of the economic impact on United States producers of ethanol of the extension of credit and financial guarantees for the development of an ethanol dehydration plant in Trinidad and Tobago, including a determination of whether such extension will cause substantial injury to such producers, as defined in section 2(e)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(4)).

"(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

"(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

"(I) the Bank determines that—

"(aa) the defense articles or service are nonlethal; and

"(bb) the primary end use of the defense articles or services will be for civilian purposes; and

"(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

"(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

"(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.".

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $73,200,000: *Provided,* That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: *Provided further,* That,[2] notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2005.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $42,885,000: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2005 and 2006: *Provided further,* That such sums shall remain available through fiscal year 2013 for the disbursement of direct and guaranteed loans obligated in fiscal year 2005, and through fiscal year 2014 for the disbursement of direct and guaranteed loans obligated in fiscal year 2006: *Provided further,* That notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: *Provided further,* That funds made available pursuant to the authority of the pre-

[2] 12 U.S.C. 635a note.

vious proviso shall be subject to the regular notification procedures of the Committees on Appropriations.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $51,500,000, to remain available until September 30, 2006.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2005, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,550,000,000, to remain available until September 30, 2006: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $345,000,000 for child survival and maternal health; $30,000,000 for vulnerable children; $350,000,000 for HIV/AIDS including not less than

$30,000,000 to support the development of microbicides as a means for combating HIV/AIDS; $200,000,000 for other infectious diseases; and $375,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: *Provided further,* That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25),[3] for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the "Global Fund"), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That of the funds appropriated under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, that were withheld from obligation to the Global Fund, not less than $87,800,000 shall be made available to the Global Fund, notwithstanding section 202(d)(4) of Public Law 108–25 which required such withholding from the Global Fund in fiscal year 2004: *Provided further,* That the funds made available in the previous proviso shall be subject to any withholding required by section 202(d)(4) of Public Law 108–25 for contributions made to the Global Fund in fiscal year 2005: *Provided further,* That up to 5 percent of the aggregate amount of funds made available to the Global Fund in fiscal year 2005 may be made available to the United States Agency for International Development for technical assistance related to the activities of the Global Fund: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, not less than $27,000,000 should be made available for the International AIDS Vaccine Initiative: *Provided further,* That of the funds appropriated under this heading, $65,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That none of the

[3] For text of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25), see page 566.

funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That to the maximum extent feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act or prior appropriations Acts that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States:

Provided further, That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

DEVELOPMENT ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,460,000,000, to remain available until September 30, 2006: *Provided*, That $194,000,000 should be allocated for trade capacity building: *Provided further*, That $300,000,000 should be allocated for basic education: *Provided further*, That of the funds appropriated under this heading and managed by the United States Agency for International Development Bureau of Democracy, Conflict, and Humanitarian Assistance, not less than $15,000,000 shall be made available only for programs to improve women's leadership capacity in recipient countries: *Provided further*, That such funds may not be made available for construction: *Provided further,* That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $25,000,000 should be made available for plant biotechnology research and development: *Provided further,* That not less than $2,300,000 should be made available for core support for the International Fertilizer Development Center: *Provided further,* That of the funds appropriated under this heading, not less than $20,000,000 should be made available for the American Schools and Hospitals Abroad program: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $37,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further,* That funds appropriated under this heading should be made available for programs in sub-Saharan Africa to address sexual and gender-based violence: *Provided further,* That of the funds appropriated under this heading, $2,000,000 should be made available to develop clean water treatment activities in developing countries: *Provided further,* That of the funds appropriated by this Act, $100,000,000 shall be made available for drinking water supply projects and related activities.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 for international disaster relief, rehabilitation, and reconstruction assistance, $335,500,000, to remain available until expended.

In addition, for necessary expenses for assistance for famine prevention and relief, including for mitigation of the effects of famine, $34,500,000, to remain available until expended: *Provided*, That such funds shall be made available utilizing the general authorities

of section 491 of the Foreign Assistance Act of 1961, and shall be in addition to amounts otherwise available for such purposes: *Provided further*, That funds appropriated by this paragraph shall be available for obligation subject to prior consultation with the Committees on Appropriations.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $49,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided,* That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further,* That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance: *Provided further,* That if the President determines that is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to $15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds appropriated under this heading: *Provided further,* That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading "Assistance for Eastern Europe and the Baltic States": *Provided*, That such funds shall not exceed $21,000,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be ap-

plicable to direct loans and loan guarantees provided under this heading.[4]

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[4] Sec. 306 of H.R. 1486, as reported by the Committee on International Relations, May 9, 1997 (H.Rept. 105–94), sought to amend the Foreign Assistance Act of 1961 by adding a new sec. 107A to establish the President's authority to use development credit authority where recipients would otherwise not have access to such credit and that credit would be in keeping with U.S. development purposes. Sec. 107A(d), as referred to in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005, would have provided the following, if enacted:

"(d) GENERAL PROVISIONS APPLICABLE TO DEVELOPMENT CREDIT AUTHORITY.—

"(1) POLICY PROVISIONS.—In providing the credit assistance authorized by this section, the President should apply, as appropriate, the policy provisions in this part applicable to development assistance activities.

"(2) DEFAULT AND PROCUREMENT PROVISIONS.—

"(A) DEFAULT PROVISION.—The provisions of section 620(q) of this Act, or any comparable provisions of law, shall not be construed to prohibit assistance to a country in the event that a private sector recipient of assistance furnished under this section is in default in its payment to the United States for the period specified in such section.

"(B) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a) of this Act.

"(3) Terms and conditions of credit assistance.—(A) Assistance provided under this section shall be offered on such terms and conditions, including fees charged, as the President may determine.

"(B) The principal amount of loans made or guaranteed under this section in any fiscal year, with respect to any single country or borrower, may not exceed $100,000,000.

"(C) No payment may be made under any guarantee issued under this section for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(4) FULL FAITH AND CREDIT.—All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations to the extent of the guarantee.

"(5) CO-FINANCING AND RISK SHARING.—

"(A) IN GENERAL.—(i) Assistance provided under this section shall be in the form of co-financing or risk sharing.

"(ii) Credit assistance may not be provided to a borrower under this section unless the Administrator of the United States Agency for International Development determines that there are reasonable prospects of repayment by such borrower.

"(B) ADDITIONAL REQUIREMENT.—The investment or risk of the United States in any one development activity may not exceed 80 percent of the total outstanding investment or risk.

"(6) ELIGIBLE BORROWERS.—

"(A) IN GENERAL.—In order to be eligible to receive credit assistance under this section, a borrower shall be sufficiently credit worthy so that the estimated costs (as defined in section 502 of the Federal Credit Reform Act of 1990) of the proposed credit assistance for the borrower does not exceed 30 percent of the principal amount of credit assistance to be received.

"(B) ADDITIONAL REQUIREMENT.—(i) In addition, with respect to the eligibility of foreign governments as an eligible borrowers under this section, the Administrator of the United States Agency for International Development shall make a determination that the additional debt of the government will not exceed the debt repayment capacity of the government.

"(ii) In making the determination under clause (i), the Administrator shall consult, as appropriate, with international financial institutions and other institutions or agencies that assess debt service capacity.

"(7) ASSESSMENT OF CREDIT RISK.—(A) The Administrator of the United States Agency for International Development shall use the Interagency Country Risk Assessment System (ICRAS) and the methodology approved by the Office of Management and Budget to assess the cost of risk credit assistance provided under this section to foreign governments.

"(B) With respect to the provision of credit to nongovernmental organizations, the Administrator—

"(i) shall consult with appropriate private sector institutions, including the two largest United States private sector debt rating agencies, prior to establishing the risk assessment standards and methodologies to be used; and

"(ii) shall periodically consult with such institutions in reviewing the performance of such standards and methodologies.

"(C) In addition, if the anticipated share of financing attributable to public sector owned or controlled entities, including the United States Agency for International Development, exceeds 49 percent, the Administrator shall determine the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of such assistance by using the cost and risk assessment determinations of the private sector co-financing entities.

"(8) USE OF UNITED STATES TECHNOLOGY, FIRMS, AND EQUIPMENT.—Activities financed under this section shall, to the maximum extent practicable, use or employ United States technology, firms, and equipment.".

In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided*, That funds made available under this heading shall remain available until September 30, 2007.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $42,500,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $618,000,000, of which up to $25,000,000 may remain available until September 30, 2006: *Provided,* That none of the funds appropriated under this heading and under the heading "Capital Investment Fund" may be made available to finance the construction (including architect and engineering services), purchase, or long-term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long-term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further,* That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long-term lease of offices does not exceed $1,000,000: *Provided further,* That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2006: *Provided further,* That none of the funds in this Act may be used to open a new overseas mission of the United States Agency for International Development without the prior written notification of the Committees on Appropriations: *Provided further,* That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to "Operating Expenses of the United States Agency for International Development" in accordance with the provisions of those sections.

CAPITAL INVESTMENT FUND

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, $59,000,000, to remain available until expended: *Provided,* That this amount is in addition to funds otherwise available for such purposes: *Provided further*, That funds appropriated under this heading shall be available for obliga-

tion only pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the amounts appropriated under this heading, not to exceed $19,709,000 may be made available for the purposes of implementing the Capital Security Cost Sharing Program.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $35,000,000, to remain available until September 30, 2006, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,482,500,000, to remain available until September 30, 2006: *Provided,* That of the funds appropriated under this heading, not less than $360,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That not less than $535,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which $200,000,000 should be provided as Commodity Import Program assistance: *Provided further,* That with respect to the provision of assistance for Egypt for democracy and governance activities, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the Government of Egypt: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: *Provided further,* That of the funds appropriated under this heading, not less than $250,000,000 should be made available only for assistance for Jordan: *Provided further,* That $13,500,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further,* That $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon, of which not less than $4,000,000 should be made available for scholarships and direct support of American educational institutions in Lebanon: *Provided further,* That funds appropriated under this heading may be used, notwithstanding any other provision of law, to

provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That in the previous proviso, the term "assistance" includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, nonmilitary vehicles, tents, and shoes: *Provided further,* That not to exceed $200,000,000 of the funds appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: *Provided further,* That amounts that are made available under the previous proviso for the costs of modifying direct loans and guarantees shall not be considered "assistance" for the purposes of provisions of law limiting assistance to a country: *Provided further,* That of the funds appropriated under this heading, not less than $22,000,000 shall be made available for assistance for the Democratic Republic of Timor-Leste, of which up to $1,000,000 may be available for administrative expenses of the United States Agency for International Development: *Provided further,* That of the funds available under this heading for assistance for Indonesia, $3,000,000 should be made available to promote freedom of the media in Indonesia: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries: *Provided further,* That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $18,500,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415):[5] *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made

[5] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

available under this heading shall remain available until September 30, 2006.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989,[6] $396,600,000, to remain available until September 30, 2006, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: *Provided,* That of the funds appropriated under this heading that are made available for assistance for Bulgaria, $2,000,000 should be made available to enhance safety at nuclear power plants.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(c) The provisions of section 529 of this Act shall apply to funds appropriated under this heading: *Provided,* That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

(d) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between state sponsors of terrorism and terrorist organizations and Bosnian officials has not been terminated.[7]

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[6] For text of the SEED Act, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[7] Article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina provides as follows:

"WITHDRAWAL OF FOREIGN FORCES

"1. All Forces in Bosnia and Herzegovina as of the date this Annex enters into force which are not of local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, or Republika Srpska, shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within thirty (30) days. Furthermore, all Forces that remain on the territory of Bosnia and Herzegovina must act consistently with the territorial integrity, sovereignty, and political independence of Bosnia and Herzegovina. In accordance with Article II, paragraph 1, this paragraph does not apply to UNPROFOR, the International Police Task Force referred to in the General Framework Agreement, the IFOR or other elements referred to in Article I, paragraph 1(c).

"2. In particular, all foreign Forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other States, shall be withdrawn from the Territory of Bosnia and Herzegovina in accordance with Article III, paragraph 1.".

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act,[8] for assistance for the Independent States of the former Soviet Union and for related programs, $560,000,000, to remain available until September 30, 2006: *Provided,* That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further,* That funds made available for the Southern Caucasus region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further,* That of the funds appropriated under this heading, $3,859,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: *Provided further,* That of the funds appropriated under this heading, $17,500,000 shall be made available solely for assistance for the Russian Far East: *Provided further,* That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses.

(b) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than $5,000,000 should be made available for nuclear reactor safety initiatives, and not less than $1,500,000 shall be made available for coal mine safety programs.

(c) Of the funds appropriated under this heading, not less than $55,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

(d)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation—

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

[8] For text of the FREEDOM Support Act (Public Law 102–511), see *Legislation on Foreign Relations Through 2004*, vol. I–B.

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(e) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201[9] or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969,[10] $18,000,000, to remain available until September 30, 2006.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533,[11] $19,000,000, to remain available until September 30, 2006: *Provided,* That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: *Provided further,* That interest earned shall be used only for the purposes for which the grant was made: *Provided further,* That notwithstanding section 505(a)(2) of the African Development Foundation Act,[12] in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: *Provided further,* That the Foundation shall provide a re-

[9] Sec. 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2301 note) relates to international border security among the states of the former Soviet Union, the Baltic States, and other countries of Eastern Europe. For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[10] For text, see page 854.

[11] For text, see page 787.

[12] For text of the African Development Foundation Act, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

port to the Committees on Appropriations after each time such waiver authority is exercised.

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612),[13] $320,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 2006.

MILLENNIUM CHALLENGE CORPORATION

For necessary expenses for the "Millennium Challenge Corporation", $1,500,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, up to $50,000,000 may be available for administrative expenses of the Millennium Challenge Corporation: *Provided further,* That none of the funds appropriated under this heading may be made available for the provision of assistance until the Chief Executive Officer of the Millennium Challenge Corporation provides a written budget justification to the Committees on Appropriations: *Provided further,* That up to 10 percent of the funds appropriated under this heading may be made available to carry out the purposes of section 616 of the Millennium Challenge Act of 2003:[14] *Provided further,* That none of the funds available to carry out section 616 of such Act may be made available until the Chief Executive Officer of the Millennium Challenge Corporation provides a report to the Committees on Appropriations listing the candidate countries that will be receiving assistance under section 616 of such Act, the level of assistance proposed for each such country, a description of the proposed programs, projects and activities, and the implementing agency or agencies of the United States Government: *Provided further,* That section 605(e)(4) of the Millennium Challenge Act of 2003 shall apply to funds appropriated under this heading: *Provided further,* That funds appropriated under this heading, and funds appropriated under this heading in division D of Public Law 108–199, may be made available for a Millennium Challenge Compact entered into pursuant to section 609 of the Millennium Challenge Act of 2003 only if such Compact obligates, or contains a commitment to obligate subject to the availability of funds and the mutual agreement of the parties to the Compact to proceed, the entire amount of the United States Government funding anticipated for the duration of the Compact: *Provided further,* That the previous proviso shall be effective on the date of enactment of this Act.

[13] The Peace Corps Act, as amended (Public Law 87–293), may be found in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[14] For text of the Millennium Challenge Act of 2003 (Public Law 108–199), see page 530.

DEPARTMENT OF STATE

GLOBAL HIV/AIDS INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, $1,385,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, not more than $8,818,000 may be made available for administrative expenses of the Office of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally of the Department of State: *Provided further,* That of the funds appropriated under this heading, not less than $27,000,000 should be made available for a United States contribution to UNAIDS.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $328,820,000, to remain available until September 30, 2007: *Provided,* That during fiscal year 2005, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the funds appropriated under this heading, not less than $11,900,000 should be made available for training programs and activities of the International Law Enforcement Academies: *Provided further,* That of the funds appropriated under this heading, not less than $4,000,000 should be made available for assistance for the Philippines for police training and other related activities: *Provided further,* That $10,000,000 of the funds appropriated under this heading shall be made available for demand reduction programs: *Provided further,* That $40,000,000 of the funds appropriated under this heading should be made available for assistance for Mexico: *Provided further,* That $10,500,000 of the funds appropriated under this heading should be made available for assistance for countries and programs in Africa: *Provided further,* That of the funds appropriated under this heading, $3,000,000 shall be made available for assistance for the Government of Malta for the purchase of helicopters to enhance its ability to control its borders and deter terrorists: *Provided further,* That of the funds appropriated under this heading, not more than $30,300,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE [15]

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $731,000,000, to remain available until September 30, 2007: *Provided,* That in fiscal year 2005, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further,* That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further,* That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: *Provided further,* That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the funds appropriated under this heading, not less than $264,600,000 shall be made available for alternative development/institution building, of which $237,000,000 shall be apportioned directly to the United States Agency for International Development, including $125,700,000 for assistance for Colombia: *Provided further,* That with respect to funds apportioned to the United States Agency for International Development under the previous proviso, the responsibility for policy decisions for the use of such funds, including what activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of the Administrator of the United States Agency for International Development in consultation with the Assistant Secretary of State for International Narcotics and

[15] See also the Emergency Supplemental Act, 2000 (Public Law 106–246), as amended, which implements "Plan Colombia"; page 1094.

Law Enforcement Affairs: *Provided further,* That of the funds appropriated under this heading, not less than $6,000,000 should be made available for judicial reform programs in Colombia: *Provided further,* That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $6,000,000 shall be made available to the United States Agency for International Development for organizations and programs to protect human rights: *Provided further,* That funds made available in this Act for demobilization/reintegration of members of foreign terrorist organizations in Colombia shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations: *Provided further,* That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for comparable use in the United States and with Colombian laws; and (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment: *Provided further,* That such funds may not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims: *Provided further,* That such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: *Provided further,* That of the funds appropriated under this heading, $2,000,000 should be made available through nongovernmental organizations for programs to protect biodiversity and indigenous reserves in Colombia: *Provided further,* That funds appropriated by this Act may be used for aerial fumigation in Colombia's national parks or reserves only if the Secretary of State determines that it is in accordance with Colombian laws and that there are no effective alternatives to reduce drug cultivation in these areas: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further,* That funds appropriated under this heading that are available for assistance for the Bolivian military and police may be made available for such purposes only if the Bolivian military and police are respecting human rights and cooperating with civilian judicial authorities,

and the Bolivian Government is prosecuting and punishing those responsible for violations of human rights: *Provided further,* That of the funds appropriated under this heading, not more than $16,285,000 may be available for administrative expenses of the Department of State, and not more than $7,800,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $770,000,000, which shall remain available until expended: *Provided,* That not more than $22,000,000 may be available for administrative expenses: *Provided further,* That not less than $50,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel: *Provided further,* That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)),[16] $30,000,000, to remain available until expended: *Provided,* That funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of such Act which would limit the amount of funds which could be appropriated for this purpose.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $402,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREE-

[16] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

DOM Support Act,[17] section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That of this amount not to exceed $32,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That funds available during fiscal year 2005 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2005 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2006: *Provided further,* That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That funds appropriated under this heading that are available for "Anti-terrorism Assistance" and "Export Control and Border Security" shall remain available until September 30, 2006.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, $19,000,000, to remain available until September 30, 2007, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing,

[17] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended,[18] and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113,[18] $100,000,000, to remain available until September 30, 2007: *Provided,* That not less than $20,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961: *Provided further,* That up to $75,000,000 of the funds appropriated under this heading may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: *Provided further,* That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

(1) the Inter-American Development Bank;

(2) the African Development Fund;

(3) the African Development Bank; and

(4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further,* That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further,* That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further,* That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disburse-

[18] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

ment, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as "enclave" loans; and

(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further*, That none of the funds made available under this heading in this or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office: *Provided further*, That none of the funds appropriated under this heading may be paid to the HIPC Trust Fund for the benefit of any country that has accepted loans from an international financial institution between such country's decision point and completion point: *Provided further,* That the terms "decision point" and "completion point" shall have the same meaning as defined by the International Monetary Fund.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $89,730,000, of which up to $3,000,000 may remain available until expended: *Provided,* That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further,* That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training, and funds made available for Haiti, the Democratic Republic of the Congo, and Nigeria may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,783,500,000: *Provided*, That of the funds appropriated under this heading, not less than $2,220,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be dis-

bursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $580,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That of the funds appropriated by this paragraph, $206,000,000 should be made available for assistance for Jordan: *Provided further,* That in addition to the funds appropriated under this heading, up to $150,000,000 for assistance for Pakistan may be derived by transfer from unobligated balances of funds appropriated under the headings "Economic Support Fund" and "Foreign Military Financing Program" in prior appropriations Acts and not otherwise designated in those Acts for a specific country, use, or purpose: *Provided further,* That of the funds appropriated under this heading, not more than $2,000,000 may be made available for assistance for Uganda and only for non-lethal military equipment if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uganda has made significant progress in: (1) the protection of human rights, especially preventing acts of torture; (2) the protection of civilians in northern and eastern Uganda; and (3) the professionalization of the Ugandan armed forces: *Provided further,* That funds appropriated or otherwise made available by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan and Guatemala: *Provided further,* That none of the funds appropriated under this heading may be made available for assistance for Haiti except pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 con-

gressional presentation for security assistance programs[19] may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $40,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2005 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $104,000,000: *Provided,* That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $107,500,000 to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $850,000,000, to remain available until expended.

[19] In Africa: Kenya; in East Asia and the Pacific: Indonesia, Thailand; in Europe: Greece, Portugal, Spain, Turkey,; in Near East and South Asia: Egypt, Israel, Jordan, Morocco, Pakistan, Tunisia, and Yemen. See *Congressional Presentation for Security Assistance Programs*, Fiscal Year 1989, page 19.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $11,000,000, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $100,000,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $4,100,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,532,933.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $106,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,431,111 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $121,996,662.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $15,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973,[20] $328,394,000: *Provided*, That none of the funds appropriated under this heading may be made available to the International Atomic Energy Agency (IAEA).

TITLE V—GENERAL PROVISIONS

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 502.[21] None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503.[22] Of the funds appropriated or made available pursuant to this Act, not to exceed $100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: *Provided,* That appropriate

[20] For this and other legislation relating to the United Nations, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. H.

[21] Similar language was first enacted as sec. 581 of the Foreign Assistance Appropriations Act, 1997. Prior to FY 2003, the section required Presidential certification "that the United Nations is not engaged in any effort to implement or impose any taxation on United States persons in order to raise revenue for the United Nations or any of its specialized agencies" 15 days in advance of disbursement of funds.

[22] Similar language was first enacted as sec. 113 of the Foreign Assistance Appropriations Act, 1976.

steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504.[23] Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505.[24] Of the funds appropriated or made available pursuant to this Act, not to exceed $125,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $4,000 shall be available for entertainment expenses and not to exceed $130,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $55,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $4,000 shall be available for representation and entertainment allowances: *Provided further,* That of the funds made available by this Act under the heading "Millennium Challenge Corporation", not to exceed $115,000 shall be available for representation and entertainment allowances.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

SEC. 506.[25] (a) PROHIBITION ON TAXATION.—None of the funds appropriated by this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to

[23] Similar language was first enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1976.

[24] Similar language was first enacted as sec. 115 of the Foreign Assistance Appropriations Act, 1976. The second through fifth proviso clauses were first enacted as sec. 526 of H.R. 4473, as made applicable to the Continuing Appropriations Act, 1981. The second proviso, regarding general costs of administering the Foreign Military Financing Program, has been reworded somewhat; the proviso formerly referred to: "the total funds made available by this Act under the headings 'Military Assistance' and 'Foreign Military Credit Sales'". The proviso relating to the Trade and Development Agency was first enacted in the Foreign Assistance Appropriations Act, 1986. The proviso relating to the Millennium Challenge Corporation was added in FY 2004.

[25] Similar language was first enacted as sec. 579 of the Foreign Assistance Appropriations Act, 2003.

be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2005 on funds appropriated by this Act by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors shall be withheld from obligation from funds appropriated for assistance for fiscal year 2006 and allocated for the central government of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REPROGRAMMING OF FUNDS.—Funds withheld from obligation for each country or entity pursuant to subsection (b) shall be reprogrammed for assistance to countries which do not assess taxes on United States assistance or which have an effective arrangement that is providing substantial reimbursement of such taxes.

(e) DETERMINATIONS.—

(1) The provisions of this section shall not apply to any country or entity the Secretary of State determines—

(A) does not assess taxes on United States assistance or which has an effective arrangement that is providing substantial reimbursement of such taxes; or

(B) the foreign policy interests of the United States outweigh the policy of this section to ensure that United States assistance is not subject to taxation.

(2) The Secretary of State shall consult with the Committees on Appropriations at least 15 days prior to exercising the authority of this subsection with regard to any country or entity.

(f) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

(g) DEFINITIONS.—As used in this section—

(1) the terms "taxes" and "taxation" refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term "bilateral agreement" refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be ac-

corded the United States assistance provided under that agreement.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507.[26] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Libya, North Korea, Iran, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508.[27] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup: *Provided,* That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: *Provided further,* That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: *Provided further,* That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS

SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States

[26] Language similar to that in the main clause was first enacted as sec. 111 of the Foreign Assistance Appropriations Act, 1974. The Foreign Operations, Export Financing, and Related Programs Act, 1990 (Public Law 101–167; 103 Stat. 2268), added two provisos, the first of which has been continued in subsequent years. In fiscal year 2003, five additional provisos were added to allow conditional assistance for Iraq.

The following countries have been listed in similar sections in recent previous fiscal years:

Fiscal years 2004 and 2005—Cuba, Libya, North Korea, Iran, or Syria;

Fiscal years 1997 through 2003—Cuba, Iraq (2003, with exceptions), Libya, North Korea, Iran, Sudan, or Syria;

Fiscal years 1995 and 1996—Cuba, Iraq, Libya, North Korea, Iran, Serbia, Sudan, or Syria;

Fiscal year 1994—Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, Serbia, Sudan, or Syria;

Fiscal years 1992 and 1993—Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria; and

Fiscal year 1991—Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria.

[27] Language similar to that in the main clause was first enacted as sec. 513 of the Foreign Assistance Appropriations Act, 1986; reference to "government of any country" replaced "any country" in fiscal year 2002. The first proviso first appeared in sec. 513 of the Foreign Assistance Appropriations Act, 1988. The second and third provisos were first enacted in the Foreign Assistance Appropriations Act, 2002.

Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than 5 days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided,* That funds transferred under such authority may be made available for the cost of such audits.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 510. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

AVAILABILITY OF FUNDS

SEC. 511.[28] No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially

[28] Similar language first enacted as sec. 403 of the Foreign Assistance Appropriations Act, 1967. Reference to funds provided for Eastern Europe and the Baltic States was added in sec. 511 of the Foreign Assistance Appropriations Act, 1997. Reference to chapter 12 of the Foreign Assistance Act of 1961 was added in fiscal year 2001. Reference to sec. 23 of the Arms Export Control Act was added in fiscal year 2002. Sections in prior years required the report required by section 653(a) of the Foreign Assistance Act of 1961 to include information regarding funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512.[29] No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of 1 calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 513.[30] (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b)[31] None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961

[29] Popularly referred to as the Brooke-Alexander Amendment. Similar language was first enacted as sec. 506 of the Foreign Assistance Appropriations Act, 1976. Prior to FY 2001, this section referred to "any loan made to such country"; the reference to the government of such country was added in FY 2001. In FY 2003, "the government of" was added before "any country which is in default". Beginning in fiscal year 1990, a proviso was enacted to exempt certain countries from application of the section for narcotics-related funding (sec. 518 of the Foreign Assistance Appropriations Act, 1990). Colombia, Bolivia, and Peru were cited in that section, but were omitted the following year. Reference to Nicaragua was added in the Foreign Assistance Appropriations Act, 1991. Liberia was added in the Foreign Assistance Appropriations Act, 1998. Brazil was added in the Foreign Assistance Appropriations Act, 1999. Nicaragua, Liberia, and Brazil were subsequently omitted for FY 2000.

In fiscal year 2002, the President's authority to waive application of the section was added.

[30] Language contained in subsec. (a) was first enacted as sec. 608 of the Foreign Assistance Appropriations Act, 1979. Language contained in subsec. (b) was first enacted in sec. 521 of the Foreign Assistance Appropriations Act, 1991. That Act, and Appropriations Acts through FY 1995 also included a subsec. (c), relating to the development of import-sensitive products that would compete with U.S. products.

[31] Popularly referred to as the Bumpers amendment.

shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514.[32] The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515.[33] For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Health Programs Fund", "Development Assistance", "International Organizations and Programs", "Trade and Development Agency", "International Narcotics Control and Law Enforcement", "Andean Counterdrug Initiative", "Assistance for Eastern Europe and the Baltic States", "Assistance for the Independent States of the Former Soviet Union", "Economic Support Fund", "Global HIV/AIDS Initiative", "Peacekeeping Operations", "Capital Investment Fund", "Operating Expenses of the United States Agency for International Development", "Operating Expenses of the United States Agency for International Development Office of Inspector General", "Nonproliferation, Anti-terrorism, Demining and Related Programs", "Millennium Challenge Corporation" (by country only), "Foreign Military Financing Program", "International Military

[32] 22 U.S.C. 262h note. Similar language was first enacted as sec. 22 of the Export-Import Bank Act Amendments of 1986. The Foreign Assistance Appropriations Act, 1999, included a subsec. (b), which required the Secretary of the Treasury to "instruct the United States executive directors of international financial institutions listed in subsection (a) of this section to use the voice and vote of the United States to support the purchase of American produced agricultural commodities with funds appropriated or made available pursuant to this Act.".

[33] Similar language, without the proviso clauses, was enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1974.

Education and Training", "Peace Corps", and "Migration and Refugee Assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under title II of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516.[34] Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2006.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517.[35] (a)[36] None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of

[34] Similar language was first enacted as sec. 154 of the Further Continuing Appropriations Act, 1983.
[35] Sec. 517 of the Foreign Assistance Appropriations Act, 1999, first enacted language pertaining to "New Independent States of the Former Soviet Union" under general provisions.
[36] 22 U.S.C. 5814 note.

an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(b) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for any state to enhance its military capability: *Provided,* That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(c) Funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(e) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading "Assistance for the Independent States of the Former Soviet Union" and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to Europe and Eurasia and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518.[37] None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the

[37] Similar language was first enacted as sec. 541 of the Foreign Assistance Appropriations Act, 1986. From FY 1997 through FY 2001, a proviso was included to prohibit the use of funds from being used to lobby for or against abortion. See also sec. 104(f) of the Foreign Assistance Act of 1961.

funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 519.[38] Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2005, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520.[39] None of the funds appropriated by this Act shall be obligated or expended for Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or Cambodia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521.[40] For the purpose of this Act "program, project, and activity" shall be defined at the appropriations Act account level and

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[38] Similar language was first enacted as sec. 519 of the Foreign Assistance Appropriations Act, 2000.

[39] The following countries have been listed in similar sections in recent previous fiscal years:
Fiscal year 2004—Liberia, Serbia, Sudan, Zimbabwe, Pakistan, Cambodia, or the Democratic Republic of the Congo;
Fiscal year 2003—Colombia, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of the Congo;
Fiscal year 2002—Colombia, Haiti, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of Congo;
Fiscal year 2001—Colombia, Haiti, Liberia, Serbia, Sudan, Ethiopia, Eritrea, Zimbabwe, Pakistan, or the Democratic Republic of Congo;
Fiscal year 2000—Colombia, Haiti, Liberia, Pakistan, Panama, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1999—Colombia, Honduras, Haiti, Liberia, Pakistan, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1998—Colombia, Haiti, Liberia, Pakistan, Panama, Peru, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1997—Colombia, Guatemala (except development assistance), Dominican Republic, Haiti, Liberia, Pakistan, Peru, Serbia, Sudan, or Zaire;
Fiscal year 1996—Colombia, Dominican Republic, Guatemala, Haiti, Liberia, Nicaragua (with exception), Pakistan, Peru, Russia, Sudan, or Zaire;
Fiscal year 1995—Colombia, Dominican Republic, El Salvador (with exception), Guatemala, Haiti, Indonesia, Liberia, Nicaragua (with exception), Pakistan, Peru, Rwanda, Sudan, or Zaire;
Fiscal year 1994—Afghanistan, Cambodia, Colombia, El Salvador (with exception), Guatemala, Haiti, Indonesia, Jordan, Liberia, Malawi, Nicaragua (with exception), Peru, Sudan, Togo, or Zaire;
Fiscal year 1993—Sudan, Liberia, Lebanon, Zaire, Yemen, Haiti, Ivory Coast, Guatemala, Malawi, Peru, Uganda, Cambodia, Indonesia, or Somalia;
Fiscal year 1992—Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia; and
Fiscal year 1991—Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia.

[40] Similar language was first enacted as sec. 550 of the Foreign Assistance Appropriations Act, 1987. Reference to country and regional program level funding was added in FY 2003.

shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development "program, project, and activity" shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 522.[41] Up to $13,500,000 of the funds made available by this Act for assistance under the heading "Child Survival and Health Programs Fund", may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided,* That up to $3,500,000 of the funds made available by this Act for assistance under the heading "Development Assistance" may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further,* That funds appropriated by titles II and III of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading "Child Survival and Health Programs Fund" and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.), as amended: *Provided further,* That of the funds appropriated under title II of this Act, not less than $441,000,000 shall be made available for family planning/reproductive health.

[41] Similar language was first enacted as sec. 551 of the Foreign Assistance Appropriations Act, 1987. References to activities relating to control and treatment of Acquired Immune Deficiency Syndrome (AIDS) in developing countries first appeared in sec. 545 of the Foreign Assistance Appropriations Act, 1989; the current proviso referring, in part, to the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 was added in FY 2004. A proviso exempting family planning funds from the application of sections of law pertaining default or external debt was added in sec. 542 of the Foreign Assistance Appropriations Act, 1993, and stated annually through FY 2000. A proviso, relating to AID personnel policy, was included in the section from FY 1989 through FY 1995. The Foreign Assistance Appropriations Act, 1999, expanded the section to refer to other infectious diseases, prevention, and disease programs. That Act also included a reference to family planning programs; exempting such funding from restrictions related to debt arrearage. That language was omitted the following year. The first proviso, referring to development assistance and reimbursements, was added in Foreign Assistance Appropriations Act, 2000. In FY 2002, the title of the section was restated.

AFGHANISTAN

SEC. 523. Of the funds appropriated by titles II and III of this Act, not less than $980,000,000 should be made available for humanitarian, reconstruction, and related assistance for Afghanistan: *Provided,* That of the funds made available pursuant to this section, not less than $2,000,000 should be made available for reforestation activities: *Provided further,* That funds made available pursuant to the previous proviso should be matched, to the maximum extent possible, with contributions from American and Afghan businesses: *Provided further,* That of the funds made available pursuant to this section, not less than $2,000,000 should be made available for the Afghan Independent Human Rights Commission and for other Afghan human rights organizations: *Provided further,* That to the maximum extent practicable members of the Afghan National Army should be vetted for involvement in terrorism, human rights violations, and drug trafficking: *Provided further,* That of the funds allocated for assistance for Afghanistan from this Act and other Acts making appropriations for foreign operations, export financing, and related programs for fiscal year 2005, not less than $50,000,000 should be made available to support programs that directly address the needs of Afghan women and girls, of which not less than $7,500,000 shall be made available for small grants to support training and equipment to improve the capacity of women-led Afghan nongovernmental organizations and to support the activities of such organizations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 524.[42] Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

HIV/AIDS

SEC. 525. (a)(1) Notwithstanding any other provision of this Act, 25 percent of the funds that are appropriated by this Act for a contribution to support the Global Fund to Fight AIDS, Tuberculosis and Malaria (the "Global Fund") shall be withheld from obligation

[42] Similar language, excluding the first proviso, was first enacted as sec. 559 of the Foreign Assistance Appropriations Act, 1988. Language similar to that in the first proviso was added by sec. 548 of the Foreign Assistance Appropriations Act, 1991. Reference to "significant military equipment" and valuation was added in FY 2002.

to the Global Fund until the Secretary of State certifies to the Committees on Appropriations that the Global Fund—

(A) is establishing a full time, professional, independent office which reports directly to the Global Fund Board regarding, among other things, the integrity of processes for consideration and approval of grant proposals, and the implementation, monitoring and evaluation of grants made by the Global Fund;

(B) is strengthening domestic civil society participation, especially for people living with HIV/AIDS, in country coordinating mechanisms;

(C) is establishing procedures to assess the need for, and coordinate, technical assistance for Global Fund activities, in cooperation with bilateral and multilateral donors;

(D) has established clear progress indicators upon which to determine the release of incremental disbursements;

(E) is releasing such incremental disbursements only if positive results have been attained based on those indicators; and

(F) is providing support and oversight to country-level entities, such as country coordinating mechanisms, principal recipients, and local Fund agents, to enable them to fulfill their mandates.

(2) The Secretary of State may waive paragraph (1) of this subsection if he determines and reports to the Committees on Appropriations that such waiver is important to the national interest of the United States.

(b)[43] (1) In furtherance of the purposes of section 104A of the Foreign Assistance Act of 1961, and to assist in providing a safe, secure, reliable, and sustainable supply chain of pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally (the "Coordinator") is authorized to establish an HIV/AIDS Working Capital Fund (in this section referred to as the "HIV/AIDS Fund").

(2) Funds deposited during any fiscal year in the HIV/AIDS Fund shall be available without fiscal year limitation and used for pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, including, but not limited to—

(A) anti-retroviral drugs;

(B) other pharmaceuticals and medical items needed to provide care and treatment to persons with HIV/AIDS and related infections;

(C) laboratory and other supplies for performing tests related to the provision of care and treatment to persons with HIV/AIDS and related infections;

(D) other medical supplies needed for the operation of HIV/AIDS treatment and care centers, including products needed in programs for the prevention of mother-to-child transmission;

(E) pharmaceuticals and health commodities needed for the provision of palliative care; and

[43] 22 U.S.C. 7612a.

(F) laboratory and clinical equipment, as well as equipment needed for the transportation and care of HIV/AIDS supplies, and other equipment needed to provide prevention, care and treatment of HIV/AIDS described above.

(3) There may be deposited during any fiscal year in the HIV/AIDS Fund payments for HIV/AIDS pharmaceuticals and products provided from the HIV/AIDS Fund received from applicable appropriations and funds of the United States Agency for International Development, the Department of Health and Human Services, the Department of Defense, or other Federal agencies and other sources at actual cost of the HIV/AIDS pharmaceuticals and other products, actual cost plus the additional costs of providing such HIV/AIDS pharmaceuticals and other products, or at any other price agreed to by the Coordinator or his designee.

(4) There may be deposited in the HIV/AIDS Fund payments for the loss of, or damage to, HIV/AIDS pharmaceuticals and products held in the HIV/AIDS Fund, rebates, reimbursements, refunds and other credits applicable to the operation of the HIV/AIDS Fund.

(5) At the close of each fiscal year the Coordinator may transfer out of the HIV/AIDS Fund to other HIV/AIDS programmatic areas such amounts as the Coordinator determines to be in excess of the needs of the HIV/AIDS Fund.

(6) At the close of each fiscal year the Coordinator shall submit a report to the Committees on Appropriations detailing the financial activities of the HIV/AIDS Fund, including sources of income and information regarding disbursements.

DEMOCRACY PROGRAMS

SEC. 526.[44] (a) Notwithstanding any other provision of law, of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $19,000,000 shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the People's Republic of China and Hong Kong: *Provided,* That funds appropriated under the heading "Economic Support Fund" should be made available for assistance for Taiwan for the purposes of furthering political and legal reforms: *Provided further,* That such funds shall only be made available to the extent that they are matched from sources other than the United States Government: *Provided further,* That funds made available pursuant to the authority of this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(b)(1) In addition to the funds made available in subsection (a), of the funds appropriated by this Act under the heading "Economic Support Fund" not less than $15,000,000 shall be made available for programs and activities to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism: *Provided,* That funds made available pursuant to the au-

[44] Sec. 527 of the Foreign Assistance Appropriations Act, 1999, first enacted language pertaining to "Democracy in China" funding.

thority of this subsection should support new initiatives and activities in those countries: *Provided further,* That of the funds appropriated under this heading, $3,000,000 shall be made available for programs and activities that provide professional training for journalists: *Provided further*, That, notwithstanding any other provision of law, not less than $3,000,000 of such funds may be used for making grants to educational, humanitarian and nongovernmental organizations and individuals inside Iran to support the advancement of democracy and human rights in Iran: *Provided further*, That, notwithstanding any other provision of law, funds appropriated pursuant to the authority of this subsection may be made available for democracy, human rights, and rule of law programs for Syria: *Provided further,* That funds made available pursuant to this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(2) In addition to funds made available under subsections (a) and (b)(1), of the funds appropriated by this Act under the heading "Economic Support Fund" not less than $4,500,000 shall be made available for programs and activities of the National Endowment for Democracy to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries in sub-Saharan Africa.

(c) Of the funds made available under subsection (a), not less than $15,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, to support the activities described in subsection (a), and of the funds made available under subsection (b)(1), not less than $11,000,000 shall be made available for such Fund to support the activities described in subsection (b)(1): *Provided,* That up to $1,200,000 may be used for the Reagan/Fascell Democracy Fellows program: *Provided further,* That the total amount of funds made available by this Act under "Economic Support Fund" for activities of the Bureau of Democracy, Human Rights and Labor, Department of State, including funds available in this section, shall be not less than $37,000,000.

(d) Of the funds made available under subsection (a), not less than $4,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (a), and of the funds made available under subsection (b)(1), not less than $4,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (b)(1): *Provided,* That the Secretary of State shall provide a report to the Committees on Appropriations within 120 days of the date of enactment of this Act on the status of the allocation and obligation of such funds.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527.[45] (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such

[45] Sec. 576 of the Foreign Assistance Appropriations Act, 1988, first enacted a "Prohibition on Bilateral Assistance to Terrorist Countries". Sec. 564 of the Foreign Assistance Appropriations Act, 1990, substantially reworded this prohibition, providing the criteria for restriction, and the requirement for Presidential determination and waiver.

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heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 528.[46] In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and, subject to the regular notification procedures of the Committees on Appropriations, any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 529.[47] (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Devel-

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See also sec. 620A of the Foreign Assistance Act of 1961, sec. 40 of the Arms Export Control Act (this volume), and sec. 6(j) of the Export Administration Act of 1979 (volume III).

[46] Similar language was first enacted as sec. 584 of the Foreign Assistance Appropriations Act, 1990. The phrase, "subject to the regular notification procedures of the Committees on Appropriations," was added this year.

[47] 22 U.S.C. 2362 note. Similar language was first contained in sec. 592 of the Foreign Assistance Appropriations Act, 1990.

opment and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).[48]

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall

[48] Provisions referred to in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159) include: sec. 604 of the Foreign Assistance Act of 1961, as amended; section 901(b)(1) of the Merchant Marine Act of 1936, as amended; section 5 of the International Air Transportation Fair Competitive Practice Act of 1974; section 644 of the Small Business Act; section 2711 of the Competition in Contracting Act of 1984; and the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ENTERPRISE FUND RESTRICTIONS

SEC. 530.[49] (a) Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

(b) Funds made available by this Act for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

BURMA

SEC. 531.[50] (a)[51] The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose and vote against the extension by such institution of any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for Burma.

(b) Of the funds appropriated under the heading "Economic Support Fund", not less than $8,000,000 shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma's borders: *Provided,* That funds made available under this heading may be made available notwithstanding any other provision of law: *Provided further,* That in addition to assistance for Burmese refugees provided under the heading "Migration and Refugee Assistance" in this Act, not less than $4,000,000 shall be allocated to the United States Agency for International Development for humanitarian assistance for displaced Burmese and host communities in Thailand: *Provided further,* That funds made available under this section shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) The President shall include amounts expended by the Global Fund to Fight AIDS, Tuberculosis and Malaria to the State Peace

[49] Subsec. (a) first enacted as sec. 577 of the Foreign Assistance Appropriations Act, 1999. Subsec. (b) was added this year.

[50] Language similar to that in subsec. (a) was first enacted in sec. 531 of the Foreign Assistance Appropriations Act, 2004. Language stating terms for ESF for democracy activities and for humanitarian assistance, similar to that in subsec. (b), was first enacted in title II of the Foreign Assistance Appropriations Act, 1996.

[51] 50 U.S.C. 1701 note.

and Development Council in Burma, directly or through groups and organizations affiliated with the Global Fund, in making determinations regarding the amount to be withheld by the United States from its contribution to the Global Fund pursuant to section 202(d)(4)(A)(ii) of Public Law 108–25.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 532.[52] Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 533.[53] None of the funds appropriated by this Act may be obligated or expended to provide—

(1) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(2) assistance for any program, project, or activity that contributes to the violation of internationally recognized workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided,* That the application of section 507(4)(D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 534.[54] (a) AFGHANISTAN, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BUR-

[52] Similar language was first enacted in sec. 589 of the Foreign Assistance Appropriations Act, 1993. FY 1999 through 2001 legislation included an exemption for funding directed to the International Fund for Agricultural Development, first enacted in sec. 537 of the Foreign Assistance Appropriations Act, 1999.

[53] Similar language was first enacted, except the proviso in para. (2), as sec. 599 of the Foreign Assistance Appropriations Act, 1993. That proviso was added by sec. 547 of the Foreign Assistance Appropriations Act, 1994. Prior language, FY1993 through 2001, included a reference to discrepancy in tax, tariff, labor, environment, and safety laws.

[54] Language similar to that in subsecs. (a) and (b) was first enacted as sec. 549 of the Foreign Assistance Appropriations Act, 1994. Various provisos in subsec. (a) have been added and omitted since the section's introduction. Language similar to that in subsec. (c) was added as subsec. (d) in fiscal year 1995. New subsec. (d) was added in sec. 540 of the Foreign Assistance Appro-

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MESE.—Funds appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 512 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: *Provided,* That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the

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priations Act, 1999. Subsec. (e) was added as subsec. (f) in sec. 534 in FY 2002, which also included a subsec. (e), relating to contingencies. Subsec. (g), relating to reconstituting civilian police authority, was added in FY 2003. Subsec. (h), relating to the World Food Program, was added in FY 2003 as subsec. (i). Subsec. (i), relating to the National Endowment for Democracy, was added in FY 2004 as subsec. (h). Subsec. (l), relating to university programs and China, and subsec. (o), relating to the documentation of genocide and crimes against humanity in Cambodia and endowment of a nongovernmental organization to sustain rehabilitation programs in that country, were added in FY 2005.

References to "victims of war" and "displaced children" have been included annually. Reference to assisting "victims of trafficking in persons" was added in FY 2003. The following countries and groups have been listed in similar sections in previous fiscal years:

Fiscal Year 2004—Afghanistan, Pakistan, Lebanon, Montenegro, victims of war, displaced children, displaced Burmese;

Fiscal Year 2003—Afghanistan, Lebanon, Montenegro, victims of war, displaced children, displaced Burmese;

Fiscal Years 2001 and 2002—Afghanistan, Cambodia (with conditions), Lebanon, Montenegro, victims of war, displaced children, displaced Burmese;

Fiscal Year 2000—Afghanistan, Cambodia (with conditions), Lebanon, Montenegro, victims of war, displaced children, displaced Burmese, Romania (humanitarian assistance), Kosova (humanitarian assistance);

Fiscal Year 1999—Afghanistan, Cambodia (with conditions), Lebanon, Montenegro, victims of war, displaced children, displaced Burmese, Romania (humanitarian assistance), (Kosova) humanitarian assistance;

Fiscal Year 1998—Afghanistan, Lebanon, displaced Burmese, Romania (humanitarian assistance), and humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia and Kosova;

Fiscal Year 1997—Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia and Kosova;

Fiscal Year 1996—Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova;

Fiscal Year 1995—Haiti, Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova; and

Fiscal Year 1994—Haiti, Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova.

purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided,* That not more than 10 of such contractors shall be assigned to any bureau or office: *Provided further,* That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)[55] (1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) SMALL BUSINESS.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

(f) CONTINGENCIES.—During fiscal year 2005, the President may use up to $45,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling in section 451(a).

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[55] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327); and through April 14, 2004 (Presidential Determination No. 2004–04; October 14, 2003; 68 F.R. 60841).

(g) RECONSTITUTING CIVILIAN POLICE AUTHORITY.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

(h) WORLD FOOD PROGRAM.—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of the United States Agency for International Development, from this or any other Act, not less than $6,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

(i) NATIONAL ENDOWMENT FOR DEMOCRACY.—Funds appropriated by this Act that are provided to the National Endowment for Democracy may be provided notwithstanding any other provision of law or regulation.

(j) TECHNICAL AMENDMENT.—Section 201(a)(2) of the North Korean Human Rights Act of 2004 (Public Law 108–333) is amended by striking "paragraphs (1) through (4) of section 202(b)" and inserting "subparagraphs (A) through (D) of section 202(b)(1)".

(k) REPORT MODIFICATION.—Section 406(b)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 22 U.S.C. 2414a(b)(4)) is amended by inserting after "United States" the following: ", including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States".

(l) UNIVERSITY PROGRAMS.—Notwithstanding any other provision of law, funds made available in this Act under the heading "Development Assistance" may be made available to American educational institutions for programs and activities in the People's Republic of China relating to the environment, democracy, and the rule of law: *Provided,* That funds made available pursuant to this authority shall be subject to the regular notification procedures of the Committees on Appropriations.

(m) INDOCHINESE PAROLEES.—Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (8 U.S.C. 1255 note), as enacted into law by section 101(a) of Public Law 106–429, is amended—

(1) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "she" and inserting "the Secretary of Homeland Security"; and

(B) in paragraph (1), by striking "within three years after the date of promulgation by the Attorney General of regulations in connection with this title";

(3) in subsection (c), by striking "212(8)(A)" and inserting "212(a)(8)(A)";

(4) by striking subsection (d);

(5) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively;

(6) by adding at the end the following new subsection:

"(f) ADJUDICATION OF APPLICATIONS.—The Secretary of Homeland Security shall—

"(1) adjudicate applications for adjustment under this section, notwithstanding any limitation on the number of adjustments under this section or any deadline for such applications that previously existed in law or regulation; and

"(2) not charge a fee in addition to any fee that previously was submitted with such application."; and

(7)[56] The amendments made by this subsection shall take effect as if enacted as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001.

(n) EXTENSION OF AUTHORITY.—Public Law 107–57, as amended, is further amended—

(1) in section 1(b) by striking "2004" wherever appearing (including in the caption), and inserting "2005";

(2) in section 3(2), by striking "and 2004" and inserting "2004 and 2005"; and

(3) in section 6, by striking "2004" and inserting "2005".

(o) ENDOWMENTS.—

(1) Of the funds appropriated by this Act and prior Acts making appropriations for foreign operations, export financing, and related programs, that are available for assistance for Cambodia, the following amounts should be made available as follows:

(A) $2,000,000 for an endowment for a Cambodian nongovernmental organization to document genocide and crimes against humanity in Cambodia; and

(B) $3,750,000 for an endowment for an American nongovernmental organization to sustain rehabilitation programs in Cambodia for persons suffering from physical disabilities.

(2) Such organizations may place amounts made available under this subsection in interest bearing accounts and any interest earned on such investment shall be used for the purpose for which funds were made available under this subsection.

(p) EXTENSION OF AUTHORITY.—Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), is amended under the heading "Loan Guarantees to Israel"—

(1) by striking "During the period beginning March 1, 2003, and ending September 30, 2005," and inserting "During the period beginning March 1, 2003, and ending September 30, 2007,"; and

(2) by striking "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005," and inserting "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2007,".

(q) DEFINITION.—Section 603 of title VI of division D of the Consolidated Appropriations Act, 2004, Public Law 108–199, is amended by adding the following paragraph:

[56] 8 U.S.C. 1255 note.

"(8) INVESTMENTS IN THE PEOPLE.—The term "investments in the people" means government policies or programs of an eligible country that promote the health, education, and other factors which contribute to the well-being and productivity of their people, such as decent, affordable housing for all.".

ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 535.[57] It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) the three Arab League countries with diplomatic and trade relations with Israel should return their ambassadors to Israel, should refrain from downgrading their relations with Israel, and should play a constructive role in securing a peaceful resolution of the Israeli-Arab conflict;

(4) the remaining Arab League states should normalize relations with their neighbor Israel;

(5) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(6) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ELIGIBILITY FOR ASSISTANCE

SEC. 536.[58] (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States": *Provided,* That before using the authority of this subsection to furnish assistance in support of programs of non-

[57] Language pertaining to the Arab League boycott of Israel was first enacted as sec. 598(b) of the Foreign Assistance Appropriations Act, 1993.

[58] Similar language was first enacted in sec. 562 of the Foreign Assistance Appropriations Act, 1993.

governmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 2005, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

RESERVATIONS OF FUNDS

SEC. 537.[59] (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided,* That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

[59] Language pertaining to earmarks was first enacted in the Foreign Assistance Appropriations Act, 1988, but has substantially changed since then. Prior to FY 2004, the section heading read "EARMARKS". Subsec. (b) was first added in the Foreign Assistance Appropriations Act, 1993.

CEILINGS AND EARMARKS

SEC. 538.[60] Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 539.[61] No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided,* That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.[62]

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 540.[63] None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 541.[64] None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

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[60] First enacted, not including the second sentence, as sec. 538 of the Foreign Assistance Appropriations Act, 1985.

[61] First enacted, not including proviso, as sec. 102 of the Mutual Security Appropriations Act, 1958. The proviso, which originally prohibited any funds from foreign assistance appropriations being made available to carry out the provisions of sec. 316 of Public Law 96–533, was added by the Foreign Assistance Appropriations Act, 1996.

See also sec. 109 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204), *Legislation on Foreign Relations Through 2004*, vol. II, for related language.

[62] Sec. 316 of Public Law 96–533 provided the following:

"WORLD HUNGER

"**Sec. 316.** (a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961, the Director of the United States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

"(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues.".

[63] Language through "dues of any member of the United Nations" first enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1964. Text following that point was added in sec. 546 of the Foreign Assistance Appropriations Act, 2000.

[64] Similar language was first enacted as sec. 546 of the Foreign Assistance Appropriations Act, 1986.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 542.[65] (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES AND REAL PROPERTY TAXES OWED BY FOREIGN COUNTRIES

SEC. 543.[66] (a) Subject to subsection (c), of the funds appropriated by this Act that are made available for assistance for a foreign country, an amount equal to 110 percent of the total amount of the unpaid fully adjudicated parking fines and penalties and unpaid property taxes owed by the central government of such country shall be withheld from obligation for assistance for the central government of such country until the Secretary of State submits a certification to the appropriate congressional committees stating that such parking fines and penalties and unpaid property taxes are fully paid.

(b) Funds withheld from obligation pursuant to subsection (a) may be made available for other programs or activities funded by this Act, after consultation with and subject to the regular notification procedures of the appropriate congressional committees, provided that no such funds shall be made available for assistance for the central government of a foreign country that has not paid the

[65] Similar language was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1994, which referred to section 40(d) of the Arms Export Control Act in subsec. (a). In FY 1999, the text referred to that Act "or any other comparable provision of law". Beginning in FY 2002, the text referred instead to section 6(j) of the Export Administration Act.

See also sec. 620A of the Foreign Assistance Act of 1961 and sec. 40 of the Arms Export Control Act.

[66] Similar language was first enacted as sec. 574 of the Foreign Assistance Appropriations Act, 1994. References to penalties and fines owed to New York were added in FY 2001. In FY 2005, the section was expanded to include unpaid real property taxes. Functions relating to certifications and reports under this section were delegated to the Director and Deputy Director of the Office of Foreign Missions in Department of State Delegation of Authority 272 (February 17, 2004; 69 F.R. 18998).

total amount of the fully adjudicated parking fines and penalties and unpaid property taxes owed by such country.

(c) Subsection (a) shall not include amounts that have been withheld under any other provision of law.

(d)(1) The Secretary of State may waive the requirements set forth in subsection (a) with respect to parking fines and penalties no sooner than 60 days from the date of enactment of this Act, or at any time with respect to a particular country, if the Secretary determines that it is in the national interests of the United States to do so.

(2) The Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines that it is in the national interests of the United States to do so.

(e) Not later than 6 months after the initial exercise of the waiver authority in subsection (d), the Secretary of State, after consultations with the City of New York, shall submit a report to the Committees on Appropriations describing a strategy, including a timetable and steps currently being taken, to collect the parking fines and penalties and unpaid property taxes and interest owed by nations receiving foreign assistance under this Act.

(f) In this section:

(1) The term "appropriate congressional committees" means the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) The term "fully adjudicated" includes circumstances in which the person to whom the vehicle is registered—

(A)(i) has not responded to the parking violation summons; or

(ii) has not followed the appropriate adjudication procedure to challenge the summons; and

(B) the period of time for payment of or challenge to the summons has lapsed.

(3) The term "parking fines and penalties" means parking fines and penalties—

(A) owed to—

(i) the District of Columbia; or

(ii) New York, New York; and

(B) incurred during the period April 1, 1997, through September 30, 2004.

(4) The term "unpaid property taxes" means the amount of unpaid taxes and interest determined to be owed by a foreign country on real property in the District of Columbia or New York, New York in a court order or judgment entered against such country by a court of the United States or any State or subdivision thereof.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 544.[67] None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization

[67] Similar language first enacted as sec. 565 of the Foreign Assistance Appropriations Act, 1995.

for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 545.[68] If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961 of up to $30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided,* That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further,* That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further,* That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 546.[69] Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 547.[70] None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new of-

[68] Funding for war crimes tribunals drawdown was first enacted in sec. 548(e) of the Foreign Assistance Appropriations Act, 1994. Language enacted in prior years was codified at 22 U.S.C. 2656 note. The proviso referring to establishment of any standing or permanent international criminal tribunal or court was added in FY 2003. Reference to the Special Court for Sierra Leone was added in FY 2004.

[69] Similar language was first enacted as sec. 578 of the Foreign Assistance Appropriations Act, 1995.

[70] Similar language was first enacted as sec. 585 of the Foreign Assistance Appropriations Act, 1995.

fice of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided,* That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further,* That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 548.[71] None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities or under the headings "Child Survival and Health Programs Fund", "Development Assistance", and "Economic Support Fund" may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

HAITI

SEC. 549.[72] (a) Of the funds appropriated by this Act, not less than the following amounts shall be made available for assistance for Haiti—

(1) $20,000,000 from "Child Survival and Health Programs Fund";

(2) $25,000,000 from "Development Assistance", of which funds should be made available for poverty reduction, agriculture, environment, and basic education programs; and

(3) $40,000,000 from "Economic Support Fund", of which funds should be made available for judicial reform programs, police training, and activities in support of national elections.

[71] Similar language was first enacted as sec. 579 of the Foreign Assistance Appropriations Act, 1995. Reference to Child Survival and Disease Programs Fund, Development Assistance, and Economic Support Fund was added in sec. 555 of the Foreign Assistance Appropriations Act, 2000. Earlier texts included a prohibition on the use of funds for "food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation".

[72] Language similar to that of subsec. (b) was first enacted as sec. 582 of the Foreign Assistance Appropriations Act, 1997. Prior to FY 2001, the section stated eligibility for both Haiti's Coast Guard and the civilian-led Haitian National Police.

(b) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 550.[73] (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(d) REPORT.—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations detailing the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure. The report shall also include a description of how funds will be spent and the accounting procedures in place to ensure that they are properly disbursed.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 551.[74] None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: *Provided*, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: *Provided further,* That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

FOREIGN MILITARY TRAINING REPORT

SEC. 552. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be sub-

[73] Similar language was first enacted as sec. 566 of the Foreign Assistance Appropriations Act, 1998. Subsec. (d) was added in FY 2004.

[74] Popularly referred to as the Leahy amendment. Similar language was first enacted pertaining to appropriations to carry out international narcotics control programs in title II of the Foreign Assistance Appropriations Act, 1997.

mitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations of the House of Representatives and the Senate by the date specified in that section.

AUTHORIZATION REQUIREMENT

SEC. 553. Funds appropriated by this Act, except funds appropriated under the headings "Trade and Development Agency", "Millennium Challenge Corporation", "Overseas Private Investment Corporation", and "Global HIV/AIDS Initiative", may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

CAMBODIA

SEC. 554.[75] (a) The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

(b)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia.

(2) Paragraph (1) shall not apply to assistance for basic education, reproductive and maternal and child health, cultural and historic preservation, programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases, development and implementation of legislation and implementation of procedures on inter-country adoptions consistent with international standards, rule of law programs, counternarcotics programs, programs to combat human trafficking that are provided through nongovernmental organizations, and for the Ministry of Women and Veterans Affairs to combat human trafficking.

(c) Notwithstanding subsection (b), of the funds appropriated by this Act under the heading "Economic Support Fund", up to $4,000,000 may be made available for activities to support democracy, including assistance for democratic political parties.

(d) Funds appropriated by this Act to carry out provisions of section 541 of the Foreign Assistance Act of 1961 may be made available notwithstanding subsection (b) only if at least 15 days prior to the obligation of such funds, the Secretary of State provides to the Committees on Appropriations a list of those individuals who have been credibly alleged to have ordered or carried out extra-judicial and political killings that occurred during the March 1997 grenade attack against the Khmer Nation Party.

(e) None of the funds appropriated or otherwise made available by this Act may be used to provide assistance to any tribunal established by the Government of Cambodia unless the Secretary of State determines and reports to the Committees on Appropriations that: (1) Cambodia's judiciary is competent, independent, free from widespread corruption, and its decisions are free from interference by the executive branch; and (2) the proposed tribunal is capable

[75] Language similar to subsec. (a) was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1998. The remaining subsecs. have changed substantially in each fiscal year.

of delivering justice, that meets internationally recognized standards, for crimes against humanity and genocide in an impartial and credible manner.

PALESTINIAN STATEHOOD

SEC. 555.[76] (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated by this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections;

(2) the elected governing entity of a new Palestinian state—

(A) has demonstrated a firm commitment to peaceful coexistence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures;

(C) is establishing a new Palestinian security entity that is cooperative with appropriate Israeli and other appropriate security organizations; and

(3) the Palestinian Authority (or the governing body of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the newly-elected governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is vital to the national security interests of the United States to do so.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or a newly-elected governing entity, in order to help meet the requirements of subsection (a), consistent with the

[76] Similar language first enacted as sec. 563 of the Foreign Assistance Appropriations Act, 2003.

provisions of section 550 of this Act ("Limitation on Assistance to the Palestinian Authority").

COLOMBIA

SEC. 556.[77] (a) DETERMINATION AND CERTIFICATION REQUIRED.—Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(1) Up to 75 percent of such funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2).

(2) Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

(A) The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

(B) The Colombian Government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

(C) The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces have made substantial progress in severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with paramilitary organizations, especially in regions where these organizations have a significant presence.

(E) The Colombian Government is dismantling paramilitary leadership and financial networks by arresting commanders and financial backers, especially in regions where these networks have a significant presence.

(3) The balance of such funds may be obligated after July 31, 2005, if the Secretary of State certifies and reports to the appropriate congressional committees, after such date, that the

[77] Similar language first enacted as sec. 567 of the Foreign Assistance Appropriations Act, 2002.

Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(b) CONGRESSIONAL NOTIFICATION.—Funds made available by this Act for the Colombian Armed Forces shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) CONSULTATIVE PROCESS.—Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2006, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in that subsection.

(d) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term "aided or abetted" means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 557.[78] (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 558.[79] None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

[78] First enacted as sec. 568 of the Foreign Assistance Appropriations Act, 2002.
[79] First enacted as sec. 584 of the Foreign Assistance Appropriations Act, 1999.

WEST BANK AND GAZA PROGRAM

SEC. 559.[80] (a) OVERSIGHT.—For fiscal year 2005, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading "Economic Support Fund" for the West Bank and Gaza.

(b) VETTING.—Prior to the obligation of funds appropriated by this Act under the heading "Economic Support Fund" for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which he has determined to be involved in or advocating terrorist activity.

(c) PROHIBITION.—None of the funds appropriated by this Act for assistance under the West Bank and Gaza program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.

(d) AUDITS.—

(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

(2) Of the funds appropriated by this Act under the heading "Economic Support Fund" that are made available for assistance for the West Bank and Gaza, up to $1,000,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. 560. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under "International Organizations and Programs" and "Child Survival and Health Programs Fund" for fiscal year 2005, $34,000,000 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the "UNFPA"): *Provided*, That of this amount, not less than

[80] Language similar to that in subsec. (a) was first enacted as sec. 587 of the Foreign Assistance Appropriations Act, 2000. Language similar to that in subsecs. (b) and (d) were first enacted in sec. 568 of the Foreign Assistance Appropriations Act, 2003. Subsec. (c) was added this year.

$25,000,000 shall be derived from funds appropriated under the heading "International Organizations and Programs".

(b) AVAILABILITY OF FUNDS.—Funds appropriated under the heading "International Organizations and Programs" in this Act that are available for UNFPA, that are not made available for UNFPA because of the operation of any provision of law, shall be transferred to "Child Survival and Health Programs Fund" and shall be made available for family planning, maternal, and reproductive health activities, subject to the regular notification procedures of the Committees on Appropriations.

(c)[81] REPROGRAMMING OF FUNDS.—Of the funds appropriated in Public Law 108–199 that were available for the UNFPA, $12,500,000 shall be made available for anti-trafficking programs: *Provided*, That of the funds appropriated in Public Law 108–199

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[81] Sec. 567 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 118 Stat. 195) provided the following:

"CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

"SEC. 567. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under 'International Organizations and Programs' and 'Child Survival and Health Programs Fund' for fiscal year 2004, the amount cited in section 576 of Public Law 107–115 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the 'UNFPA').

"(b) FAMILY PLANNING, MATERNAL AND REPRODUCTIVE HEALTH ACTIVITIES.—Of the funds appropriated in Public Law 107–115 that were available for the UNFPA, including all funds that were transferred to 'Child Survival and Health Programs Fund', $34,000,000 shall be made available for family planning, maternal and reproductive health activities in the Democratic Republic of the Congo, Ethiopia, Nigeria, Tanzania, Uganda, Haiti, Georgia, Azerbaijan, Russia, Albania, Romania, and Kazakhstan: *Provided,* That such programs and activities shall be deemed to have been justified to Congress.

"(c) TRAFFICKING INITIATIVE.—Of the funds appropriated in Public Law 108–7 that were available for the UNFPA and that were transferred to 'Child Survival and Health Programs Fund', $25,000,000 shall be allocated for assistance for 'vulnerable children' and made available for a new initiative for assistance for young women, mothers and children who are victims of trafficking in persons: *Provided,* That such programs and activities shall be deemed to have been justified to Congress.

"(d) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under 'International Organizations and Programs' may be made available for the UNFPA for a country program in the People's Republic of China.

"(e) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under 'International Organizations and Programs' and 'Child Survival and Health Programs Fund' for fiscal year 2004 for the UNFPA may not be made available to UNFPA unless—

"(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

"(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

"(3) the UNFPA does not fund abortions.".

Sec. 576 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2168), referred to in subsec. (a) of the above-stated section, provided the following:

"UNITED NATIONS POPULATION FUND

"SEC. 576. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under 'International Organizations and Programs', not more than $34,000,000 for fiscal year 2002 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the 'UNFPA').

"(b) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under 'International Organizations and Programs' may be made available for the UNFPA for a country program in the People's Republic of China.

"(c) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under 'International Organizations and Programs' for fiscal year 2002 for the UNFPA may not be made available to UNFPA unless—

"(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

"(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

"(3) the UNFPA does not fund abortions.".

Language similar to that of sec. 576 was first enacted in sec. 599C of the Foreign Assistance Appropriations Act, 2000.

that were available for the UNFPA, $12,500,000 shall be made available for the family planning, maternal, and reproductive health activities of the United States Agency for International Development in Albania, Azerbaijan, the Democratic Republic of the Congo, Ethiopia, Georgia, Haiti, Kazakhstan, Kenya, Nigeria, Romania, Russia, Rwanda, Tanzania, Uganda, and the Ukraine: *Provided further*, That such programs and activities shall be deemed to have been justified to Congress.

(d) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under "International Organizations and Programs" may be made available for the UNFPA for a country program in the People's Republic of China.

(e) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under "International Organizations and Programs" for fiscal year 2005 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

WAR CRIMINALS

SEC. 561.[82] (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the "Tribunal") all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country

[82] Popularly referred to as the Lautenberg amendment. For earliest version of this section, see sec. 573 of the Foreign Assistance Appropriations Act, 1998.

or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

(f) DEFINITIONS.—As used in this section:

(1) COUNTRY.—The term "country" means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term "entity" refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term "municipality" means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term "Dayton Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 562.[83] The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' financing programs.

FUNDING FOR SERBIA

SEC. 563. (a) Funds appropriated by this Act may be made available for assistance for the central Government of Serbia after May 31, 2005, if the President has made the determination and certification contained in subsection (c).

[83] Similar language first enacted as sec. 596 of the Foreign Assistance Appropriations Act, 2001.

(b) After May 31, 2005, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of Serbia and Montenegro subject to the conditions in subsection (c): *Provided,* That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended,[84] shall not apply to the provision of loans and assistance to the Government of Serbia and Montenegro through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of Serbia and Montenegro is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, including making all practicable efforts to apprehend and transfer Ratko Mladic;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law.

(d) This section shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 564.[85] (a) AUTHORITY.—Funds made available by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict, respond to disasters, address gender-based violence, and foster improved police relations with the communities they serve.

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[84] Sec. 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), as amended, provided the following:

"TRANSPARENCY OF BUDGETS

"SEC. 576. (a) LIMITATION.—Beginning three years after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

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

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

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

[85] 22 U.S.C. 2151 note. A section relating to community-based police assistance was first enacted as sec. 582 of the Foreign Assistance Appropriations Act, 2002.

(b) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 565.[86] (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

[86] Similar language, except subsec. (a)(3), which was added by sec. 559 of the Foreign Assistance Appropriations Act, 1999, was first enacted as sec. 570(a) of the Foreign Assistance Appropriations Act, 1994. Subsec. (b) of that section also amended the Export-Import Bank Act of 1945 to authorize debt relief for the poorest, most heavily indebted nations. See *Legislation on Foreign Relations Through 2004*, vol. III.

In a memorandum of July 8, 1996, the President delegated to the Secretary of the Treasury, in consultation with the Secretaries of State and Defense, the functions, authorities, and duties conferred on the President by sec. 570(a) of this Act, sec. 561(a) of Public Law 103–306, and any similar subsequent provision of law (61 F.R. 38563).

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 566.[87] (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or

[87] Similar language was first enacted as sec. 571 of the Foreign Assistance Appropriations Act, 1996. No such section was included in FY 2003 Act, however.

cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

BASIC EDUCATION

SEC. 567. Of the funds appropriated by title II of this Act, not less than $400,000,000 shall be made available for basic education.

RECONCILIATION PROGRAMS

SEC. 568.[88] Of the funds appropriated under the heading "Economic Support Fund", not less than $12,000,000 shall be made available to support reconciliation programs and activities which bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.

SUDAN

SEC. 569.[89] (a) AVAILABILITY OF FUNDS.—Of the funds appropriated by title II of this Act, not less than $311,000,000 should be made available for assistance for Sudan.

(b) LIMITATION ON ASSISTANCE.—Subject to subsection (c):

(1) Notwithstanding section 501(a) of the International Malaria Control Act of 2000 (Public Law 106–570) or any other provision of law, none of the funds appropriated by this Act

[88] Similar language first enacted as sec. 585 of the Foreign Assistance Appropriations Act, 2004.

[89] Sec. 135 of Continuing Appropriations, 2005 (Public Law 108–309; 22 U.S.C. 2151 note; 118 Stat. 1143) provided the following:

"**Sec.** 135. Sections 569 and 574 of H.R. 4818, as passed by the House of Representatives on July 15, 2004, are hereby enacted into law: *Provided,* That not to exceed $360,000,000 of the funds made available by Public Law 108–106 under the heading 'Iraq Relief and Reconstruction Fund' may be made available for the purposes of such section 569.".

may be made available for assistance for the Government of Sudan.

(2) None of the funds appropriated by this Act may be made available for the cost, as defined in section 502, of the Congressional Budget Act of 1974, of modifying loans and loan guarantees held by the Government of Sudan, including the cost of selling, reducing, or canceling amounts owed to the United States, and modifying concessional loans, guarantees, and credit agreements.

(c) Subsection (b) shall not apply if the Secretary of State determines and certifies to the Committees on Appropriations that—

(1) the Government of Sudan has taken significant steps to disarm and disband government-supported militia groups in the Darfur region;

(2) the Government of Sudan and all government-supported militia groups are honoring their commitments made in the cease-fire agreement of April 8, 2004; and

(3) the Government of Sudan is allowing unimpeded access to Darfur to humanitarian aid organizations, the human rights investigation and humanitarian teams of the United Nations, including protection officers, and an international monitoring team that is based in Darfur and that has the support of the United States.

(d) EXCEPTIONS.—The provisions of subsection (b) shall not apply to—

(1) humanitarian assistance; and

(2) assistance for Darfur and for areas outside the control of the Government of Sudan.

(e) NOTIFICATION.—Not more than $45,000,000 of the funds appropriated by this Act under the headings "International Disaster and Famine Assistance" and "Transition Initiatives" may be made available for assistance for Sudan outside of the Darfur region unless written notice has been provided to the Committees on Appropriations not less than 5 days prior to the obligation of such funds.

(f) DEFINITIONS.—For the purposes of this Act and section 501 of Public Law 106–570, the terms "Government of Sudan", "areas outside of control of the Government of Sudan", and "area in Sudan outside of control of the Government of Sudan" shall have the same meaning and application as was the case immediately prior to June 5, 2004, and, with regard to assistance in support of a viable peace agreement, Southern Kordofan/Nuba Mountains State, Blue Nile State and Abyei.

(g) APPROPRIATION.—In addition to amounts appropriated elsewhere in this Act, $75,000,000 is hereby appropriated for "Peacekeeping Operations" to support peace and humanitarian intervention operations for Sudan, and $18,000,000 is hereby appropriated for "International Disaster and Famine Assistance" for humanitarian assistance and related activities in Sudan: *Provided*, That the entire amount appropriated in this subsection is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: *Provided further*, That the Secretary of State shall consult with the Committees on Appro-

priations regarding the proposed uses of these funds within 30 days of the date of enactment of this Act.

(h) TECHNICAL CHANGE.—Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by striking "Organization of African Unity" and inserting "African Union".

TRADE CAPACITY BUILDING

SEC. 570.[90] Of the funds appropriated by this Act, under the headings "Trade and Development Agency", "Development Assistance", "Transition Initiatives", "Economic Support Fund", "International Affairs Technical Assistance", and "International Organizations and Programs", not less than $507,000,000 should be made available for trade capacity building assistance: *Provided,* That $20,000,000 of the funds appropriated in this Act under the heading "Economic Support Fund" shall be made available for labor and environmental capacity building activities relating to the free trade agreement with the countries of Central America and the Dominican Republic.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTH EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 571. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during fiscal year 2005, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavian Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

INDONESIA

SEC. 572.[91] (a) Funds appropriated by this Act under the heading "Foreign Military Financing Program" may be made available for assistance for Indonesia, and licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the Secretary of State certifies to the appropriate congressional committees that—

(1) the Armed Forces are taking steps to counter international terrorism, consistent with democratic principles and the rule of law, and in cooperation with countries in the region;

(2) the Indonesian Government is prosecuting and punishing, in a manner proportional to the crime, members of the Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights or to have aided or abetted militia groups;

(3) at the direction of the President of Indonesia, the Armed Forces are cooperating with civilian judicial authorities and

[90] Language similar to that preceding the proviso was first enacted as sec. 584 of the Foreign Assistance Appropriations Act, 2003.

[91] Similar language pertaining to providing IMET and FMF funding to Indonesia was first enacted as sec. 589 of the Foreign Assistance Appropriations Act, 2000.

with international efforts to resolve cases of gross violations of human rights in East Timor and elsewhere; and

(4) at the direction of the President of Indonesia, the Armed Forces are implementing reforms to increase the transparency and accountability of their operations and financial management, including making publicly available audits of receipts and expenditures.

(b) Funds appropriated under the heading "International Military Education and Training" may be made available for assistance for Indonesia if the Secretary of State determines and reports to the Committees on Appropriations that the Indonesian Government and Armed Forces are cooperating with the Federal Bureau of Investigation's investigation into the August 31, 2002, murders of two American citizens and one Indonesian citizen in Timika, Indonesia: *Provided,* That this restriction shall not apply to expanded international military education and training, which may include English language training.

LIMITATION ON CONTRACTS

SEC. 573. None of the funds made available under this Act may be used to fund any contract in contravention of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)).

LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR CERTAIN FOREIGN GOVERNMENTS THAT ARE PARTIES TO THE INTERNATIONAL CRIMINAL COURT

SEC. 574.[92] (a) None of the funds made available in this Act in title II under the heading "Economic Support Fund" may be used to provide assistance to the government of a country that is a party to the International Criminal Court and has not entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

(b) The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a North Atlantic Treaty Organization ("NATO") member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan if he determines and reports to the appropriate congressional committees that it is important to the national security interests of the United States to waive such prohibition.

(c) The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute pre-

[92] Sec. 135 of Continuing Appropriations, 2005 (Public Law 108–309; 22 U.S.C. 2151 note; 118 Stat. 1143) provided the following:

"SEC. 135. Sections 569 and 574 of H.R. 4818, as passed by the House of Representatives on July 15, 2004, are hereby enacted into law: *Provided,* That not to exceed $360,000,000 of the funds made available by Public Law 108–106 under the heading 'Iraq Relief and Reconstruction Fund' may be made available for the purposes of such section 569.".

venting the International Criminal Court from proceeding against United States personnel present in such country.

(d) The prohibition of this section shall not apply to countries otherwise eligible for assistance under the Millennium Challenge Act of 2003, notwithstanding section 606(a)(2)(B) of such Act.

PROHIBITION AGAINST DIRECT FUNDING FOR SAUDI ARABIA

SEC. 575. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance any assistance to Saudi Arabia: *Provided,* That the President may waive the prohibition of this section if he certifies to the Committees on Appropriations, 15 days prior to the obligation of funds for assistance for Saudi Arabia, that Saudi Arabia is cooperating with efforts to combat international terrorism and that the proposed assistance will help facilitate that effort.

ENVIRONMENT PROGRAMS

SEC. 576.[93] (a) FUNDING.—Of the funds appropriated under the heading "Development Assistance", not less than $165,500,000 shall be made available for programs and activities which directly protect biodiversity, including forests, in developing countries, of which not less than $8,000,000 should be made available to implement a regional strategy for biodiversity conservation in the countries comprising the Amazon basin of South America, including to improve the capacity of indigenous communities and local law enforcement agencies to protect the biodiversity of indigenous reserves, which amount shall be in addition to the amounts requested for biodiversity activities in these countries in fiscal year 2005: *Provided*, That of the funds appropriated by this Act, not less than $180,000,000 shall be made available to support clean energy and other climate change policies and programs in developing countries, of which $100,000,000 should be made available to directly promote and deploy energy conservation, energy efficiency, and renewable and clean energy technologies, and of which the balance should be made available to directly: (1) measure, monitor, and reduce greenhouse gas emissions; (2) increase carbon sequestration activities; and (3) enhance climate change mitigation and adaptation programs.

(b) CLIMATE CHANGE REPORT.—Not later than 45 days after the date on which the President's fiscal year 2006 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2005, including an accounting of expenditures by agency with each agency identifying climate change activities

[93] Language pertaining to greenhouse gas emissions was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1999. A report similar to that required by subsec. (b) was first required by sec. 580 of the Foreign Assistance Appropriations Act, 1998. Sec. 554 of the Foreign Assistance Appropriations Act, 2003, addressed protection of biodiversity and tropical forests. Sec. 555 of the Foreign Assistance Appropriations Act, 2004, provided the first appropriations targeting the Amazon Basin of Brazil (expanded in this Act to include other countries in the Amazon Basin region).

and associated costs by line item as presented in the President's Budget Appendix; and

(2) all fiscal year 2004 obligations and estimated expenditures, fiscal year 2005 estimated expenditures and estimated obligations, and fiscal year 2006 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (i) to promote the transfer and deployment of a wide range of United States clean energy and energy efficiency technologies; (ii) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (iii) to promote carbon capture and sequestration measures; (iv) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (v) to develop assessments of the vulnerability to impacts of climate change and mitigation and adaptation response strategies.

(c) EXTRACTION OF NATURAL RESOURCES.—

(1) The Secretary of the Treasury shall inform the managements of the international financial institutions and the public that it is the policy of the United States that any assistance by such institutions (including but not limited to any loan, credit, grant, or guarantee) for the extraction and export of oil, gas, coal, timber, or other natural resource should not be provided unless the government of the country has in place or is taking the necessary steps to establish functioning systems for: (i) accurately accounting for revenues and expenditures in connection with the extraction and export of the type of natural resource to be extracted or exported; (ii) the independent auditing of such accounts and the widespread public dissemination of the audits; and (iii) verifying government receipts against company payments including widespread dissemination of such payment information in a manner that does not create competitive disadvantage or disclose proprietary information.

(2) Not later than 180 days after the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committees on Appropriations describing, for each international financial institution, the amount and type of assistance provided, by country, for the extraction and export of oil, gas, coal, timber, or other national resource since September 30, 2004.

UZBEKISTAN

SEC. 577.[94] Funds appropriated by this Act may be made available for assistance for the central Government of Uzbekistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America", including respect for human rights, es-

[94] Similar language first enacted as sec. 574(a) of the Foreign Assistance Appropriations Act, 2003. In FY 2003 and FY 2004, the sections relating to Uzbekistan and Kazakhstan were combined in one section under the heading "Central Asia".

tablishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media.

CENTRAL ASIA

SEC. 578.[95] (a) Funds appropriated by this Act may be made available for assistance for the Government of Kazakhstan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Kazakhstan has made significant improvements in the protection of human rights during the preceding 6 month period.

(b) The Secretary of State may waive subsection (a) if he determines and reports to the Committees on Appropriations that such a waiver is in the national security interest of the United States.

(c) Not later than October 1, 2005, the Secretary of State shall submit a report to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives describing the following:

(1) The defense articles, defense services, and financial assistance provided by the United States to the countries of Central Asia during the 6-month period ending 30 days prior to submission of such report.

(2) The use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the armed forces, border guards, or other security forces of such countries.

(d) For purposes of this section, the term "countries of Central Asia" means Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

DISABILITY PROGRAMS

SEC. 579. (a) Of the funds appropriated by this Act under the heading "Economic Support Fund", not less than $2,500,000 shall be made available for programs and activities to address the needs and protect the rights of people with disabilities in developing countries: *Provided,* That such funds shall be administered by the United States Agency for International Development ("USAID") and the Department of State, and shall be available for grants to nongovernmental organizations that work on behalf of people with disabilities in such countries.

(b) The Secretary of State and the USAID Administrator shall designate within their respective agencies an individual to serve as Disability "Advisor" or "Coordinator", whose function it shall be to ensure that disability rights are addressed, where appropriate, in United States policies and programs.

(c) Funds made available under subsection (a) may be made available for an international conference on the needs of people with disabilities, including disability rights, advocacy and access.

[95] Similar language first enacted as sec. 574(b) through (e) of the Foreign Assistance Appropriations Act, 2003. In FY 2003 and FY 2004, the sections relating to Uzbekistan and Kazakhstan were combined in one section under the heading "Central Asia".

(d) The Secretary of State, the Secretary of the Treasury, and the USAID Administrator shall seek to ensure that the needs of people with disabilities are addressed, where appropriate, in democracy, human rights, and rule of law programs, projects and activities supported by the Department of State, Department of the Treasury, and USAID.

(e) The USAID Administrator shall seek to ensure that programs, projects and activities administered by USAID comply fully with USAID's "Policy Paper: Disability" issued on September 12, 1997: *Provided,* That not later than 90 days after enactment of this Act, USAID shall implement procedures to require that prospective grantees seeking funding from USAID specify, when relevant, how the proposed program, project or activity for which funding is being requested will include protecting the rights and addressing the needs of persons with disabilities.

ZIMBABWE

SEC. 580.[96] The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.

TIBET

SEC. 581.[97] (a) The Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

(b) Notwithstanding any other provision of law, not less than $4,000,000 of the funds appropriated by this Act under the heading "Economic Support Fund" should be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China, and not less than $250,000 should be made available to the National Endowment for Democracy for human rights and democracy programs relating to Tibet.

[96] 22 U.S.C. 2151 note. First enacted as sec. 560 of the Foreign Assistance Appropriations Act, 2002.

[97] Similar language was first enacted as sec. 558 of the Foreign Assistance Appropriations Act, 2004.

NIGERIA

SEC. 582.[98] The President shall submit a report to the Committees on Appropriations describing the involvement of the Nigerian Armed Forces in the incident in Benue State, the measures that are being taken to bring such individuals to justice, and whether any Nigerian Armed Forces units involved with the incident in Benue State are receiving United States assistance.

DISCRIMINATION AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 583.[99] None of the funds appropriated under this Act may be made available for the Government of the Russian Federation, after 180 days from the date of the enactment of this Act, unless the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation has implemented no statute, Executive order, regulation or similar government action that would discriminate, or which has as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

CENTRAL AMERICA

SEC. 584. (a) Of the funds appropriated by this Act under the headings "Child Survival and Health Programs Fund" and "Development Assistance", not less than the amount of funds initially allocated pursuant to section 653(a) of the Foreign Assistance Act of 1961 for fiscal year 2004 should be made available for El Salvador, Guatemala, Nicaragua and Honduras.

(b) Not to exceed $3,227,000 in prior year "Military Assistance Program" funds that are available for Guatemala may be made available for non-lethal defense items for Guatemala if the Secretary of State certifies to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that—

(1) the role of the Guatemalan military has been limited, in doctrine and in practice, to substantially those activities in defense of Guatemala's sovereignty and territorial integrity that are permitted by the 1996 Peace Accords, and the Government of Guatemala is taking steps to pass a new governing law of the Army (Ley Constitutiva del Ejército);

(2) the Guatemalan military is cooperating with civilian judicial authorities, including providing full cooperation on access to witnesses, documents and classified intelligence files, in investigations and prosecutions of military personnel who have

[98] First enacted as a proviso in sec. 557 of the Foreign Assistance Appropriations Act, 2003. That section, and its successor sec. 560 of the Foreign Assistance Appropriations Act, 2004, prohibited IMET and FMF funding to Nigeria unless the President determined certain conditions were met.

[99] Similar language was first enacted as sec. 577 of the Foreign Assistance Appropriations Act, 1998. Omitted from the FY 2003 Act, however.

been implicated in human rights violations and other criminal activity;

(3) the Government of Guatemala is working with the United Nations to resolve legal impediments to the establishment of the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (CICIACS), so that CICIACS can effectively accomplish its mission of investigating and bringing to justice illegal groups and members of clandestine security organizations;

(4) the Government of Guatemala is continuing its efforts to make the military budget process transparent and accessible to civilian authorities and to the public, for both present and past expenditures;

(5) the Government of Guatemala is working to facilitate the prompt establishment of an office in Guatemala of the United Nations High Commissioner for Human Rights with the unimpeded authority to investigate and report on human rights in Guatemala; and

(6) the Government of Guatemala is taking steps to increase its efforts to combat narcotics trafficking and organized crime.

(c) Section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2370(a)) is amended by adding at the end the following new subsection: [100]

"(i) CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA.—

"(1) Any action of the types set forth in subparagraphs (A), (B), and (C) of subsection (a)(1) that was taken by the Government of Nicaragua during the period beginning on January 1, 1956, and ending on January 9, 2002, shall not be considered in implementing the prohibition under subsection (a) unless the action has been presented in accordance with the procedure set forth in paragraph (2).

"(2) An action shall be deemed presented for purposes of paragraph (1) if it is—

"(A) in writing; and

"(B) received by the United States Department of State on or before 120 days after the date specified in paragraph (3) at—

"(i) the headquarters of the United States Department of State in Washington, D.C.; or

"(ii) the Embassy of the United States of America to Nicaragua.

"(3) The date to which paragraph (2) refers is a date after enactment of this subsection that is specified by the Secretary of State, in the Secretary's discretion, in a notice published in the Federal Register.".

[100] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

WAR CRIMES IN AFRICA

SEC. 585.[101] (a) The Congress recognizes the important contribution that the democratically elected Government of Nigeria has played in fostering stability in West Africa.

(b) The Congress reaffirms its support for the efforts of the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL) to bring to justice individuals responsible for war crimes and crimes against humanity in a timely manner.

(c) Funds appropriated by this Act, including funds for debt restructuring, may be made available for assistance to the central government of a country in which individuals indicted by ICTR and SCSL are credibly alleged to be living, if the Secretary of State determines and reports to the Committees on Appropriations that such government is cooperating with ICTR and SCSL, including the surrender and transfer of indictees in a timely manner: *Provided,* That this subsection shall not apply to assistance provided under section 551 of the Foreign Assistance Act of 1961 or to project assistance under title II of this Act: *Provided further,* That the United States shall use its voice and vote in the United Nations Security Council to fully support efforts by ICTR and SCSL to bring to justice individuals indicted by such tribunals in a timely manner.

(d) The prohibition in subsection (c) may be waived on a country by country basis if the President determines that doing so is in the national security interest of the United States: *Provided,* That prior to exercising such waiver authority, the President shall submit a report to the Committees on Appropriations, in classified form if necessary, on: (1) the steps being taken to obtain the cooperation of the government in surrendering the indictee in question to SCSL or ICTR; (2) a strategy for bringing the indictee before ICTR or SCSL; and (3) the justification for exercising the waiver authority.

ADMISSION OF REFUGEES

SEC. 586.[102] (a) The Secretary of State shall utilize private voluntary organizations with expertise in the protection needs of refugees in the processing of refugees overseas for admission and resettlement to the United States, and shall utilize such agencies in addition to the United Nations High Commissioner for Refugees in the identification and referral of refugees.

(b) The Secretary of State should maintain a system for accepting referrals of appropriate candidates for resettlement from local private, voluntary organizations and work to ensure that particularly vulnerable refugee groups receive special consideration for admission into the United States, including—

(1) long-stayers in countries of first asylum;

(2) unaccompanied refugee minors;

(3) refugees outside traditional camp settings; and

[101] Similar language first enacted as sec. 589 of the Foreign Assistance Appropriations Act, 2004. The 2004 Act also earmarked not less than $5 million in ESF for a contribution to the Special Court of Sierra Leone.

[102] Similar language first enacted as sec. 590 of the Foreign Assistance Appropriations Act, 2004.

(4) refugees in woman-headed households.

(c) The Secretary of State shall give special consideration to—

(1) refugees of all nationalities who have close family ties to citizens and residents of the United States; and

(2) other groups of refugees who are of special concern to the United States.

CODE OF CONDUCT

SEC. 587.[103] (a) None of the funds made available by title II under the heading "Migration and Refugee Assistance" or "Transition Initiatives" to provide assistance to refugees or internally displaced persons may be provided to an organization that has failed to adopt a code of conduct consistent with the Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises six core principles for the protection of beneficiaries of humanitarian assistance.

(b) In administering the amounts made available for the accounts described in subsection (a), the Secretary of State and Administrator of the United States Agency for International Development shall incorporate specific policies and programs for the purpose of identifying specific needs of, and particular threats to, women and children at the various stages of humanitarian emergencies, especially at the onset of such emergency.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT HIRING AUTHORITY

SEC. 588.[104] (a) AUTHORITY.—Up to $37,500,000 of the funds made available in this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States", may be used by the United States Agency for International Development (USAID) to hire and employ individuals in the United States and overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980.

(b) RESTRICTIONS.—

(1) The number of individuals hired in any fiscal year pursuant to the authority contained in subsection (a) may not exceed 175, of which not more than 75 may be hired for employment in the United States.

(2) The authority to hire individuals contained in subsection (a) shall expire on September 30, 2007.

(c) CONDITIONS.—The authority of this section may only be used—

(1) to the extent that an equivalent number of positions that are filled by personal services contractors or other nondirect-hire employees of USAID, who are compensated with funds appropriated to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading "Assist-

[103] First enacted as sec. 594(a) and (b) of the Foreign Assistance Appropriations Act, 2004. Sec. 594(c) of the 2004 Act required a report of the Secretary of State on the protection of women and children in humanitarian emergencies.

[104] 22 U.S.C. 3948 note.

ance for Eastern Europe and the Baltic States", are eliminated; and

(2) after consultations between the Committees on Appropriations and the USAID Administrator on the implementation of this section and USAID work force issues more generally.

(d) PRIORITY SECTORS.—In exercising the authority of this section, primary emphasis shall be placed on enabling USAID to meet personnel positions in technical skill areas currently encumbered by contractor or other nondirect-hire personnel.

(e) CONSULTATIONS.—After the initial consultations required by subsection (c)(2), the USAID Administrator shall consult with the Committees on Appropriations at least on a quarterly basis thereafter concerning the implementation of this section.

(f) PROGRAM ACCOUNT CHARGED.—The account charged for the cost of an individual hired and employed under the authority of this section shall be the account to which such individual's responsibilities primarily relate. Funds made available to carry out this section may be transferred to and merged and consolidated with funds appropriated for "Operating Expenses of the United States Agency for International Development".

(g) RELATION TO PRIOR LAW.—Upon completion of the consultations required by subsection (c)(2), the authority contained in this section shall supersede the authority contained in section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004.[105]

(h) DISASTER SURGE CAPACITY.—Funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States", may be used, in addition to funds otherwise available for such purposes, for the cost (including the support costs) of individuals detailed to or employed by the United States Agency for International Development whose primary responsibility is to carry out programs in response to natural disasters.

OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK RESTRICTIONS

SEC. 589.[106] (a) LIMITATION ON USE OF FUNDS BY OPIC.—None of the funds made available in this Act may be used by the Overseas Private Investment Corporation to insure, reinsure, guarantee, or finance any investment in connection with a project involving the mining, polishing or other processing, or sale of dia-

[105] Sec. 525 of the Foreign Assistance Appropriations Act, 2004, provided the following:

"USAID OVERSEAS PROGRAM

"SEC. 525. Funds appropriated by this and subsequent appropriations Acts to carry out the provisions of part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading 'Assistance for Eastern Europe and the Baltic States', may be made available to employ individuals overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980: *Provided,* That in fiscal years 2004, 2005, and 2006 the authority of this section may be used to hire not more than 85 individuals in each such year.".

[106] Similar language first enacted as sec. 590 of the Foreign Assistance Appropriations Act, 2002.

monds in a country that fails to meet the requirements of subsection (c).

(b) LIMITATION ON USE OF FUNDS BY THE EXPORT-IMPORT BANK.—None of the funds made available in this Act may be used by the Export-Import Bank of the United States to guarantee, insure, extend credit, or participate in an extension of credit in connection with the export of any goods to a country for use in an enterprise involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsections (a) and (b) are that the country concerned is implementing the recommendations, obligations and requirements developed by the Kimberley Process on conflict diamonds.

SECURITY IN ASIA

SEC. 590.[107] (a) INDONESIA.—Funds made available for assistance for Indonesia under the heading "Foreign Military Financing Program" may be made available for assistance for the Indonesian navy notwithstanding section 572 of this Act if the Secretary of State reports to the Committees on Appropriations that the Indonesian navy is not violating human rights and is cooperating with civilian judicial authorities on cases involving human rights violations: *Provided,* That such funds may only be made available for assistance for the Indonesian navy for the purposes of enhancing maritime security: *Provided further,* That such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations.

(b) CAMBODIA.—Funds made available for assistance for Cambodia under the heading "Foreign Military Financing Program" may be made available notwithstanding section 554 of this Act: *Provided,* That such funds shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(c) NEPAL.—

(1) The Congress deplores and condemns the Maoist insurgency in Nepal which has engaged in widespread atrocities against civilians and Nepalese security forces, and calls on other nations to denounce these vicious acts.

(2) Funds appropriated under the heading "Foreign Military Financing Program" may be made available for assistance for Nepal if the Secretary of State reports to the Committees on Appropriations that the Government of Nepal:

(A) has determined the number of and is making substantial progress in complying with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders;

(B) is cooperating with the National Human Rights Commission of Nepal to identify and resolve all security related cases involving individuals in government custody;

[107] Language pertaining to providing IMET and FMF funding to Indonesia with conditions was first enacted as sec. 589 of the Foreign Assistance Appropriations Act, 2000.

(C) is granting the National Human Rights Commission of Nepal unimpeded access to all places of detention; and

(D) is taking effective steps to end torture by security forces and to prosecute members of such forces who are responsible for gross violations of human rights.

(3) The Secretary of State may waive the requirements of paragraph (2) if he determines and reports to the Committees on Appropriations that to do so is in the national security interests of the United States.

HIPC DEBT REDUCTION AND TRUST FUND

SEC. 591. (a) Section 801(b)(1) of Public Law 106–429 is amended—[108]

(1) by inserting "(i)" after "appropriated"; and

(2) by inserting before the period "; and (ii) for fiscal years 2004–2006, not more than $150,000,000, for purposes of additional United States contributions to the HIPC Trust Fund administered by the Bank, which are authorized to remain available until expended".

(b) Section 501(i) of Public Law 106–113[109] is amended by striking "2003–2004" and inserting "2000–2006".

COMPLIANCE WITH THE ALGIERS AGREEMENTS

SEC. 592. None of the funds appropriated by this Act may be made available for assistance for the central Governments of Ethiopia or Eritrea unless the Secretary of State certifies and reports to the Committees on Appropriations that such government is taking steps to comply with the terms of the Algiers Agreements: *Provided,* That this section shall not apply to democracy, rule of law, peacekeeping programs and activities, child survival and health, basic education, and agriculture programs: *Provided further,* That the Secretary may waive the requirements of this section if he determines that to do so is in the national security interests of the United States.

ADMINISTRATIVE PROVISIONS RELATED TO MULTILATERAL DEVELOPMENT BANKS

SEC. 593. (a) Section 1307 of the International Financial Institutions Act (22 U.S.C. 262m–7) is amended—[110]

(1) by striking subsection (a) and inserting the following:

"(a) ASSESSMENT REQUIRED BEFORE FAVORABLE VOTE ON PROPOSAL.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank not to vote in favor of any proposal (including but not limited to any loan, credit, grant, guarantee) which would result or be likely to result in significant impact on the environment, unless the Secretary, after consultation with the Secretary of State and the Administrators of the United States Agency for International Develop-

[108] For amended text of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106–429), see page 1086.

[109] For amended text of the Miscellaneous Appropriations, 2000 (H.R. 3425, enacted by reference in Public Law 106–113), see page 1112.

[110] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

ment and the Environmental Protection Agency, determines that for at least 120 days before the date of the vote—

"(1) an assessment analyzing the environmental impacts of the proposed action, including associated and cumulative impacts, and of alternatives to the proposed action, has been completed by the borrower or the bank and has been made available to the board of directors of the bank; and

"(2) such assessment or a comprehensive summary of the assessment (with proprietary information redacted) has been made available to affected groups, and local nongovernmental organizations and notice of its availability in the country and at the bank has been posted on the bank's website."; and

(2) by striking subsection (g) and inserting the following:

"(g) MULTILATERAL DEVELOPMENT BANK DEFINED.—In this title, the term 'multilateral development bank' means the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, the Inter-American Investment Corporation, any other institution (other than the International Monetary Fund) specified in section 1701(c)(2), and any subsidiary of any such institution.".

(b) Section 1303(b) of the International Financial Institutions Act (22 U.S.C. 262m–2(b)) is amended—

(1) by inserting "(1)" after "(b)" and replacing "International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank" with the phrase "multilateral development banks as defined in section 1307(g)"; and

(2) by inserting at the end of subsection (b) the following text:

"(2) The Secretary of the Treasury shall instruct such Executive Directors to work with other countries' Executive Directors and multilateral development bank management to—

"(A) improve the procedures of each multilateral development bank for providing its board of directors with a complete and accurate record regarding public consultation before they vote on proposed projects with significant environmental implications; and

"(B) revise bank procedures to consistently require public consultation on operational policy proposals or revisions that have significant environmental or social implications.

"(3) Progress under this subsection shall be incorporated into Treasury's required annual report to Congress on the environmental performance of the multilateral development banks.".

VIETNAMESE REFUGEES

SEC. 594. (a) ELIGIBILITY FOR IN-COUNTRY REFUGEE PROCESSING IN VIETNAM.—For purposes of eligibility for in-country refugee processing for nationals of Vietnam during fiscal years 2004 and 2005, an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States

(within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157)) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) ALIENS COVERED.—An alien described in this subsection is an alien who—

(1) is the son or daughter of a qualified national;

(2) is 21 years of age or older; and

(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City.

(c) QUALIFIED NATIONAL.—The term "qualified national" in subsection (b)(1) means a national of Vietnam who—

(1)(A) was formerly interned in a re-education camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(B) is the widow or widower of an individual described in subparagraph (A);

(2)(A) qualified for refugee processing under the Orderly Departure Program re-education subprogram; and

(B) is or was accepted under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City—

(i) for resettlement as a refugee; or

(ii) for admission to the United States as an immediate relative immigrant; and

(3)(A) is presently maintaining a residence in the United States or whose surviving spouse is presently maintaining such a residence; or

(B) was approved for refugee resettlement or immigrant visa processing and is awaiting departure formalities from Vietnam or whose surviving spouse is awaiting such departure formalities.

JOINT EXPLANATORY STATEMENT

SEC. 595. (a) Funds provided in this Act for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the joint explanatory statement of managers accompanying this Act:

"Economic Support Fund".

"Assistance for Eastern Europe and the Baltic States".

"Assistance for the Independent States of the Former Soviet Union".

"Andean Counterdrug Initiative".

"Nonproliferation, Anti-Terrorism, Demining and Related Programs".

"Foreign Military Financing Program".

"International Organizations and Programs".

(b) Any proposed increases or decreases to the amounts contained in such tables in the joint explanatory statement of managers shall be subject to the regular notification procedures of the Committees

on Appropriations and section 634A of the Foreign Assistance Act of 1961.

This division may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005".

b. Continuing Appropriations, 2005

Partial text of Public Law 108–309 [H.J. Res. 107], 118 Stat. 1137, approved September 30, 2004; amended by Public Law 108–416 [H.J. Res. 114], 118 Stat. 2338, approved November 21, 2004

JOINT RESOLUTION Making continuing appropriations for the fiscal year 2005, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2005, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2004 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2004, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004.

(2) The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

(3) The District of Columbia Appropriations Act, 2004.

(4) The Energy and Water Development Appropriations Act, 2004, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

(5) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

(6) The Department of Homeland Security Appropriations Act, 2004.

(7) The Department of the Interior and Related Agencies Appropriations Act, 2004.

(8) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004.

(9) The Legislative Branch Appropriations Act, 2004.

(10) The Military Construction Appropriations Act, 2004.

(11) The Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.

(12) The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2004.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. The appropriations Acts listed in section 101 shall be deemed to include miscellaneous and supplemental appropriation laws enacted during fiscal year 2004.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2004.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

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SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) December 3, 2004,[1] whichever first occurs.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2004 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2005 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

[1] Public Law 108–416 (118 Stat. 2338) struck out "November 20, 2004" and inserted in lieu thereof "December 3, 2004".

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

* * * * * * *

SEC. 117.[2] Section 6 of Public Law 107–57, as amended by section 2213 of Public Law 108–106, shall be applied by substituting the date specified in section 107(c) of this joint resolution for "October 1, 2004", and sections 508 and 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Public Law 108–199, division D), as made applicable to fiscal year 2005 by the provisions of this joint resolution, shall not apply with respect to Pakistan through the date specified in section 107(c) of this joint resolution.

* * * * * * *

SEC. 119.[3] (a) Section 616(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Public Law 108–199, division D) shall apply to funds made available by this joint resolution pursuant to section 619(a) of such Act: *Provided,* That for purposes of funds made available by this joint resolution that are used to carry out section 616(d) of such Act, a candidate country is a country that satisfies the requirements of subparagraphs (A) and (B) of section 606(a)(2) of such Act.

* * * * * * *

SEC. 121.[4] Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended by adding the following new subsection at the end:

"(e)(1) The Panama Canal Commission and the Office of Transition Administration (described in section 3504 of Public Law 106–65) shall terminate on October 1, 2004.

"(2) Upon termination pursuant to paragraph (1), the Panama Canal Revolving Fund shall be transferred to the General Services Administration (GSA). GSA shall use the amounts in the Fund to make payments of any outstanding liabilities of the Commission, as well as any expenses associated with the termination of the Office of Transition Administration and the Commission. The fund shall be the exclusive source available for payment of any outstanding liabilities of the Commission.".

* * * * * * *

SEC. 123. Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq, subject to the regular notification procedures of the

[2] For text of Public Law 107–57, as amended, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[3] Title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199) is the Millennium Challenge Act of 2003; for text, see page 530.

[4] For text of the Panama Canal Act of 1979, see *Legislation on Foreign Relations Through 2004*, vol. II.

Committees on Appropriations, through the date specified in section 107(c) of this joint resolution.

* * * * * * *

SEC. 133.[5] Title II of Public Law 108–106 is amended under the heading "Iraq Relief and Reconstruction Fund" by—

(1) striking "$3,243,000,000" and inserting "$5,090,000,000" for security and law enforcement;

(2) striking "$1,318,000,000" and inserting "$1,960,000,000" for justice, public safety infrastructure, and civil society;

(3) striking "$5,560,000,000" and inserting "$4,455,000,000" for the electric sector;

(4) striking "$1,890,000,000" and inserting "$1,723,000,000" for oil infrastructure;

(5) striking "$4,332,000,000" and inserting "$2,361,000,000" for water resources and sanitation;

(6) striking "$153,000,000" and inserting "$845,000,000" for private sector development; and

(7) striking "$280,000,000" and inserting "$342,000,000" for education, refugees, human rights and governance.

SEC. 134.[5] Title II of Public Law 108–106 is amended under the heading "Iraq Relief and Reconstruction Fund"—

(1) in the sixth proviso, by striking "$29,000,000" and inserting "$119,000,000"; and

(2) in the seventh proviso by—

(A) striking "Coalition Provisional Authority" and inserting "United States Agency for International Development"; and

(B) striking "to fully pay for its" and inserting "for".

SEC. 135.[6] Sections 569 and 574 of H.R. 4818, as passed by the House of Representatives on July 15, 2004, are hereby enacted into law: *Provided,* That not to exceed $360,000,000 of the funds made available by Public Law 108–106 under the heading "Iraq Relief and Reconstruction Fund" may be made available for the purposes of such section 569.

* * * * * * *

[5] For amended text of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), see page 1043.

[6] 22 U.S.C. 2151 note.

c. Foreign Assistance Provisions in the Department of Defense Appropriations Act, 2005

Partial text of Public Law 108–287 [Department of Defense Appropriations Act, 2005; H.R. 4613], 118 Stat. 951, approved August 5, 2004

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

TITLE X

OTHER MATTERS

* * * * * * *

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for "International Disaster and Famine Assistance", $70,000,000, to remain available until expended: *Provided,* That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $25,000,000, to remain available until expended: *Provided,* That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 12001. (a)(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President may transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are armor, artillery, automatic weapons ammunition, missiles, and other munitions that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for Israel; and

(D) as of the date of enactment of this Act, are located in a stockpile in Israel.

(b) The value of concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) Not later than 30 days before making a transfer under the authority of this section, the President shall transmit a notification of the proposed transfer to the Committees on Foreign Relations and Armed Services of the Senate and the Committees on International Relations and Armed Services of the House of Representatives. The notification shall identify the items to be transferred and the concessions to be received.

(d) No transfer may be made under the authority of this section more than 2 years after the date of the enactment of this Act.

SEC. 12002. Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended—

(1) in subparagraph (A), by striking "for fiscal year 2003" and inserting "for each of fiscal years 2004 and 2005"; and

(2) in subparagraph (B), by striking "for fiscal year 2003" and inserting "for a fiscal year".

* * * * * * *

This Act may be cited as the "Department of Defense Appropriations Act, 2005".

d. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004

Division D of Public Law 108–199 [Consolidated Appropriations Act, 2004; H.R. 2673], 118 Stat. 3 at 143, approved January 23, 2004

* * * * * * *

DIVISION D—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2004

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes.

NOTE.—Fiscal year 2003 appropriations were continued into fiscal year 2004 in Public Law 108–84 (117 Stat. 1042; approved September 30, 2003), as amended, pending final passage of several annual appropriations bills including foreign assistance appropriations.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of

this Act: *Provided further,* That[1] notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through October 1, 2004.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $72,895,000: *Provided,* That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: *Provided further,* That,[2] notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2004.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $41,385,000: *Provided*

[1] 12 U.S.C. 635 note. Sec. 1(a) and (b) of Public Law 103–428 amended sec. 2(b)(6)(H) and (I) of the Export-Import Bank Act of 1945. Sec. 1(c) of that Act, however, provided that the amendments would remain in effect from enactment through September 30, 1997. Sec. 2(b)(6)(H) and (I) provide as follows:

"(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

"(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

"(I) the Bank determines that—

"(aa) the defense articles or service are nonlethal; and

"(bb) the primary end use of the defense articles or services will be for civilian purposes; and

"(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

"(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

"(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.".

[2] 12 U.S.C. 635a note.

further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2004 and 2005: *Provided further,* That such sums shall remain available through fiscal year 2012 for the disbursement of direct and guaranteed loans obligated in fiscal year 2004, and through fiscal year 2013 for the disbursement of direct and guaranteed loans obligated in fiscal year 2005.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $50,000,000, to remain available until September 30, 2005.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2004, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,835,000,000, to remain available until September 30, 2005: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3)

health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $330,000,000 for child survival and maternal health; $28,000,000 for vulnerable children; $516,500,000 for HIV/AIDS including not less than $22,000,000 which should be made available to support the development of microbicides as a means for combating HIV/AIDS; $185,000,000 for other infectious diseases; and $375,500,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: *Provided further*, That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $400,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 1701 et seq.) as amended by section 595 of this Act, for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the "Global Fund"), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, not less than $26,000,000 should be made available for the International AIDS Vaccine Initiative and not less than $26,000,000 should be made available for a United States contribution to UNAIDS: *Provided further,* That of the funds appropriated under this heading, $60,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a meth-

od of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That to the maximum extent

feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act or prior appropriations Acts that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States: *Provided further,* That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

DEVELOPMENT ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,385,000,000, of which up to $150,000,000 may remain available until September 30, 2005: *Provided*, That none of the funds appropriated under title II of this Act that are managed by or allocated to the United States Agency for International Development's Global Development Secretariat, may be made available except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That $190,000,000 should be allocated for trade capacity building: *Provided further*, That $235,000,000 should be allocated for basic education: *Provided further*, That of the funds appropriated under this heading and managed by the United States Agency for International Development Bureau of Democracy, Conflict, and Humanitarian Assistance, not less than $11,000,000 shall be made available only for programs to improve women's leadership capacity in recipient countries: *Provided further*, That such funds may not be made available for construction: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $32,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further,* That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $25,000,000 should be made available for plant biotechnology research and development: *Provided further,* That not less than $2,300,000 should be made available for core support for the International Fertilizer Development Center: *Provided further,* That of the funds appropriated under this heading, not less than $19,000,000 should be made available for the American Schools and Hospitals Abroad program: *Provided further,* That of the funds appropriated under this heading, not less than $10,000,000, in addition to other funds available under this heading for assistance for Mexico, should be made available for programs and activities in rural Mexico to promote microfinance, small business development, energy and environmental conservation, and private property ownership in rural communities, and to support small farmers who have been affected by adverse economic conditions: *Provided further,* That funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated by this Act, $100,000,000 shall be

made available for drinking water supply projects and related activities.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE [3]

For necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961, as amended for international disaster relief, rehabilitation, and reconstruction assistance, $235,500,000, to remain available until expended.

In addition, for necessary expenses for assistance for famine prevention and relief, including for mitigation of the effects of famine, $20,000,000, to remain available until expended: *Provided*, That such funds shall be made available utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, and shall be in addition to amounts otherwise available for such purposes: *Provided further*, That funds appropriated by this paragraph shall be available for obligation subject to prior consultation with the Committees on Appropriations.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $55,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided,* That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further,* That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance: *Provided further,* That if the President determines that is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to $15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds

[3] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1227), provided the following:

"INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

"(INCLUDING TRANSFER OF FUNDS)

"For necessary expenses for International Disaster and Famine Assistance utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, to respond to or prevent unforeseen complex foreign crises in Liberia and Sudan, $110,000,000, and by transfer not to exceed 0.5 percent of the funds appropriated under any other heading in this chapter, to remain available to the Secretary of State until September 30, 2005: *Provided,* That funds appropriated under this heading may be made available only pursuant to a determination by the President, after consultation with the appropriate congressional committees, that it is in the national interest and essential to efforts to reduce international terrorism to furnish assistance on such terms and conditions as he may determine for such purposes, including support for peace and humanitarian intervention operations: *Provided further,* That none of these funds shall be available to respond to natural disasters: *Provided further,* That funds made available under this heading to respond to or prevent unforeseen complex foreign crises shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That not less than $100,000,000 of the funds appropriated under this heading shall be made available for assistance for Liberia.".

appropriated under this heading: *Provided further,* That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading "Assistance for Eastern Europe and the Baltic States": *Provided*, That such funds shall not exceed $21,000,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations.

In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided*, That funds made available under this heading shall remain available until September 30, 2007.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $43,859,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT [4]

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $604,100,000, of which up

[4] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224), provided the following:

"OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"For an additional amount for 'Operating Expenses of the United States Agency for International Development', $38,100,000, for direct support of operations in Afghanistan, to remain available until September 30, 2005.

"In addition, for direct support of operations in Iraq, $1,900,000, which shall be transferred to and merged with 'Operating Expenses of the United States Agency for International Development Office of Inspector General' for financial and performance audits of the Iraq Relief and

to $25,000,000 may remain available until September 30, 2005: *Provided,* That none of the funds appropriated under this heading and under the heading "Capital Investment Fund" may be made available to finance the construction (including architect and engineering services), purchase, or long term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further,* That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long term lease of offices does not exceed $1,000,000: *Provided further,* That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2005: *Provided further,* That in addition not to exceed $15,000,000 shall be derived by transfer from the "Iraq Relief and Reconstruction Fund" (Public Law 108–11) to support the United States Agency for International Development mission in Iraq: *Provided further,* That none of the funds in this Act may be used to open a new overseas mission of the United States Agency for International Development without the prior written notification of the Committees on Appropriations: *Provided further,* That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to "Operating Expenses of the United States Agency for International Development" in accordance with the provisions of those sections: *Provided further,* That during fiscal year 2004, the number of full-time equivalent positions for United States foreign service employees of the United States Agency for International Development for countries in the Latin America and Caribbean region shall not be reduced below the number for such employees for countries in that region as of September 30, 2003, except as provided through the regular notification procedures of the Committees on Appropriations.

CAPITAL INVESTMENT FUND [5]

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information

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Reconstruction Fund and other assistance to Iraq, to remain available until September 30, 2005.".

[5] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224), provided the following:

"CAPITAL INVESTMENT FUND

"For an additional amount for 'Capital Investment Fund', $16,600,000, to remain available until expended: *Provided,* That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this account as an offsetting collection: *Provided further,* That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.".

technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, $82,200,000, to remain available until expended: *Provided,* That this amount is in addition to funds otherwise available for such purposes: *Provided further,* That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this account as an offsetting collection: *Provided further,* That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the assignment of United States Government employees or contractors to space in buildings constructed using funds appropriated under this heading shall be subject to the concurrence of the Administrator of the United States Agency for International Development: *Provided further,* That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $35,000,000, to remain available until September 30, 2005, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND [6]

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,132,500,000, to remain available until September 30,

[6] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1226), provided the following:

"ECONOMIC SUPPORT FUND

"For an additional amount for 'Economic Support Fund', $872,000,000, to remain available until December 31, 2004: *Provided,* That not less than $672,000,000 is available only for accelerated assistance for Afghanistan: Provided further, That these funds are available notwithstanding section 660 of the Foreign Assistance Act of 1961, and section 620(q) of that Act or any comparable provision of law: *Provided further,* That these funds may be used for activities related to disarmament, demobilization, and reintegration of militia combatants, including registration of such combatants, notwithstanding section 531(e) of the Foreign Assistance Act of 1961: *Provided further,* That the obligation of funds made available by this Act or any prior appropriations Act for the purpose of deploying and supporting senior advisors to the United States Chief of Mission in Kabul, Afghanistan, is subject to the regular reprogramming and notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961: *Provided further,* That $60,000,000 should be made available for assistance for Afghan women and girls and $5,000,000 shall be made available for the Afghan Independent Human Rights Commission: *Provided further,* That not less than $8,000,000 is available only for the provision of adequate dedicated air transport and support for civilian personnel at provincial reconstruction team sites: *Provided further,* That upon the receipt by the Speaker of the House of Representatives and the President of the Senate of a determination by the President that the Government of Pakistan is cooperating with the United States in the global war on

2005: *Provided,* That of the funds appropriated under this heading, not less than $480,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That not less than $575,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: *Provided further,* That of the funds appropriated under this heading, not less than $250,000,000 should be made available only for assistance for Jordan: *Provided further,* That of the funds appropriated under this heading, up to $1,000,000 should be used to further legal reforms in the West Bank and Gaza, including judicial training on commercial disputes and ethics: *Provided further,* That funds appropriated under this heading shall be made available for administrative costs of the United States Agency for International Development to implement regional programs in Asia and the Near East, including the Middle East Partnership Initiative, in addition to amounts otherwise available for such purposes: *Provided further,* That $13,500,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further,* That $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon, of which not less than $4,000,000 should be made available for American educational institutions for scholarships and other programs: *Provided further,* That notwithstanding section 534(a) of this Act, funds appropriated under this heading that are made available for assistance for the Central Government of Lebanon shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading, not less than $22,500,000 shall be made available for assistance for the Democratic Republic of Timor-Leste, of which up to $1,000,000 may be available for administrative expenses of the United States Agency for International Development: *Provided further,* That of the funds appropriated under this heading, not less than $1,500,000 should be made available for technical assistance for countries to imple-

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terrorism, not to exceed $200,000,000 appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: *Provided further,* That amounts that are made available under the previous proviso for the cost of modifying direct loans and guarantees shall not be considered 'assistance' for the purposes of provisions of law limiting assistance to a country.".

ment and enforce the Kimberley Process Certification Scheme: *Provided further,* That funds appropriated under this heading should be made available to support the development of justice and reconciliation mechanisms in the Democratic Republic of the Congo, Rwanda, Burundi, and Uganda, including programs to improve local capacity to prevent and respond to gender-based violence: *Provided further,* That funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That in the previous proviso, the term "assistance" includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes: *Provided further,* That of the funds appropriated under this heading, not less than $1,750,000 should be made available for East Asia and Pacific Environment Initiatives: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries: *Provided further,* That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated: *Provided further,* That of the funds appropriated in Public Law 108–106 under the heading "Iraq Relief and Reconstruction Fund", up to $100,000,000 may be transferred to and consolidated with funds appropriated by this Act under this heading and made available for Turkey, and up to $30,000,000 may be transferred to and consolidated with funds appropriated by this Act under this heading and made available for the Middle East Partnership Initiative: *Provided further,* That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table accompanying the joint explanatory statement of the managers accompanying this Act: *Provided further,* That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $18,500,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415):[7] *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 2005.

GLOBAL HIV/AIDS INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, $491,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, $15,000,000 may be apportioned directly to the Peace Corps to remain available until expended for necessary expenses to carry out activities to combat HIV/AIDS, tuberculosis and malaria: *Provided further,* That of the funds appropriated under this heading, not more than $8,000,000 may be made available for administrative expenses of the office of the "Coordinator of United States Government Activities to Combat HIV/AIDS Globally" of the Department of State: *Provided further*, That in carrying out the duties specified in section 1(f)(2)(B)(ii)(VII) of the State Department Basic Authorities Act of 1956,[8] the Coordinator shall ensure that assistance is provided for activities in not fewer than 15 countries, at least one of which shall not be in Africa or the Caribbean region: *Provided further*, That of the funds appropriated under this heading, up to $75,000,000 should be made available for the safe and appropriate use of injections and other forms of infection control and prevention, and for blood safety programs.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989,[9] $445,000,000, to remain available until September 30, 2005, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: *Provided,* That of the funds appropriated under this heading that are made available for assistance for Bulgaria, $2,000,000 should be made available to enhance safety at nuclear power plants: *Provided further,*

[7] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[8] Sec. 1(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) establishes the position of HIV/AIDS Response Coordinator. Sec. 1(f)(2)(B)(ii)(VII) establishes the specific duty for the Coordinator as follows:

"(VII) Directly approving all activities of the United States (including funding) relating to combatting HIV/AIDS in each of Botswana, Cote d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Zambia, and other countries designated by the President, which other designated countries may include those countries in which the United states is implementing HIV/AIDS programs as of the date of the enactment of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.".

[9] For text of the SEED Act, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

That of the funds appropriated under this heading, and under the headings "Assistance for the Independent States of the Former Soviet Union", "Foreign Military Financing Program", and "Economic Support Fund", not less than $53,500,000 shall be made available for programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, and malaria: *Provided further,* That of the funds appropriated under this heading that are made available for Montenegro, not less than $12,000,000 shall be made available for economic development and environmental programs in the coastal region: *Provided further,* That of the funds appropriated under this heading, up to $1,000,000 should be made available for a program to promote greater understanding and interaction among youth in Albania, Kosovo, Montenegro and Macedonia: *Provided further,* That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table accompanying the joint explanatory statement of the managers accompanying this Act: *Provided further,* That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(c) With regard to funds appropriated under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program) the Administrator of the United States Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee.

(d) The provisions of section 529 of this Act shall apply to funds made available under subsection (c) and to funds appropriated under this heading: *Provided,* That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

(e) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and

Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between state sponsors of terrorism and terrorist organizations and Bosnian officials has not been terminated.[10]

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act,[11] for assistance for the Independent States of the former Soviet Union and for related programs, $587,000,000, to remain available until September 30, 2005: *Provided,* That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further,* That of the funds made available for the Southern Caucasus region, notwithstanding any other provision of law, funds may be used for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further*, That of the funds appropriated under this heading, $1,500,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: *Provided further,* That of the funds appropriated under this heading, $17,500,000 shall be made available solely for assistance for the Russian Far East, of which not less than $3,000,000 shall be made available for programs and activities authorized under section 307 of the FREEDOM Support Act (Public Law 102–511): *Provided further,* That $4,000,000 shall be made available to promote freedom of the media and an independent media in Russia: *Provided further,* That of the funds appropriated under this heading, up to $500,000 should be made available to support democracy building programs in Russia through the Sakharov Archives: *Provided further,* That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses.

(b) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than $19,000,000

[10] Article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina provides as follows:

"WITHDRAWAL OF FOREIGN FORCES

"1. All Forces in Bosnia and Herzegovina as of the date this Annex enters into force which are not of local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, or Republika Srpska, shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within thirty (30) days. Furthermore, all Forces that remain on the territory of Bosnia and Herzegovina must act consistently with the territorial integrity, sovereignty, and political independence of Bosnia and Herzegovina. In accordance with Article II, paragraph 1, this paragraph does not apply to UNPROFOR, the International Police Task Force referred to in the General Framework Agreement, the IFOR or other elements referred to in Article I, paragraph 1(c).

"2. In particular, all foreign Forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other States, shall be withdrawn from the Territory of Bosnia and Herzegovina in accordance with Article III, paragraph 1.".

[11] For text of the FREEDOM Support Act, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

should be made available for nuclear reactor safety initiatives, and not less than $1,500,000 shall be made available for coal mine safety programs.

(c) Of the funds appropriated under this heading, not less than $94,000,000 shall be made available for assistance for Russia.

(d) Of the funds appropriated under this heading, not less than $75,000,000 shall be made available for assistance for Armenia.

(e) Of the funds appropriated under this heading, not less than $57,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

(f)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation—

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(g) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 [12] or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

[12] Sec. 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2301 note) relates to international border security among the states of the former Soviet Union, the Baltic States, and other countries of Eastern Europe. For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

(6) humanitarian assistance.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969,[13] $16,334,000, to remain available until September 30, 2005.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533,[14] $18,689,000, to remain available until September 30, 2005: *Provided,* That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: *Provided further,* That interest earned shall be used only for the purposes for which the grant was made: *Provided further,* That notwithstanding section 505(a)(2) of the African Development Foundation Act,[15] in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: *Provided further,* That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612),[16] $310,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 2005: *Provided further,* That during fiscal year 2004 and any subsequent fiscal year, the Director of the Peace Corps may make appointments or assignments, or extend current appointments or assignments, to permit United States citizens to serve for periods in excess of 5 years in the case of individuals whose appointment or assignment, such as regional safety security officers and employees within the Office of the Inspector General, involves the safety of Peace Corps volunteers: *Provided further,* That the Director of the Peace Corps may make such appointments or assignments notwithstanding the provisions of section 7 of the Peace Corps Act limiting the length of an appointment or assignment, the circumstances under which such an appointment or assignment may exceed 5 years, and the percentage of appointments or assignments that can be made in excess of 5 years.

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[13] For text, see page 855.
[14] For text, see page 787.
[15] For text of the African Development Foundation Act, see *Legislation on Foreign Relations Through 2004*, vol. I–B.
[16] The Peace Corps Act, as amended (Public Law 87–293), may be found in *Legislation on Foreign Relations Through 2004*, vol. I–B.

MILLENNIUM CHALLENGE CORPORATION

For necessary expenses for the "Millennium Challenge Account", $650,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, not more than $50,000,000 may be available for administrative expenses.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT [17]

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $241,700,000, to remain available until September 30, 2006: *Provided,* That during fiscal year 2004, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading, $12,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: *Provided further,* That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the funds appropriated under this heading, $7,105,000 should be made available for the International Law Enforcement Academy in Roswell, New Mexico, of which $2,105,000 should be made available for construction and completion of a new facility: *Provided further,* That of the funds appropriated under this heading, not more than $26,117,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $731,000,000, to remain available until September 30, 2006: *Provided,* That in fiscal year 2004, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and

[17] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1228), provided the following:

"INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

"For an additional amount for 'International Narcotics Control and Law Enforcement', $170,000,000, to remain available until December 31, 2004, for accelerated assistance for Afghanistan.".

to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further,* That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further,* That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: *Provided further,* That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the funds appropriated under this heading, not less than $257,000,000 shall be made available for alternative development/institution building, of which $229,200,000 shall be apportioned directly to the United States Agency for International Development: *Provided further,* That of the funds appropriated under this heading, not less than $25,000,000 should be made available for justice and rule of law programs in Colombia: *Provided further,* That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $13,000,000 should be made available for organizations and programs to protect human rights: *Provided further,* That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State, after consultation with the Administrator of the Environmental Protection Agency (EPA), certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for comparable use in the United States and any additional controls recommended by the EPA for this program, and with the Colombian Environmental Management Plan for aerial fumigation; and (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment: *Provided further,* That such funds may not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair com-

pensation is being paid for meritorious claims: *Provided further,* That such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: *Provided further,* That of the funds appropriated under this heading, not less than $2,500,000 should be made available for continued training, equipment, and other assistance for the Colombian National Park Service: *Provided further,* That funds appropriated by this Act may be used for aerial fumigation in Colombia's national parks or reserves if the Secretary of State determines that it is in accordance with Colombian laws and that there are no effective alternatives to reduce drug cultivation in these areas: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961, as amended, shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the provisions of section 3204(b) through (d) of Public Law 106–246,[18] as amended by Public Law 107–115, shall be applicable to funds appropriated for fiscal year 2004: *Provided further,* That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further,* That funds appropriated under this heading that are available for assistance for the Bolivian military and police should be made available for such purposes subject to a determination by the Secretary of State, and a report to the Committees on Appropriations, that the Bolivian military and police are respecting human rights and cooperating with investigations and prosecutions of alleged violations of human rights: *Provided further,* That of the funds appropriated under this heading, not more than $16,285,000 may be available for administrative expenses of the Department of State, and not more than $4,500,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase

[18] Public Law 106–246, as amended, implements "Plan Colombia"; for text, see page 1094.

and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $760,197,000, which shall remain available until expended: *Provided,* That not more than $21,000,000 may be available for administrative expenses: *Provided further,* That not less than $50,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel: *Provided further,* That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)),[19] $30,000,000, to remain available until expended: *Provided,* That funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of such Act which would limit the amount of funds which could be appropriated for this purpose.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS[20]

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $353,500,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act,[21] section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That of this amount not to exceed $30,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disar-

[19] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[20] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1228), provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For an additional amount for 'Nonproliferation, Anti-Terrorism, Demining and Related Programs', $35,000,000, for accelerated assistance for Afghanistan.".

[21] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

mament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That funds available during fiscal year 2004 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2004 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2005: *Provided further,* That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That the Secretary of State is authorized to provide, from funds appropriated under this heading in this and subsequent Acts making appropriations for foreign operations, export financing and related programs, not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract: *Provided further,* That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table accompanying the joint explanatory statement of the managers accompanying this Act: *Provided further,* That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, $19,000,000, to remain available until September 30, 2006, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Develop-

ment and Assistance Act of 1954, as amended,[22] and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113,[22] $95,000,000, to remain available until September 30, 2006: *Provided,* That not less than $20,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961: *Provided further,* That $75,000,000 of the funds appropriated under this heading may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: *Provided further,* That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

(1) the Inter-American Development Bank;

(2) the African Development Fund;

(3) the African Development Bank; and

(4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further,* That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further,* That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further,* That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as "enclave" loans; and

(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt re-

[22] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

payments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further,* That none of the funds made available under this heading in this or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $91,700,000, of which up to $3,000,000 may remain available until expended: *Provided,* That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further,* That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training, and funds made available for Algeria, Cambodia, Nigeria and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM [23]

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,294,000,000: *Provided,* That of the funds appropriated under this heading, not less than $2,160,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $568,000,000 shall be available for the procurement in

[23] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1228), provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"For an additional amount for the 'Foreign Military Financing Program', $287,000,000, for accelerated assistance for Afghanistan.".

Israel of defense articles and defense services, including research and development: *Provided further,* That of the funds appropriated by this paragraph, $206,000,000 should be made available for assistance for Jordan: *Provided further,* That of the funds appropriated by this paragraph, $17,000,000 may be transferred to and merged with funds appropriated under the heading "Andean Counterdrug Initiative" and made available for aircraft and related assistance for the Colombian National Police: *Provided further,* That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of section 1501(a) of title 31, United States Code.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan, Guatemala and Liberia: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That the authority contained in the previous proviso or any other provision of law relating to the use of funds for programs under this heading, including provisions contained in previously enacted appropriations Acts, shall not apply to activities relating to the clearance of unexploded ordnance resulting from United States Armed Forces testing or training exercises: *Provided further,* That the previous proviso shall not apply to San Jose Island, Republic of Panama: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs[24] may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $40,500,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor ve-

[24] In Africa: Kenya; in East Asia and the Pacific: Indonesia, Thailand; in Europe: Greece, Portugal, Spain, Turkey,; in Near East and South Asia: Egypt, Israel, Jordan, Morocco, Pakistan, Tunisia, and Yemen. See *Congressional Presentation for Security Assistance Programs*, Fiscal Year 1989, page 19.

hicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $361,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2004 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2004 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.

PEACEKEEPING OPERATIONS [25]

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $74,900,000: *Provided,* That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $139,240,000 to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $913,200,000, to remain available until expended: *Provided,* That the Secretary of the Treasury shall work to ensure that the World Bank provides for an independent entity, such as a private auditing firm, to conduct and make publicly available an external performance audit which verifies whether the IDA–13 Spring 2004 performance targets have been met: *Provided further,* That any further incentive contribution for additional contributions for IDA–13 regarding such targets shall be made only after the Secretary of the Treasury has reviewed and considered carefully the findings of any such independent external audit.

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[25] Chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1228), provided the following:

"PEACEKEEPING OPERATIONS

"For an additional amount for 'Peacekeeping Operations', $50,000,000, to support the global war on terrorism.".

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

For payment to the Multilateral Investment Guarantee Agency by the Secretary of the Treasury, $1,124,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Multilateral Investment Guarantee Agency may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $4,475,203.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $25,000,000, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $144,421,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $5,104,930, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,609,817.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $112,725,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,431,111 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limi-

tation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $122,085,497.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $15,004,042, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973,[26] $321,650,000: *Provided,* That none of the funds appropriated under this heading may be made available to the International Atomic Energy Agency (IAEA): *Provided further,* That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table accompanying the joint explanatory statement of the managers accompanying this Act: *Provided further,* That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

TITLE V—GENERAL PROVISIONS

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

[26] For this and other legislation relating to the United Nations, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. H.

PRIVATE AND VOLUNTARY ORGANIZATIONS

SEC. 502.[27] None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the Administrator of the United States Agency for International Development, after informing the Committees on Appropriations, may, on a case-by-case basis, waive the restriction contained in this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503.[28] Of the funds appropriated or made available pursuant to this Act, not to exceed $100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504.[29] Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505.[30] Of the funds appropriated or made available pursuant to this Act, not to exceed $125,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $125,000 shall be available for rep-

[27] 22 U.S.C. 2151u note.

[28] Similar language was first enacted as sec. 113 of the Foreign Assistance Appropriations Act, 1976.

[29] Similar language was first enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1976.

[30] Similar language was first enacted as sec. 115 of the Foreign Assistance Appropriations Act, 1976. The second through fifth proviso clauses were first enacted as sec. 526 of H.R. 4473, as made applicable to the Continuing Appropriations Act, 1981. The second proviso, regarding general costs of administering the Foreign Military Financing Program, has been reworded somewhat; the proviso formerly referred to: "the total funds made available by this Act under the headings 'Military Assistance' and 'Foreign Military Credit Sales'". The proviso relating to the Trade and Development Agency was first enacted in the Foreign Assistance Appropriations Act, 1986. The proviso relating to the Millennium Challenge Corporation was added in FY 2004.

resentation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances: *Provided further,* That of the funds made available by this Act under the heading "Millennium Challenge Corporation", not to exceed $130,000 shall be available for representation and entertainment allowances.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

SEC. 506.[31] (a) PROHIBITION ON TAXATION.—None of the funds appropriated by this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2004 on funds appropriated by this Act by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors shall be withheld from obligation from funds appropriated for assistance for fiscal year 2005 and allocated for the central government of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REPROGRAMMING OF FUNDS.—Funds withheld from obligation for each country or entity pursuant to subsection (b) shall be reprogrammed for assistance to countries which do not assess taxes on United States assistance or which have an effective arrangement that is providing substantial reimbursement of such taxes.

(e) DETERMINATIONS.—

(1) The provisions of this section shall not apply to any country or entity the Secretary of State determines—

[31] Similar language was first enacted as sec. 579 of the Foreign Assistance Appropriations Act, 2003.

(A) does not assess taxes on United States assistance or which has an effective arrangement that is providing substantial reimbursement of such taxes; or

(B) the foreign policy interests of the United States outweigh the policy of this section to ensure that United States assistance is not subject to taxation.

(2) The Secretary of State shall consult with the Committees on Appropriations at least 15 days prior to exercising the authority of this subsection with regard to any country or entity.

(f) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

(g) DEFINITIONS.—As used in this section—

(1) the terms "taxes" and "taxation" refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term "bilateral agreement" refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be accorded the United States assistance provided under that agreement.

(h) RELATIONSHIP TO PRIOR LAW.—Section 579 of division E of Public Law 108–7 shall be deemed to have been amended by subsection (f) of this section and the modifications made by this section to comparable provisions contained in section 579.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507.[32] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Libya, North Korea, Iran, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

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[32] Language similar to that in the main clause was first enacted as sec. 111 of the Foreign Assistance Appropriations Act, 1974. The Foreign Operations, Export Financing, and Related Programs Act, 1990 (Public Law 101–167; 103 Stat. 2268), added two provisos, the first of which has been continued in subsequent years. In fiscal year 2003, five additional provisos are added to allow conditional assistance for Iraq.

The following countries have been listed in similar sections in recent previous fiscal years:

Fiscal years 1997 through 2003—Cuba, Iraq (2003, with exceptions), Libya, North Korea, Iran, Sudan, or Syria;

Fiscal years 1995 and 1996—Cuba, Iraq, Libya, North Korea, Iran, Serbia, Sudan, or Syria;

Fiscal year 1994—Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, Serbia, Sudan, or Syria;

Fiscal years 1992 and 1993—Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria; and

Fiscal year 1991—Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria.

MILITARY COUPS

SEC. 508.[33] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup: *Provided,* That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: *Provided further,* That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: *Provided further,* That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS

SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than five days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided,* That funds transferred under such authority may be made available for the cost of such audits.

[33] Language similar to that in the main clause was first enacted as sec. 513 of the Foreign Assistance Appropriations Act, 1986; reference to "government of any country" replaced "any country" in fiscal year 2002. The first proviso first appeared in sec. 513 of the Foreign Assistance Appropriations Act, 1988. The second and third provisos were first enacted in the Foreign Assistance Appropriations Act, 2002.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 510. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

AVAILABILITY OF FUNDS

SEC. 511.[34] No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, section 23 of the Arms Export Control Act, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512.[35] No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar

[34] Similar language first enacted as sec. 403 of the Foreign Assistance Appropriations Act, 1967. Reference to funds provided for Eastern Europe and the Baltic States was added in sec. 511 of the Foreign Assistance Appropriations Act, 1997. Reference to chapter 12 of the Foreign Assistance Act of 1961 was added in fiscal year 2001. Reference to sec. 23 of the Arms Export Control Act was added in fiscal year 2002. Sections in prior years required the report required by section 653(a) of the Foreign Assistance Act of 1961 to include information regarding funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

[35] Popularly referred to as the Brooke-Alexander Amendment. Similar language was first enacted as sec. 506 of the Foreign Assistance Appropriations Act, 1976. Prior to FY 2001, this section referred to "any loan made to such country"; the reference to the government of such country was added in FY 2001. In FY 2003, "the government of" was added before "any country which is in default". Beginning in fiscal year 1990, a proviso was enacted to exempt certain countries from application of the section for narcotics-related funding (sec. 518 of the Foreign Assistance Appropriations Act, 1990). Colombia, Bolivia, and Peru were cited in that section, but were omitted the following year. Reference to Nicaragua was added in the Foreign Assistance Appropriations Act, 1991. Liberia was added in the Foreign Assistance Appropriations Act, 1998. Brazil was added in the Foreign Assistance Appropriations Act, 1999. Nicaragua, Liberia, and Brazil were subsequently omitted for FY 2000.

In fiscal year 2002, the President's authority to waive application of the section was added.

year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 513.[36] (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b)[37] None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514.[38] The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development As-

[36] Language contained in subsec. (a) was first enacted as sec. 608 of the Foreign Assistance Appropriations Act, 1979. Language contained in subsec. (b) was first enacted in sec. 521 of the Foreign Assistance Appropriations Act, 1991. That Act, and Appropriations Acts through FY 1995 also included a subsec. (c), relating to the development of import-sensitive products that would compete with U.S. products.

[37] Popularly referred to as the Bumpers amendment.

[38] 22 U.S.C. 262h note. Similar language was first enacted as sec. 22 of the Export-Import Bank Act Amendments of 1986. The Foreign Assistance Appropriations Act, 1999, included a subsec. (b), which required the Secretary of the Treasury to "instruct the United States executive directors of international financial institutions listed in subsection (a) of this section to use the voice and vote of the United States to support the purchase of American produced agricultural commodities with funds appropriated or made available pursuant to this Act.".

sociation, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515.[39] For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Health Programs Fund", "Development Assistance", "International Organizations and Programs", "Trade and Development Agency", "International Narcotics Control and Law Enforcement", "Andean Counterdrug Initiative", "Assistance for Eastern Europe and the Baltic States", "Assistance for the Independent States of the Former Soviet Union", "Economic Support Fund", "Global HIV/AIDS Initiative", "Peacekeeping Operations", "Capital Investment Fund", "Operating Expenses of the United States Agency for International Development", "Operating Expenses of the United States Agency for International Development Office of Inspector General", "Nonproliferation, Anti-terrorism, Demining and Related Programs", "Millennium Challenge Corporation" (by country only), "Foreign Military Financing Program", "International Military Education and Training", "Peace Corps", and "Migration and Refugee Assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under title II of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of

[39] Similar language, without the proviso clauses, was enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1974.

this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516.[40] Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2005.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517.[41] (a) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union—

(1) unless that government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

Assistance may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

(b)[42] None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

[40] Similar language was first enacted as sec. 154 of the Further Continuing Appropriations Act, 1983.

[41] Sec. 517 of the Foreign Assistance Appropriations Act, 1999, first enacted language pertaining to "New Independent States of the Former Soviet Union" under general provisions.

[42] 22 U.S.C. 5814 note.

(c) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for any state to enhance its military capability: *Provided,* That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(d) Funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(e) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(f) Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(g) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading "Assistance for the Independent States of the Former Soviet Union" and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518.[43] None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any

[43] Similar language was first enacted as sec. 541 of the Foreign Assistance Appropriations Act, 1986. From FY 1997 through FY 2001, a proviso was included to prohibit the use of funds from being used to lobby for or against abortion. See also sec. 104(f) of the Foreign Assistance Act of 1961.

of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 519.[44] Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2004, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520.[45] None of the funds appropriated by this Act shall be obligated or expended for Liberia, Serbia, Sudan, Zimbabwe, Pakistan, Cambodia, or the Democratic Republic of the Congo except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521.[46] For the purpose of this Act, "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level

[44] Similar language was first enacted as sec. 519 of the Foreign Assistance Appropriations Act, 2000.

[45] The following countries have been listed in similar sections in recent previous fiscal years:
Fiscal year 2003—Colombia, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of the Congo;
Fiscal year 2002—Colombia, Haiti, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of Congo;
Fiscal year 2001—Colombia, Haiti, Liberia, Serbia, Sudan, Ethiopia, Eritrea, Zimbabwe, Pakistan, or the Democratic Republic of Congo;
Fiscal year 2000—Colombia, Haiti, Liberia, Pakistan, Panama, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1999—Colombia, Honduras, Haiti, Liberia, Pakistan, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1998—Colombia, Haiti, Liberia, Pakistan, Panama, Peru, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1997—Colombia, Guatemala (except development assistance for Guatemala), Dominican Republic, Haiti, Liberia, Pakistan, Peru, Serbia, Sudan, or Zaire;
Fiscal year 1996—Colombia, Dominican Republic, Guatemala, Haiti, Liberia, Nicaragua (with exception), Pakistan, Peru, Russia, Sudan, or Zaire;
Fiscal year 1995—Colombia, Dominican Republic, El Salvador (with exception), Guatemala, Haiti, Indonesia, Liberia, Nicaragua (with exception), Pakistan, Peru, Rwanda, Sudan, or Zaire;
Fiscal year 1994—Afghanistan, Cambodia, Colombia, El Salvador (with exception), Guatemala, Haiti, Indonesia, Jordan, Liberia, Malawi, Nicaragua (with exception), Peru, Sudan, Togo, or Zaire;
Fiscal year 1993—Sudan, Liberia, Lebanon, Zaire, Yemen, Haiti, Ivory Coast, Guatemala, Malawi, Peru, Uganda, Cambodia, Indonesia, or Somalia;
Fiscal year 1992—Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia; and
Fiscal year 1991—Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia.

[46] Similar language was first enacted as sec. 550 of the Foreign Assistance Appropriations Act, 1987. Reference to country and regional program level funding was added in FY 2003.

funding within each such account; for the development assistance accounts of the United States Agency for International Development "program, project, and activity" shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 522.[47] Up to $13,500,000 of the funds made available by this Act for assistance under the heading "Child Survival and Health Programs Fund", may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided,* That up to $3,500,000 of the funds made available by this Act for assistance under the heading "Development Assistance" may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further,* That funds appropriated by titles II and III of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading "Child Survival and Health Programs Fund" and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.) as amended by section 595 of this Act: *Provided further,* That of the funds appropriated under title II of this Act, not less than $432,000,000 shall be made available for family planning/reproductive health.

AFGHANISTAN

SEC. 523. Of the funds appropriated by this Act, $405,000,000 shall be made available for humanitarian and reconstruction assistance for Afghanistan: *Provided,* That of the funds made available pursuant to this section, not less than $75,000,000 should be

[47] Similar language was first enacted as sec. 551 of the Foreign Assistance Appropriations Act, 1987. References to activities relating to control and treatment of Acquired Immune Deficiency Syndrome (AIDS) in developing countries first appeared in sec. 545 of the Foreign Assistance Appropriations Act, 1989; the current proviso referring, in part, to the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 was added in FY 2004. A proviso exempting family planning funds from the application of sections of law pertaining default or external debt was added in sec. 542 of the Foreign Assistance Appropriations Act, 1993, and stated annually through FY 2000. A proviso, relating to AID personnel policy, was included in the section from FY 1989 through FY 1995. The Foreign Assistance Appropriations Act, 1999, expanded the section to refer to other infectious diseases, prevention, and disease programs. That Act also included a reference to family planning programs; exempting such funding from restrictions related to debt arrearage. That language was omitted the following year. The first proviso, referring to development assistance and reimbursements, was added in Foreign Assistance Appropriations Act, 2000. In FY 2002, the title of the section was restated.

from funds appropriated under the heading "Economic Support Fund": *Provided further*, That of the funds made available pursuant to this section, not less than $2,000,000 should be made available for reforestation activities: *Provided further*, That funds made available pursuant to the previous proviso should be matched, to the maximum extent possible, with contributions from American and Afghan businesses: *Provided further,* That of the funds made available pursuant to this section, not less than $2,000,000 should be made available for the Afghan Judicial Reform Commission: *Provided further,* That of the funds made available pursuant to this section, not less than $5,000,000 should be made available to support programs to address the needs of Afghan women through training and equipment to improve the capacity of women-led Afghan nongovernmental organizations and to support the activities of such organizations: *Provided further,* That not less than $2,000,000 should be made available for assistance for Afghan communities and families that suffer losses as a result of the military operations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 524.[48] Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

USAID OVERSEAS PROGRAM

SEC. 525.[49] Funds appropriated by this and subsequent appropriations Acts to carry out the provisions of part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States", may be made available to employ individuals overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980: *Provided,* That in fiscal years 2004, 2005, and 2006 the authority of this section may be used to hire not more than 85 individuals in each such year.

[48] Similar language, excluding the first proviso, was first enacted as sec. 559 of the Foreign Assistance Appropriations Act, 1988. Language similar to that in the first proviso was added by sec. 548 of the Foreign Assistance Appropriations Act, 1991. Reference to "significant military equipment" and valuation was added in FY 2002.

[49] 22 U.S.C. 3948 note.

DEMOCRACY PROGRAMS

SEC. 526.[50] (a) Notwithstanding any other provision of law, of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $13,500,000 shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the People's Republic of China and Hong Kong: *Provided,* That funds appropriated under the heading "Economic Support Fund" should be made available for assistance for Taiwan for the purposes of furthering political and legal reforms: *Provided further,* That such funds shall only be made available to the extent that they are matched from sources other than the United States Government: *Provided further,* That funds made available pursuant to the authority of this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(b)(1) In addition to the funds made available in subsection (a), of the funds appropriated by this Act under the heading "Economic Support Fund" not less than $11,500,000 shall be made available for programs and activities to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism: *Provided,* That funds made available pursuant to the authority of this subsection should support new initiatives or bolster ongoing programs and activities in those countries: *Provided further,* That not less than $3,000,000 of such funds shall be made available for programs and activities that provide professional training for journalists: *Provided further,* That of the funds appropriated under this heading, in addition to other amounts made available for Egypt in this Act, funds shall be made available to support civil society organizations working for democracy in Egypt: *Provided further,* That notwithstanding any other provision of law, not to exceed $1,500,000 of such funds may be used for making grants to educational, humanitarian and nongovernmental organizations and individuals inside Iran to support the advancement of democracy and human rights in Iran: *Provided further,* That funds made available pursuant to this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(2) In addition to funds made available under subsections (a) and (b)(1), of the funds appropriated by this Act under the heading "Economic Support Fund" not less than $3,000,000 shall be made available for programs and activities of the National Endowment for Democracy to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries in sub-Saharan Africa.

(c) Of the funds made available under subsection (a), not less than $10,500,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, to support the activities described

[50] Sec. 527 of the Foreign Assistance Appropriations Act, 1999, first enacted language pertaining to "Democracy in China" funding.

in subsection (a), and of the funds made available under subsection (b), not less than $7,000,000 shall be made available for such Fund to support the activities described in subsection (b): *Provided,* That the total amount of funds made available by this Act under "Economic Support Fund" for activities of the Bureau of Democracy, Human Rights and Labor, Department of State, including funds available in this section, shall be not less than $34,500,000.

(d) Of the funds made available under subsection (a), not less than $3,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (a), and of the funds made available under subsection (b), not less than $3,500,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (b): *Provided,* That the Secretary of State shall provide a report to the Committees on Appropriations within 120 days of the date of enactment of this Act on the status of the allocation, obligation, and expenditure of such funds.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527.[51] (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 528.[52] In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest

[51] Sec. 576 of the Foreign Assistance Appropriations Act, 1988, first enacted a "Prohibition on Bilateral Assistance to Terrorist Countries". Sec. 564 of the Foreign Assistance Appropriations Act, 1990, substantially reworded this prohibition, providing the criteria for restriction, and the requirement for Presidential determination and waiver.

See also sec. 620A of the Foreign Assistance Act of 1961, sec. 40 of the Arms Export Control Act (this volume), and sec. 6(j) of the Export Administration Act of 1979 (volume III).

[52] Similar language was first enacted as sec. 584 of the Foreign Assistance Appropriations Act, 1990.

earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 529.[53] (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as

[53] 22 U.S.C. 2362 note. Similar language was first contained in sec. 592 of the Foreign Assistance Appropriations Act, 1990.

authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).[54]

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ENTERPRISE FUND RESTRICTIONS

SEC. 530.[55] Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

BURMA

SEC. 531. (a) The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose and vote against the extension by such institution of any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for Burma.

[54] Provisions referred to in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159) include: sec. 604 of the Foreign Assistance Act of 1961, as amended; section 901(b)(1) of the Merchant Marine Act of 1936, as amended; section 5 of the International Air Transportation Fair Competitive Practice Act of 1974; section 644 of the Small Business Act; section 2711 of the Competition in Contracting Act of 1984; and the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

[55] First enacted as sec. 577 of the Foreign Assistance Appropriations Act, 1999.

(b)[56] Of the funds appropriated under the heading "Economic Support Fund", not less than $13,000,000 shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma's borders: *Provided,* That of this amount $500,000 should be made available to support newspapers, publications, and other media activities promoting democracy inside Burma: *Provided further,* That funds made available under this heading may be made available notwithstanding any other provision of law: *Provided further,* That $5,000,000 shall be allocated to the United States Agency for International Development for humanitarian assistance for displaced Burmese and host communities in Thailand: *Provided further,* That not more than 60 days after enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit a report to the Committees on Appropriations describing the amount and rate of disbursement of fiscal years 2002 and 2003 funding for HIV/AIDS programs and activities in Burma, the estimated amount of funds expended by the State Peace and Development Council (SPDC) on HIV/AIDS programs and activities in calendar years 2001, 2002, and 2003, and the extent to which international nongovernmental organizations are able to conduct HIV/AIDS programs throughout Burma, including the ability of expatriate staff to freely travel through the country and to conduct programmatic oversight independent of SPDC handling and monitoring: *Provided further,* That funds made available by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) It is the sense of the Congress that the United Nations Security Council should debate and consider sanctions against Burma as a result of the threat to regional stability and peace posed by the repressive and illegitimate rule of the State Peace and Development Council.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 532.[57] Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

[56] Language similar to that in subsec. (b), through the first proviso, was first enacted in title II of the Foreign Assistance Appropriations Act, 1996.

[57] Similar language was first enacted in sec. 589 of the Foreign Assistance Appropriations Act, 1993. FY 1999 through 2001 legislation included an exemption for funding directed to the International Fund for Agricultural Development, first enacted in sec. 537 of the Foreign Assistance Appropriations Act, 1999.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 533.[58] None of the funds appropriated by this Act may be obligated or expended to provide—

(1) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(2) assistance for any program, project, or activity that contributes to the violation of internationally recognized workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided,* That the application of section 507(4)(D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 534.[59] (a) AFGHANISTAN, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated by this Act that are made available for

[58] Similar language was first enacted, except the proviso in para. (2), as sec. 599 of the Foreign Assistance Appropriations Act, 1993. That proviso was added by sec. 547 of the Foreign Assistance Appropriations Act, 1994. Prior language, FY1993 through 2001, included a reference to discrepancy in tax, tariff, labor, environment, and safety laws.

[59] Language similar to that in subsecs. (a) and (b) was first enacted as sec. 549 of the Foreign Assistance Appropriations Act, 1994. Various provisos in subsec. (a) have been added and omitted since the section's introduction. Language similar to that in subsec. (c) was added as subsec. (d) in fiscal year 1995. New subsec. (d) was added in sec. 540 of the Foreign Assistance Appropriations Act, 1999. Subsec. (e) was added as subsec. (f) in sec. 534 in FY 2002, which also included a subsec. (e), relating to contingencies. Subsecs. (f), (g), and (i) were added in sec. 534 in FY 2003. Subsecs. (h), (j), and (k) were added in sec. 534 in FY 2004.

Reference to "victims of war" and "displaced children" have been included annually. Reference to assisting "victims of trafficking in persons" was added in FY 2003. The following countries and groups have been listed in similar sections in previous fiscal years:

Fiscal Year 2003—Afghanistan, Lebanon, Montenegro, victims of war, displaced children, displaced Burmese;

Fiscal Years 2001 and 2002—Afghanistan, Cambodia (with conditions), Lebanon, Montenegro, victims of war, displaced children, displaced Burmese;

Fiscal Year 2000—Afghanistan, Cambodia (with conditions), Lebanon, Montenegro, victims of war, displaced children, displaced Burmese, Romania (humanitarian assistance), Kosova (humanitarian assistance);

Fiscal Year 1999—Afghanistan, Cambodia (with conditions), Lebanon, Montenegro, victims of war, displaced children, displaced Burmese, Romania (humanitarian assistance), (Kosova) humanitarian assistance;

Fiscal Year 1998—Afghanistan, Lebanon, displaced Burmese, Romania (humanitarian assistance), and humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia and Kosova;

Fiscal Year 1997—Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia and Kosova;

Fiscal Year 1996—Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova;

Fiscal Year 1995—Haiti, Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova; and

Fiscal Year 1994—Haiti, Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova.

assistance for Afghanistan may be made available notwithstanding section 512 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: *Provided,* That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided,* That not more than 10 of such contractors shall be assigned to any bureau or office: *Provided further,* That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)[60] (1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines

[60] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115); see secs. 534(d), 546, 549, and 555 (115 Stat. 2151, 2155, 2156, and 2160, respectively). See also

Continued

and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) SMALL BUSINESS.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

(f)[61] SHIPMENT OF HUMANITARIAN ASSISTANCE.—During fiscal year 2004 and each fiscal year thereafter, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made available to nongovernmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.

(g) RECONSTITUTING CIVILIAN POLICE AUTHORITY.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

(h) NATIONAL ENDOWMENT FOR DEMOCRACY.—Funds appropriated by this Act that are provided to the National Endowment for Democracy may be provided notwithstanding any other provision of law or regulation.

(i) WORLD FOOD PROGRAM.—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of the United States Agency for International Development, from this or any other Act, not less than $6,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

(j)[62] SUDAN.—For the purposes of section 501 of Public Law 106–570, the terms "areas outside of control of the Government of Sudan" and "area in Sudan outside of control of the Government

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sec. 566 (115 Stat. 2164), requiring a report on PLO compliance, and sec. 569 (115 Stat. 2166), prohibiting assistance to the Palestinian Broadcasting Corporation.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327); and through April 14, 2004 (Presidential Determination No. 2004–04; October 14, 2003; 68 F.R. 60841).

[61] 22 U.S.C. 2151u note.

[62] 50 U.S.C. 1701 note.

of Sudan" shall, upon conclusion of a peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, have the same meaning and application as was the case immediately prior to the conclusion of such agreement.

(k) PROGRAMS.—Of the funds appropriated under "Economic Support Fund" for Middle East regional programs, up to $5,000,000 may be made available for programs and activities of the Yitzhak Rabin Center for Israel Studies in Tel Aviv, Israel, and up to $5,000,000 may be made available for programs and activities of the Center for Human Dignity Museum of Tolerance in Jerusalem.

ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 535.[63] It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) the three Arab League countries with diplomatic and trade relations with Israel should return their ambassadors to Israel, should refrain from downgrading their relations with Israel, and should play a constructive role in securing a peaceful resolution of the Israeli-Arab conflict;

(4) the remaining Arab League states should normalize relations with their neighbor Israel;

(5) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(6) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ADMINISTRATION OF JUSTICE ACTIVITIES

SEC. 536.[64] Of the funds appropriated or otherwise made available by this Act or any subsequent Act for "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of

[63] Language pertaining to the Arab League boycott of Israel was first enacted as sec. 598(b) of the Foreign Assistance Appropriations Act, 1993.

[64] 22 U.S.C. 2364c note. Language similar to this section has been enacted in previous years' appropriations Act, but under the section heading "Anti-Narcotics Activities".

the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act. Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 537.[65] (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States": *Provided,* That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 2004, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

RESERVATIONS OF FUNDS

SEC. 538.[66] (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or

[65] Similar language was first enacted in sec. 562 of the Foreign Assistance Appropriations Act, 1993.

[66] Language pertaining to earmarks was first enacted in the Foreign Assistance Appropriations Act, 1988, but has substantially changed since then. Prior to FY 2004, the section heading read "EARMARKS". Subsec. (b) was first added in the Foreign Assistance Appropriations Act, 1993.

any other Act: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided,* That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 539.[67] Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 540.[68] No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided,* That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.[69]

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[67] First enacted, not including the second sentence, as sec. 538 of the Foreign Assistance Appropriations Act, 1985.

[68] First enacted, not including proviso, as sec. 102 of the Mutual Security Appropriations Act, 1958. The proviso, which originally prohibited any funds from foreign assistance appropriations being made available to carry out the provisions of sec. 316 of Public Law 96–533, was added by the Foreign Assistance Appropriations Act, 1996.

See also sec. 109 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204), *Legislation on Foreign Relations Through 2004*, vol. II, for related language.

[69] Sec. 316 of Public Law 96–533 provided the following:

"WORLD HUNGER

"Sec. 316. (a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961, the Director of the United States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

"(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues.".

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 541.[70] None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 542.[71] None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 543.[72] (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

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[70] Language through "dues of any member of the United Nations" first enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1964. Text following that point was added in sec. 546 of the Foreign Assistance Appropriations Act, 2000.

[71] Similar language was first enacted as sec. 546 of the Foreign Assistance Appropriations Act, 1986.

[72] Similar language was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1994, which referred to section 40(d) of the Arms Export Control Act in subsec. (a). In FY 1999, the text referred to that Act "or any other comparable provision of law". Beginning in FY 2002, the text referred instead to section 6(j) of the Export Administration Act.

See also sec. 620A of the Foreign Assistance Act of 1961 and sec. 40 of the Arms Export Control Act.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 544.[73] (a) Subject to subsection (c), of the funds appropriated by this Act that are made available for assistance for a foreign country, an amount equal to 110 percent of the total amount of the unpaid fully adjudicated parking fines and penalties owed by such country shall be withheld from obligation for such country until the Secretary of State submits a certification to the appropriate congressional committees stating that such parking fines and penalties are fully paid.

(b) Funds withheld from obligation pursuant to subsection (a) may be made available for other programs or activities funded by this Act, after consultation with and subject to the regulation[74] notification procedures of the appropriate congressional committees, provided that no such funds shall be made available for assistance to the central government of a foreign country that has not paid the total amount of the fully adjudicated parking fines and penalties owed by such country.

(c) Subsection (a) shall not include amounts that have been withheld under any other provision of law.

(d) The Secretary of State may waive the requirements set forth in subsection (a) no sooner than 60 days from the date of enactment of this Act, or at any time with respect to a particular country, if the Secretary determines that it is in the national interests of the United States to do so.

(e) Not later than 6 months after the initial exercise of the waiver authority in subsection (d), the Secretary of State, after consultations with the City of New York, shall submit a report to the Committees on Appropriations describing a strategy, including a timetable and steps currently being taken, to collect the parking fines and penalties owed by nations receiving foreign assistance under this Act.

(f) In this section:

(1) The term "appropriate congressional committees" means the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) The term "fully adjudicated" includes circumstances in which the person to whom the vehicle is registered—

(A)(i) has not responded to the parking violation summons; or

(ii) has not followed the appropriate adjudication procedure to challenge the summons; and

(B) the period of time for payment of or challenge to the summons has lapsed.

(3) The term "parking fines and penalties" means parking fines and penalties—

(A) owed to—

(i) the District of Columbia; or

(ii) New York, New York; and

[73] Similar language was first enacted as sec. 574 of the Foreign Assistance Appropriations Act, 1994. References to penalties and fines owed to New York were added in FY 2001.

[74] As enrolled. Should read "regular".

(B) incurred during the period April 1, 1997 through September 30, 2003.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 545.[75] None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 546.[76] If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961, as amended, of up to $30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided,* That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further,* That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further,* That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 547.[77] Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in

[75] Similar language first enacted as sec. 565 of the Foreign Assistance Appropriations Act, 1995.

[76] Funding for war crimes tribunals drawdown was first enacted in sec. 548(e) of the Foreign Assistance Appropriations Act, 1994. Language enacted in prior years was codified at 22 U.S.C. 2656 note. The proviso referring to establishment of any standing or permanent international criminal tribunal or court was added in FY 2003. Reference to the Special Court for Sierra Leone was added in FY 2004.

[77] Similar language was first enacted as sec. 578 of the Foreign Assistance Appropriations Act, 1995.

foreign countries, subject to such terms and conditions as the President may prescribe.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 548.[78] None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided,* That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further,* That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 549.[79] None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities or under the headings "Child Survival and Health Programs Fund", "Development Assistance", and "Economic Support Fund" may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 550.[80] None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Devel-

[78] Similar language was first enacted as sec. 585 of the Foreign Assistance Appropriations Act, 1995.

[79] Similar language was first enacted as sec. 579 of the Foreign Assistance Appropriations Act, 1995. Reference to Child Survival and Disease Programs Fund, Development Assistance, and Economic Support Fund was added in sec. 555 of the Foreign Assistance Appropriations Act, 2000. Earlier texts included a prohibition on the use of funds for "food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation".

[80] Similar language was first enacted as sec. 581 of the Foreign Assistance Appropriations Act, 1997. Prior to FY 2003, the section required Presidential certification "that the United Nations is not engaged in any effort to implement or impose any taxation on United States persons in order to raise revenue for the United Nations or any of its specialized agencies" 15 days in advance of disbursement of funds.

opment Program) if the United Nations implements or imposes any taxation on any United States persons.

HAITI

SEC. 551.[81] The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 552.[82] (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(d) REPORT.—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations detailing the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure. The report shall also include a description of how funds will be spent and the accounting procedures in place to ensure that they are properly disbursed.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 553.[83] None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: *Provided,* That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: *Provided further,* That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum ex-

[81] Similar language was first enacted as sec. 582 of the Foreign Assistance Appropriations Act, 1997. Prior to FY 2001, the section stated eligibility for both Haiti's Coast Guard and the civilian-led Haitian National Police.

[82] Similar language was first enacted as sec. 566 of the Foreign Assistance Appropriations Act, 1998. Subsec. (d) was added in FY 2004.

[83] Popularly referred to as the Leahy amendment. Similar language was first enacted pertaining to appropriations to carry out international narcotics control programs in title II of the Foreign Assistance Appropriations Act, 1997.

tent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

FOREIGN MILITARY TRAINING REPORT

SEC. 554. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be submitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations of the House of Representatives and the Senate by the date specified in that section.

ENVIRONMENT PROGRAMS

SEC. 555.[84] (a) FUNDING.—Of the funds appropriated under the heading "Development Assistance", not less than $155,000,000 shall be made available for programs and activities which directly protect biodiversity, including forests, in developing countries, of which $1,500,000 should be made available to improve the capacity of indigenous groups and local environmental organizations and law enforcement agencies to protect the biodiversity of indigenous reserves in the Amazon Basin region of Brazil, which amount shall be in addition to the amount requested in this Act for assistance for Brazil for fiscal year 2004: *Provided,* That not later than 1 year after enactment of this Act, the Secretary of State, in coordination with the Administrator of the United States Agency for International Development and other appropriate departments and agencies, and after consultation with appropriate governments and nongovernmental organizations, shall submit to the Committees on Appropriations a strategy for biodiversity conservation in the Amazon Basin region of South America: *Provided further,* That of the funds appropriated under the headings "Development Assistance" and "Andean Counterdrug Initiative", funds shall be made available in fiscal year 2004 to develop the strategy described in the previous proviso: *Provided further,* That of the funds appropriated by this Act, not less than $180,000,000 shall be made available to support policies and programs in developing countries that directly: (1) promote a wide range of energy conservation, energy efficiency and clean energy programs and activities, including the transfer of clean and environmentally sustainable energy technologies; (2) measure, monitor, and reduce greenhouse gas emissions; (3) increase carbon sequestration activities; and (4) enhance climate change mitigation and adaptation programs.

(b) CLIMATE CHANGE REPORT.—Not later than 45 days after the date on which the President's fiscal year 2005 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2004, including an accounting of expenditures by agency with each agency identifying climate change activities

[84] Language pertaining to greenhouse gas emissions was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1999. A report similar to that required by subsec. (b) was first required by sec. 580 of the Foreign Assistance Appropriations Act, 1998. Sec. 554 of the Foreign Assistance Appropriations Act, 2003, addressed protection of biodiversity and tropical forests.

and associated costs by line item as presented in the President's Budget Appendix; and

(2) all fiscal year 2003 obligations and estimated expenditures, fiscal year 2004 estimated expenditures and estimated obligations, and fiscal year 2005 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (i) to promote the transfer and deployment of a wide range of United States clean energy and energy efficiency technologies; (ii) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (iii) to promote carbon capture and sequestration measures; (iv) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (v) to develop assessments of the vulnerability to impacts of climate change and mitigation and adaptation response strategies.

REGIONAL PROGRAMS FOR EAST ASIA AND THE PACIFIC

SEC. 556. Funds appropriated by this Act under the heading "Economic Support Fund" that are requested for "Regional Democracy" assistance for East Asia and the Pacific shall be made available for the Human Rights and Democracy Fund of the Bureau for Democracy, Human Rights and Labor, Department of State.

ZIMBABWE

SEC. 557.[85] The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans, to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.

TIBET

SEC. 558. (a) The Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

(b) Notwithstanding any other provision of law, not less than $4,000,000 of the funds appropriated by this Act under the heading "Economic Support Fund" shall be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environ-

[85] 22 U.S.C. 2151 note. First enacted as sec. 560 of the Foreign Assistance Appropriations Act, 2002.

mental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China.

AUTHORIZATION REQUIREMENT

SEC. 559. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

NIGERIA

SEC. 560.[86] None of the funds appropriated under the headings "International Military Education and Training" and "Foreign Military Financing Program" may be made available for assistance for Nigeria until the President certifies to the Committees on Appropriations that the Nigerian Minister of Defense, the Chief of the Army Staff, and the Minister of State for Defense/Army are suspending from the Armed Forces those members, of whatever rank, against whom there is credible evidence of gross violations of human rights in Benue State in October 2001, and the Government of Nigeria and the Nigerian Armed Forces are taking effective measures to bring such individuals to justice: *Provided,* That the President may waive such prohibition if he determines that doing so is in the national security interest of the United States: *Provided further,* That prior to exercising such waiver authority, the President shall submit a report to the Committees on Appropriations describing the involvement of the Nigerian Armed Forces in the incident in Benue State, the measures that are being taken to bring such individuals to justice, and whether any Nigerian Armed Forces units involved with the incident in Benue State are receiving United States assistance.

CAMBODIA

SEC. 561.[87] (a) The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

(b)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia.

(2) Paragraph (1) shall not apply to assistance for basic education, reproductive and maternal and child health, cultural and historic preservation, programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases, programs to combat human trafficking that are provided through nongovernmental organizations, and for the Ministry of Women and Veterans Affairs to combat human trafficking.

(c) Of the funds appropriated by this Act under the heading "Economic Support Fund", up to $4,000,000 may be made available for activities to support democracy, including assistance for democratic political parties.

[86] First enacted as sec. 557 of the Foreign Assistance Appropriations Act, 2003.

[87] Language similar to subsec. (a) was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1998. The remaining subsecs. have changed substantially in each fiscal year.

(d) Funds appropriated by this Act to carry out provisions of section 541 of the Foreign Assistance Act of 1961 may be made available notwithstanding subsection (b) only if at least 15 days prior to the obligation of such funds, the Secretary of State provides to the Committees on Appropriations a list of those individuals who have been credibly alleged to have ordered or carried out extrajudicial and political killings that occurred during the March 1997 grenade attack against the Khmer Nation Party, the July 1997 coup d'etat, and election related violence that occurred during the 1998, 2002, and 2003 elections in Cambodia.

(e) None of the funds appropriated or otherwise made available by this Act may be used to provide assistance to any tribunal established by the Government of Cambodia.

PALESTINIAN STATEHOOD

SEC. 562.[88] (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated by this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections;

(2) the elected governing entity of a new Palestinian state—

(A) has demonstrated a firm commitment to peaceful coexistence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures; and

(C) is establishing a new Palestinian security entity that is cooperative with appropriate Israeli and other appropriate security organizations; and

(3) the Palestinian Authority (or the governing body of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the newly elected governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human

[88] Similar language first enacted as sec. 563 of the Foreign Assistance Appropriations Act, 2003.

rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is vital to the national security interests of the United States to do so.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or a newly elected governing entity, in order to help meet the requirements of subsection (a), consistent with the provisions of section 552 of this Act ("Limitation on Assistance to the Palestinian Authority").

COLOMBIA

SEC. 563.[89] (a) DETERMINATION AND CERTIFICATION REQUIRED.—Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(1) Up to 75 percent of such funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2).

(2) Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

(A) The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

(B) The Colombian Government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

(C) The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces have made substantial progress in severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with

[89] Similar language first enacted as sec. 567 of the Foreign Assistance Appropriations Act, 2002.

paramilitary organizations, especially in regions where these organizations have a significant presence.

(E) The Colombian Armed Forces are dismantling paramilitary leadership and financial networks by arresting commanders and financial backers, especially in regions where these networks have a significant presence.

(3) The balance of such funds may be obligated after July 31, 2004, if the Secretary of State certifies and reports to the appropriate congressional committees, after such date, that the Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(b) CONGRESSIONAL NOTIFICATION.—Funds made available by this Act for the Colombian Armed Forces shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) CONSULTATIVE PROCESS.—Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2005, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in that subsection.

(d) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term "aided or abetted" means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 564.[90] (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

[90] First enacted as sec. 568 of the Foreign Assistance Appropriations Act, 2002.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 565.[91] None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

WEST BANK AND GAZA PROGRAM

SEC. 566.[92] (a) OVERSIGHT.—For fiscal year 2004, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading "Economic Support Fund" for the West Bank and Gaza.

(b) VETTING.—Prior to the obligation of funds appropriated by this Act under the heading "Economic Support Fund" for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual or entity that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection.

(c) AUDITS.—(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

(2) Of the funds appropriated by this Act under the heading "Economic Support Fund" that are made available for assistance for the West Bank and Gaza, up to $1,000,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. 567. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under "International Organizations and Programs" and "Child Survival and Health Programs Fund" for fiscal year 2004, the amount cited in section 576 of Public Law 107–

[91] First enacted as sec. 584 of the Foreign Assistance Appropriations Act, 1999.

[92] Subsec. (a) was first enacted as sec. 587 of the Foreign Assistance Appropriations Act, 2000. Subsecs. (b) and (c) were first enacted in sec. 568 of the Foreign Assistance Appropriations Act, 2003.

115 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the "UNFPA").[93]

(b) FAMILY PLANNING, MATERNAL AND REPRODUCTIVE HEALTH ACTIVITIES.—Of the funds appropriated in Public Law 107–115 that were available for the UNFPA, including all funds that were transferred to "Child Survival and Health Programs Fund", $34,000,000 shall be made available for family planning, maternal and reproductive health activities in the Democratic Republic of the Congo, Ethiopia, Nigeria, Tanzania, Uganda, Haiti, Georgia, Azerbaijan, Russia, Albania, Romania, and Kazakhstan: *Provided,* That such programs and activities shall be deemed to have been justified to Congress.

(c) TRAFFICKING INITIATIVE.—Of the funds appropriated in Public Law 108–7 that were available for the UNFPA and that were transferred to "Child Survival and Health Programs Fund", $25,000,000 shall be allocated for assistance for "vulnerable children" and made available for a new initiative for assistance for young women, mothers and children who are victims of trafficking in persons: *Provided,* That such programs and activities shall be deemed to have been justified to Congress.

(d) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under "International Organizations and Programs" may be made available for the UNFPA for a country program in the People's Republic of China.

(e) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under "International Organizations and Programs" and "Child Survival and Health Programs Fund" for fiscal year 2004 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

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[93] Sec. 576 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2168) provided the following:

"UNITED NATIONS POPULATION FUND

"SEC. 576. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under 'International Organizations and Programs', not more than $34,000,000 for fiscal year 2002 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the 'UNFPA').

"(b) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under 'International Organizations and Programs' may be made available for the UNFPA for a country program in the People's Republic of China.

"(c) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under 'International Organizations and Programs' for fiscal year 2002 for the UNFPA may not be made available to UNFPA unless—

"(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

"(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

"(3) the UNFPA does not fund abortions.".

Language similar to that of sec. 576 was first enacted in sec. 599C of the Foreign Assistance Appropriations Act, 2000.

CENTRAL ASIA

SEC. 568.[94] (a) Funds appropriated by this Act may be made available for assistance for the central Government of Uzbekistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America", including respect for human rights, establishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media.

(b) Funds appropriated by this Act may be made available for assistance for the Government of Kazakhstan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Kazakhstan has made significant improvements in the protection of human rights during the preceding 6-month period.

(c) The Secretary of State may waive the requirements under subsection (b) if he determines and reports to the Committees on Appropriations that such a waiver is in the national security interests of the United States.

(d) Not later than October 1, 2004, the Secretary of State shall submit a report to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives describing the following:

(1) The defense articles, defense services, and financial assistance provided by the United States to the countries of Central Asia during the 6-month period ending 30 days prior to submission of such report.

(2) The use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the armed forces, border guards, or other security forces of such countries.

(e) For purposes of this section, the term "countries of Central Asia" means Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

DISCRIMINATION AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 569.[95] None of the funds appropriated under this Act may be made available for the Government of the Russian Federation, after 180 days from the date of the enactment of this Act, unless the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation has implemented no statute, Executive order, regulation or similar government action that would discriminate, or who have as its principal effect discrimination, against religious groups or reli-

[94] Similar language first enacted as sec. 574 of the Foreign Assistance Appropriations Act, 2003.

[95] Similar language was first enacted as sec. 577 of the Foreign Assistance Appropriations Act, 1998. Omitted from the FY 2003 Act, however.

gious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

WAR CRIMINALS

SEC. 570.[96] (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the "Tribunal") all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Ap-

[96] Popularly referred to as the Lautenberg amendment. For earliest version of this section, see sec. 573 of the Foreign Assistance Appropriations Act, 1998.

propriations that such assistance directly supports the implementation of the Dayton Accords.

(f) DEFINITIONS.—As used in this section—

(1) COUNTRY.—The term "country" means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term "entity" refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term "municipality" means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term "Dayton Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 571.[97] The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' financing programs.

FUNDING FOR SERBIA

SEC. 572. (a) Funds appropriated by this Act may be made available for assistance for Serbia after March 31, 2004, if the President has made the determination and certification contained in subsection (c).

(b) After March 31, 2004, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of the Federal Republic of Yugoslavia (or a government of a successor state) subject to the conditions in subsection (c): *Provided,* That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended,[98] shall not apply to the provision of loans and assistance to the

[97] Similar language first enacted as sec. 596 of the Foreign Assistance Appropriations Act, 2001.

[98] Sec. 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), as amended, provided the following:

"TRANSPARENCY OF BUDGETS

"SEC. 576. (a) LIMITATION.—Beginning three years after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

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

Continued

Federal Republic of Yugoslavia (or a successor state) through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of the Federal Republic of Yugoslavia (or a government of a successor state) is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, including making all practicable efforts to apprehend and transfer Ratko Mladic;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law, including the release of political prisoners from Serbian jails and prisons.

(d) This section shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy in municipalities.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 573.[99] (a) AUTHORITY.—Funds made available by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority in Jamaica and El Salvador through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict and foster improved police relations with the communities they serve.

(b) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 574.[100] (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

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

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

[99] 22 U.S.C. 2151 note. Similar language was first enacted as sec. 582 of the Foreign Assistance Appropriations Act, 2002.

[100] Similar language, except subsec. (a)(3), which was added by sec. 559 of the Foreign Assistance Appropriations Act, 1999, was first enacted as sec. 570(a) of the Foreign Assistance Appropriations Act, 1994. Subsec. (b) of that section also amended the Export-Import Bank Act of 1945 to authorize debt relief for the poorest, most heavily indebted nations. See *Legislation on Foreign Relations Through 2004*, vol. III.

In a memorandum of July 8, 1996, the President delegated to the Secretary of the Treasury, in consultation with the Secretaries of State and Defense, the functions, authorities, and duties conferred on the President by sec. 570(a) of this Act, sec. 561(a) of Public Law 103–306, and any similar subsequent provision of law (61 F.R. 38563).

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 575.[101] (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging

[101] Similar language was first enacted as sec. 571 of the Foreign Assistance Appropriations Act, 1996. No such section was included in FY 2003 Act, however.

in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

DISASTER SURGE CAPACITY

SEC. 576. Funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961 may be used, in addition to funds otherwise available for such purposes, for the cost (including the support costs) of individuals detailed to or employed by the United States Agency for International Development whose primary responsibility is to carry out programs to address natural or manmade disasters or programs under the heading "Transition Initiatives".

IFAD AUTHORIZATION

SEC. 577.[102] The Secretary of the Treasury may, to fulfill commitments of the United States, contribute on behalf of the United States to the sixth replenishment of the resources of the International Fund for Agricultural Development. The following amount is authorized to be appropriated without fiscal year limitation for payment by the Secretary of the Treasury: $45,000,000 for the International Fund for Agricultural Development.

PHILIPPINE EDUCATION AND HEALTH INFRASTRUCTURE

SEC. 578. Of the funds appropriated under "Economic Support Fund" for the Philippines in Public Law 108–11, the Emergency Wartime Supplemental Appropriations Act, 2003, $600,000 shall be available only for upgrading education and health infrastructure in the Sulu Archipelago.

BASIC EDUCATION

SEC. 579. Of the funds appropriated by title II of this Act, not less than $326,500,000 shall be made available for basic education: *Provided*, That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development (USAID), shall submit a report not later than 120 days after enactment of this Act articulating a strategy for the use of basic education funds in Africa, East Asia and the Pacific, the Near East, South Asia, and the Western Hemisphere (excluding the United States) to include—

(1) country strategies and brief project descriptions of the uses and proposed uses of all United States Government resources for basic education overseas;

[102] 22 U.S.C. 2151a note.

(2) a detailed description of the administrative structure currently in place to manage strategic coordination undertaken among the State Department, USAID and other agencies involved in international basic education activities; and

(3) a description of actions being taken to expand the administrative capacity of both USAID and the State Department to deliver effective expanded basic education programs.

PARTICIPATION IN THE THIRTEENTH REPLENISHMENT OF THE RESOURCES OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 580. The International Development Association Act (22 U.S.C. 284–284s) is amended by adding at the end the following:

"SEC. 22.[103] THIRTEENTH REPLENISHMENT.

"(a) CONTRIBUTION AUTHORITY.—

"(1) IN GENERAL.—The United States Governor of the Association may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (b), pursuant to the resolution of the Association entitled 'Additions to IDA Resources: Thirteenth Replenishment'.

"(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated such sums as may be necessary for payment by the Secretary of the Treasury, without fiscal year limitation.".

ADMINISTRATIVE PROVISIONS RELATED TO MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 581. Title XV of the International Financial Institutions Act (22 U.S.C. 262o—262o–2) is amended by adding at the end the following:

"SEC. 1504.[104] ADMINISTRATIVE PROVISIONS.

"(a) ACHIEVEMENT OF CERTAIN POLICY GOALS.—The Secretary of the Treasury should instruct the United States Executive Director at each multilateral development institution to inform the institution of the following United States policy goals, and use the voice and vote of the United States to achieve the goals at the institution before June 30, 2005:

"(1) No later than 60 calendar days after the Board of Directors of the institution approves the minutes of a Board meeting, the institution shall post on its website an electronic version of the minutes, with material deemed too sensitive for public distribution redacted.

"(2) The institution shall keep a written transcript or electronic recording of each meeting of its Board of Directors and preserve the transcript or recording for at least 10 years after the meeting.

[103] 22 U.S.C. 284t.
[104] 22 U.S.C. 262*o*–3.

"(3) All public sector loan, credit and grant documents, country assistance strategies, sector strategies, and sector policies prepared by the institution and presented for endorsement or approval by its Board of Directors, with materials deemed too sensitive for public distribution redacted or withheld, shall be made available to the public 15 calendar days before consideration by the Board or, if not then available, when the documents are distributed to the Board. Such documents shall include the resources and conditionality necessary to ensure that the borrower complies with applicable laws in carrying out the terms and conditions of such documents, strategies, or policies, including laws pertaining to the integrity and transparency of the process such as public consultation, and to public health and safety and environmental protection.

"(4) The institution shall post on its website an annual report containing statistical summaries and case studies of the fraud and corruption cases pursued by its investigations unit.

"(5) The institution shall require that any health, education, or poverty-focused loan, credit, grant, document, policy, or strategy prepared by the institution includes specific outcome and output indicators to measure results, and that the indicators and results be published periodically during the execution, and at the completion, of the project or program.

"(6) The institution shall establish a plan and schedule for conducting regular, independent audits of internal management controls and procedures for meeting operational objectives, complying with Bank policies, and preventing fraud, and making reports describing the scope and findings of such audits available to the public.

"(7) The institution shall establish effective procedures for the receipt, retention, and treatment of: (A) complaints received by the Bank regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters; and (B) the confidential, anonymous submission by employees of the Bank of concerns regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters.

"(b) Not later than September 1, 2004, and 6 months thereafter, the Secretary of the Treasury shall submit a report to the appropriate congressional committees describing the actions taken by each multilateral development institution to implement the policy goals described in subsection (a), and any further actions that need to be taken to fully implement such goals.

"(c) PUBLICATION OF WRITTEN STATEMENTS REGARDING INSPECTION MECHANISM CASES.—No later than 60 calendar days after a meeting of the Board of Directors of a multilateral development institution, the Secretary of the Treasury should provide for publication on the website of the Department of the Treasury of any written statement presented at the meeting by the United States Executive Director at the institution concerning—

"(1) a project on which a claim has been made to the inspection mechanism of the institution; or

"(2) a pending inspection mechanism case.

"(d) CONGRESSIONAL BRIEFINGS.—The Secretary of the Treasury or the designee of the Secretary should brief the appropriate con-

gressional committees, when requested, on the steps that have been taken by the United States Executive Director at any multilateral development institution, and by any such institution, to implement the measures described in this section.

"(e) PUBLICATION OF 'NO' VOTES AND ABSTENTIONS BY THE UNITED STATES.—Each month, the Secretary of the Treasury should provide for posting on the website of the Department of the Treasury of a record of all 'no' votes and abstentions made by the United States Executive Director at any multilateral development institution on any matter before the Board of Directors of the institution.

"(f) MULTILATERAL DEVELOPMENT INSTITUTION DEFINED.—In this section, the term 'multilateral development institution' shall have the meaning given in section 1701(c)(3).".

PARTICIPATION IN THE SEVENTH REPLENISHMENT OF THE RESOURCES OF THE ASIAN DEVELOPMENT FUND

SEC. 582. The Asian Development Bank Act (22 U.S.C. 285–285aa) is amended by adding at the end the following:

"SEC. 31.[105] ADDITIONAL CONTRIBUTION TO SPECIAL FUNDS.

"(a) CONTRIBUTION AUTHORITY.—

"(1) IN GENERAL.—The United States Governor of the Bank may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (b), pursuant to the resolution of the Bank entitled 'Seventh Replenishment of the Asian Development Fund'.

"(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated such sums as may be necessary for payment by the Secretary of the Treasury, without fiscal year limitation.".

PARTICIPATION IN THE NINTH REPLENISHMENT OF THE RESOURCES OF THE AFRICAN DEVELOPMENT FUND

SEC. 583. The African Development Fund Act (22 U.S.C. 290g—290g–15) is amended by adding at the end the following:

"SEC. 217.[106] NINTH REPLENISHMENT.

"(a) CONTRIBUTION AUTHORITY.—

"(1) IN GENERAL.—The United States Governor of the Fund may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (b), pursuant to the resolution of the Fund entitled 'The Ninth General Replenishment of Resources of the African Development Fund'.

"(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

[105] 22 U.S.C. 285bb.
[106] 22 U.S.C. 290g–16.

"(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated such sums as may be necessary for payment by the Secretary of the Treasury, without fiscal year limitation.".

OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK RESTRICTIONS

SEC. 584.[107] (a) LIMITATION ON USE OF FUNDS BY OPIC.—None of the funds made available in this Act may be used by the Overseas Private Investment Corporation to insure, reinsure, guarantee, or finance any investment in connection with a project involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(b) LIMITATION ON USE OF FUNDS BY THE EXPORT-IMPORT BANK.—None of the funds made available in this Act may be used by the Export-Import Bank of the United States to guarantee, insure, extend credit, or participate in an extension of credit in connection with the export of any goods to a country for use in an enterprise involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsections (a) and (b) are that the country concerned is implementing the recommendations, obligations and requirements developed by the Kimberley Process on conflict diamonds.

RECONCILIATION PROGRAMS

SEC. 585. Of the funds appropriated under the headings "Economic Support Fund", not less than $8,000,000 shall be made available to support reconciliation programs and activities which bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.

NICARAGUA

SEC. 586. Of the funds appropriated under the headings "Development Assistance" and "Child Survival and Health Programs Fund", not less than $35,000,000 shall be made available for assistance for Nicaragua.

DISABILITY ACCESS

SEC. 587. The Administrator of the United States Agency for International Development ("USAID") shall seek to ensure that programs, projects, and activities administered by USAID in Afghanistan comply fully with USAID's "Policy Paper: Disability" issued on September 12, 1997: *Provided,* That the Administrator shall submit a report to the Committees on Appropriations not later than December 31, 2004, describing the manner in which the needs of people with disabilities were met in the development and implementation of USAID programs, projects, and activities in Af-

[107] Similar language first enacted as sec. 590 of the Foreign Assistance Appropriations Act, 2002.

ghanistan in fiscal year 2004: *Provided further,* That the Administrator, not later than 180 days after enactment of this Act and in consultation, as appropriate, with other appropriate departments and agencies, the Architectural and Transportation Barriers Compliance Board, and nongovernmental organizations with expertise in the needs of people with disabilities, shall develop and implement appropriate standards for access for people with disabilities for construction projects funded by USAID.

TRADE CAPACITY BUILDING

SEC. 588.[108] Of the funds appropriated by this Act, under the headings "Trade and Development Agency", "Development Assistance", "Transition Initiatives", "Economic Support Fund", "International Affairs Technical Assistance", and "International Organizations and Programs", not less than $503,000,000 should be made available for trade capacity building assistance.

WAR CRIMES IN AFRICA

SEC. 589. (a) The Congress recognizes the important contribution that the democratically elected Government of Nigeria has played in fostering stability in West Africa, including reaching an agreement with the Government of Liberia to provide relief and promote reconciliation in that nation. The Congress also recognizes the important contributions of other African nations and supports continued assistance aimed at resolving the conflicts that have destabilized West Africa and the Great Lakes region.

(b) The Congress reaffirms its support for the efforts of the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL) to bring to justice individuals responsible for war crimes and crimes against humanity in a timely manner.

(c) Funds appropriated by this Act, including funds for debt restructuring, may be made available for assistance to the central government of a country in which individuals indicted by ICTR and SCSL are credibly alleged to be living, if the Secretary of State determines and reports to the Committees on Appropriations that such government is cooperating with ICTR and SCSL, including the surrender and transfer of indictees in a timely manner: *Provided,* That this subsection shall not apply to assistance provided under section 551 of the Foreign Assistance Act of 1961 or to project assistance under title II of this Act: *Provided further,* That the United States shall use its voice and vote in the United Nations Security Council to fully support efforts by ICTR and SCSL to bring to justice individuals indicted by such tribunals in a timely manner.

(d) The prohibition in subsection (c) may be waived on a country by country basis if the President determines that doing so is in the national security interest of the United States: *Provided,* That prior to exercising such waiver authority, the President shall report to the Committees on Appropriations, in classified form if necessary, on: (1) the steps being taken to obtain the cooperation of the gov-

[108] Similar language first enacted as sec. 584 of the Foreign Assistance Appropriations Act, 2003.

ernment in surrendering the indictee in question to SCSL or ICTR; (2) a strategy for bringing the indictee before ICTR or SCSL; and (3) the justification for exercising the waiver authority.

(e) Of the funds made available under the heading "Economic Support Fund" in Public Law 108–7, not less than $5,000,000 shall be made available during fiscal year 2004 for a contribution to the Special Court of Sierra Leone: *Provided,* That funds made available under the previous proviso shall be disbursed no later than 30 days after enactment of this Act.

REPORT ON ADMISSION OF REFUGEES

SEC. 590. (a) The Secretary of State shall utilize private voluntary organizations with expertise in the protection needs of refugees in the processing of refugees overseas for admission and resettlement to the United States, and shall utilize such agencies in addition to the United Nations High Commissioner for Refugees in the identification and referral of refugees.

(b) The Secretary of State should establish a system for accepting referrals of appropriate candidates for resettlement from local private, voluntary organizations and work to ensure that particularly vulnerable refugee groups receive special consideration for admission into the United States, including—

(1) long-stayers in countries of first asylum;

(2) unaccompanied refugee minors;

(3) refugees outside traditional camp settings; and

(4) refugees in woman-headed households.

(c) The Secretary of State shall give special consideration to—

(1) refugees of all nationalities who have close family ties to citizens and residents of the United States; and

(2) other groups of refugees who are of special concern to the United States.

(d) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps that have been taken to implement this section.

POST DIFFERENTIALS AND DANGER PAY ALLOWANCES

SEC. 591. (a) Section 5925(a) of title 5, United States Code, is amended in the third sentence by inserting after "25 percent of the rate of basic pay" the following: "or, in the case of an employee of the United States Agency for International Development, 35 percent of the rate of basic pay".

(b) Section 5928 of title 5, United States Code, is amended by inserting after "25 percent of the basic pay of the employee" both places it appears the following: "or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development".

(c)[109] Except for employees of the United States Agency for International Development stationed in Iraq and Afghanistan, the

[109] 5 U.S.C. 5925 note. 5 U.S.C. 5925(a) and 5928, as amended, provide, respectively, as follows:

"§ 5925. Post differentials

Continued

amendments made by subsections (a) and (b) shall not take effect until the same authority is enacted for employees of the Department of State.

REPORT ON AZERBAIJAN

SEC. 592. Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Attorney General, shall submit a report to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives on the investigation of the murder of United States democracy worker John Alvis. Such report shall include—

(1) a description of the steps taken by the Government of Azerbaijan to further such investigation and bring to justice those responsible for the murder of John Alvis;

(2) a description of the actions of the Government of Azerbaijan to cooperate with United States agencies involved in such investigation; and

(3) any recommendations of the Secretary for furthering progress of such investigation.

DESIGNATION OF THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA UNDER THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

SEC. 593. The International Organizations Immunities Act (22 U.S.C. 288 et seq.) is amended by adding at the end the following new section:

"SEC. 16.[110] The provisions of this title may be extended to the Global Fund to Fight AIDS, Tuberculosis and Malaria in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or

"(a) A post differential may be granted on the basis of conditions of environment which differ substantially from conditions of environment in the continental United States and warrant additional pay as a recruitment and retention incentive. A post differential may be granted to an employee officially stationed in the United States who is on extended detail in a foreign area. A post differential under this subsection may not exceed 25 percent of the rate of basic pay or, in the case of an employee of the United States Agency for International Development, 35 percent of the rate of basic pay.

* * * * * * *

"§ 5928. Danger pay allowance

"An employee serving in a foreign area may be granted a danger pay allowance on the basis of civil insurrection, civil war, terrorism, or wartime conditions which threaten physical harm or imminent danger to the health or well-being of the employee. A danger pay allowance may not exceed 25 percent of the basic pay of the employee or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development, except that if an employee is granted an additional differential under section 5925(b) of this title with respect to an assignment, the sum of that additional differential and any danger pay allowance granted to the employee with respect to that assignment may not exceed 25 percent of the basic pay of the employee or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development. The presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it.".

[110] 22 U.S.C. 288f–6.

under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

CODE OF CONDUCT

SEC. 594. (a) None of the funds made available by title II under the heading "MIGRATION AND REFUGEE ASSISTANCE" or "TRANSITION INITIATIVES" to provide assistance to refugees or internally displaced persons may be provided to an organization that has failed to adopt a code of conduct consistent with the Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises six core principles for the protection of beneficiaries of humanitarian assistance.

(b) In administering the amounts made available for the accounts described in subsection (a), the Secretary of State and Administrator of the United States Agency for International Development shall incorporate specific policies and programs for the purpose of identifying specific needs of, and particular threats to, women and children at the various stages of humanitarian emergencies, especially at the onset of such emergency.

(c) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives and the Committees on Appropriations a report on activities of the Government of the United States to protect women and children affected by humanitarian emergencies. The report shall include—

(1) an assessment of the specific protection needs of women and children at the various stages of humanitarian emergencies;

(2) a description of which agencies and offices of the United States Government are responsible for addressing each aspect of such needs and threats; and

(3) guidelines and recommendations for improving United States and international systems for the protection of women and children during humanitarian emergencies.

ASSISTANCE FOR HIV/AIDS

SEC. 595. The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.) is amended—[111]

(1) in section 202(d)(4)(A), by adding at the end the following new clause:

"(vi) for the purposes of clause (i), 'funds contributed to the Global Fund from all sources' means funds contributed to the Global Fund at any time during fiscal years 2004 through 2008 that are not contributed to fulfill a commitment made for a fiscal year prior to fiscal year 2004.";

(2) in section 202(d)(4)(B), by adding at the end the following new clause:

"(iv) Notwithstanding clause (i), after July 31 of each of the fiscal years 2004 through 2008, any amount made available under this subsection that is withheld by reason

[111] For amended text, see page 566.

of subparagraph (A)(i) is authorized to be made available to carry out sections 104A, 104B, and 104C of the Foreign Assistance Act of 1961 (as added by title III of this Act).”; and

(3) in section 301(f), by inserting “, except that this subsection shall not apply to the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization, the International AIDS Vaccine Initiative or to any United Nations agency” after “trafficking”.

TECHNICAL CORRECTION RELATING TO THE ENHANCED HIPC INITIATIVE

SEC. 596. Section 1625(a)(1)(B)(ii) of the International Financial Institutions Act (as added by section 501 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25)) is amended by striking “subparagraph (A)” and inserting “clause (i)”.[112]

INDONESIA

SEC. 597.[113] (a) Funds appropriated by this Act under the heading “Foreign Military Financing Program” may be made available for assistance for Indonesia, and licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the President certifies to the appropriate congressional committees that—

(1) the Indonesia Minister of Defense is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups;

(2) the Indonesian Government is prosecuting those members of the Indonesian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups, and is punishing those members of the Indonesian Armed Forces found to have committed such violations of human rights or to have aided or abetted militia groups;

(3) the Indonesian Armed Forces are cooperating with civilian prosecutors and judicial authorities in Indonesia and with the joint United Nations-East Timor Serious Crimes Unit (SCU) in such cases (including extraditing those indicted by the SCU to East Timor and providing access to witnesses, relevant military documents, and other requested information); and

(4) the Minister of Defense is making publicly available audits of receipts and expenditures of the Indonesian Armed Forces.

(b) Congress notes that the Indonesian Government and Armed Forces have pledged to cooperate with the Federal Bureau of Investigation with respect to its investigation into the August 31, 2002, murders of two American citizens and one Indonesian citizen in

[112] 22 U.S.C. 262p–8.

[113] Similar language pertaining to providing IMET and FMF funding to Indonesia was first enacted as sec. 589 of the Foreign Assistance Appropriations Act, 2000.

Timika, Indonesia. Therefore, funds appropriated under the heading "INTERNATIONAL MILITARY EDUCATION AND TRAINING" may be made available for Indonesia if the Secretary of State determines and reports to the appropriate congressional committees that the Indonesian Government and Armed Forces are cooperating with the Federal Bureau of Investigation's investigation: *Provided,* That this restriction shall not apply to expanded international military education and training, which may include English language training.

RELIGIOUS FREEDOM REPORT

SEC. 598. The assessment and description of violations of religious freedom contained in the report required by section 102(b)(1)(B) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)(B)) shall include a description of persecution targeted at specific religions, including acts of anti-Semitism, by individuals or organizations designated as terrorist organizations by the Secretary of State under section 219 of the Immigration and Nationality Act, as amended.

DELIVERY OF ASSISTANCE BY AIR

SEC. 599A. The Secretary of State and the Administrator of the United States Agency for International Development shall seek to ensure that, where appropriate, dedicated air service is provided for transportation to areas where scheduled air service is not adequate to meet assistance requirements on a timely basis: *Provided,* That to the maximum extent practicable and in a manner consistent with the use of full and open competition (as that term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)), contracts for such dedicated air service shall be entered into with United States air carriers.

MODIFICATION ON REPORTING REQUIREMENTS

SEC. 599B. (a) Section 3204(f) of the Emergency Supplemental Act, 2000 (Public Law 106–246) is amended—

(1) in the heading, by striking "BIMONTHLY" and inserting "QUARTERLY";

(2) by striking "60" and inserting "90"; and

(3) by striking "Congress" and inserting "the appropriate congressional committees".

(b) The report required by section 3204(e) of the Emergency Supplemental Act, 2000 (Public Law 106–246) is amended by striking "Congress" and inserting "the appropriate congressional committees".

(c) Subsection (a) of section 803 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, Appendix A of Public Law 106–429 (as enacted by section 101(a) of such Public Law) is hereby repealed.

CPA DETAILEES

SEC. 599C. The Office of Personnel Management shall provide the House and Senate Committees on Appropriations a report of the number of Federal employees detailed from each executive

agency to the Coalition Provisional Authority in Iraq on the date of enactment of this Act: *Provided,* That the report shall identify by agency the number of non-reimbursable and reimbursable detailees and shall be submitted to the House and Senate Committees on Appropriations by February 1, 2004: *Provided further,* That the report shall be updated and submitted on a quarterly basis until May, 2005.

TITLE VI—MILLENNIUM CHALLENGE ACT OF 2003 [114]

* * * * * * *

This division may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004".

[114] For text of the Millennium Challenge Act of 2003, see page 530.

e. Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004

Partial text of Public Law 108–106 [H.R. 3289], 117 Stat. 1209, approved November 6, 2003; amended by Public Law 108–309 [H.J. Res. 107], 118 Stat. 1137, approved September 30, 2004; Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004

AN ACT Making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—NATIONAL SECURITY

CHAPTER 1

* * * * * * *

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $4,355,452,000, of which—

(1) not to exceed $15,000,000 may be used for the CINC Initiative Fund account, to be used primarily in Iraq and Afghanistan;

(2) $32,000,000 is only for the Family Advocacy Program; and

(3) not to exceed $1,150,000,000, to remain available until expended, may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military support provided, or to be provided, to United States military operations in connection with military action in Iraq and the global war on terrorism: *Provided,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon

the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That the Secretary of Defense shall provide quarterly reports to the Committees on Appropriations on the use of these funds.

* * * * * * *

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For "Iraq Freedom Fund", $1,988,600,000, to remain available for transfer until September 30, 2005, for the purposes authorized under this heading in Public Law 108–11: *Provided,* That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; military construction; the Defense Health Program; and working capital funds: *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further,* That not less than $62,100,000 shall be transferred to "Other Procurement, Army" for the procurement of Up-armored High Mobility Multipurpose Wheeled Vehicles and associated equipment: *Provided further,* That $10,000,000 shall be for the Family Readiness Program of the National Guard.

* * * * * * *

OTHER DEPARTMENT OF DEFENSE PROGRAMS

* * * * * * *

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $73,000,000: *Provided,* That these funds may be used only for such activities related to Afghanistan: *Provided further,* That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel;

operation and maintenance; procurement; and research, development, test and evaluation: *Provided further,* That the funds transferred shall be merged with and be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense.

* * * * * * *

GENERAL PROVISIONS, THIS CHAPTER

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SEC. 1105. DEFENSE EMERGENCY RESPONSE FUND CLOSE-OUT AUTHORITY.—(a) Section 1313 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 569), is amended by inserting "unobligated" before "balances".

(b) Effective November 1, 2003, adjustments to obligations that before such date would have been properly chargeable to the Defense Emergency Response Fund shall be charged to any current appropriations account of the Department of Defense available for the same purpose.

SEC. 1106. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq: *Provided,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 1107. Notwithstanding any other provision of law, from funds made available in this Act to the Department of Defense under "Operation and Maintenance, Defense-Wide", not to exceed $150,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to provide assistance only to the New Iraqi Army and the Afghan National Army to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: *Provided,* That such assistance may include the provision of equipment, supplies, services, training and funding: *Provided further,* That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense shall notify the congressional defense committees not less than 15 days before providing assistance under the authority of this section.

* * * * * * *

SEC. 1110. During the current fiscal year, from funds made available in this Act to the Department of Defense for operation and maintenance, not to exceed $180,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, established by the Administrator of the Coalition Provisional Authority for the purpose of enabling

military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to establish and fund a similar program to assist the people of Afghanistan: *Provided,* That the Secretary of Defense shall provide quarterly reports, beginning on January 15, 2004, to the congressional defense committees regarding the source of funds and the allocation and use of funds made available pursuant to the authority provided in this section.

* * * * * * *

SEC. 1120.[1] (a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

(b) Each report shall include the following information:

(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

(2) An assessment of the progress made toward preventing attacks on United States personnel.

(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12304 of title 10, United States Code.

(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12304 of title 10, United States Code, the following information:

(A) The unit.

(B) The projected date of return of the unit to its home station.

[1] 10 U.S.C. 113 note.

(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.

SEC. 1121. In addition to amounts made available elsewhere in this Act, there is hereby appropriated to the Department of Defense $100,000,000, for "Operation and Maintenance, Army": *Provided,* That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

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CHAPTER 3

MILITARY CONSTRUCTION

* * * * * * *

GENERAL PROVISION, THIS CHAPTER

SEC. 1301. (a) TEMPORARY AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR MILITARY CONSTRUCTION PROJECTS.—During fiscal year 2004, the Secretary of Defense may use this section as authority to obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United States that the Secretary determines meets each of the following conditions:

(1) The construction is necessary to meet urgent military operational requirements of a temporary nature involving the use of the Armed Forces in support of Operation Iraqi Freedom or the Global War on Terrorism.

(2) The construction is not carried out at a military installation where the United States is reasonably expected to have a long-term presence.

(3) The United States has no intention of using the construction after the operational requirements have been satisfied.

(4) The level of construction is the minimum necessary to meet the temporary operational requirements.

(b) LIMITATION ON USE OF AUTHORITY.—The total cost of the construction projects carried out under the authority of this section using, in whole or in part, appropriated funds available for operation and maintenance shall not exceed $150,000,000 in fiscal year 2004.

(c) NOTIFICATIONS OF OBLIGATIONS OF FUNDS.—Within fifteen days after the date on which appropriated funds available for operation and maintenance are first obligated for a construction project under subsection (a), the Secretary of Defense shall submit to the Congressional defense committees notice of the obligation of funds and the construction project. The notice shall include the following:

(1) Certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

(2) A description of the purpose for which appropriated funds available for operation and maintenance are being obligated.

(3) Relevant documentation detailing the construction project.

(4) The total amount obligated for the construction.

(d) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each fiscal-year quarter of fiscal year 2004, the Secretary of Defense shall submit to the congressional committees specified in subsection (f) a report on the worldwide obligation and expenditure during that quarter of appropriated funds available for operation and maintenance for construction projects.

(2) The report shall include with regard to each project the following:

(A) Certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

(B) A description of the purpose for which appropriated funds available for operation and maintenance are being obligated.

(C) Relevant documentation detailing the construction project.

(D) An estimate of the total cost of the construction project.

(E) The total amount obligated for the construction project as of the date of the submission of the report.

(e) RELATION TO OTHER AUTHORITIES.—The temporary authority provided by this section, and the limited authority provided by section 2805(c) of title 10, United States Code, to use appropriated funds available for operation and maintenance to carry out a construction project are the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects.

(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in this section are the following:

(1) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the House of Representatives.

TITLE II—IRAQ AND AFGHANISTAN RECONSTRUCTION AND INTERNATIONAL ASSISTANCE

CHAPTER 1

* * * * * * *

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATICS AND CONSULAR PROGRAMS

(INCLUDING RESCISSION)

For necessary expenses for "Diplomatic and Consular Programs", $156,300,000, of which $35,800,000 shall remain available until September 30, 2006.

Of the funds appropriated under this heading in the Emergency Wartime Supplemental Appropriations Act, 2003, $35,800,000 are rescinded.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For necessary expenses for "Embassy Security, Construction, and Maintenance", $43,900,000, to remain available until expended: *Provided,* That funds provided under this heading do not include facilities requirements specific to the United States Agency for International Development, which are provided under the heading "United States Agency for International Development, Operating Expenses of the United States Agency for International Development".

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for "Emergencies in the Diplomatic and Consular Service", $115,500,000, to remain available until expended, which may be transferred to, and merged with, the appropriations for "Diplomatic and Consular Programs": *Provided,* That of the funds made available under this heading, $65,500,000 may be transferred to, and merged with, the appropriations for "Protection of Foreign Missions and Officials"; of which $32,000,000 is for the reimbursement of the City of New York for costs associated with the protection of foreign missions and officials during the heightened state of alert following the September 11, 2001, terrorist attacks on the United States; of which $8,500,000 is for costs associated with the 2003 Free Trade Area of the Americas Ministerial meeting; and of which $25,000,000 is for costs associated with the 2004 Summit of the Industrialized Nations notwithstanding the limitations of 3 U.S.C. 202(10): *Provided further,* That of the funds previously appropriated under this heading, $2,000,000 is for rewards for an indictee of the Special Court for Sierra Leone: *Provided further,* That any transfer of funds provided under this heading shall be treated as a reprogramming of funds under section 605 of Public Law 108–7.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses for "Contributions for International Peacekeeping Activities", $245,000,000, to remain available until expended.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For necessary expenses for "International Broadcasting Operations", for activities related to the Middle East Television Network broadcasting to Iraq, $40,000,000.

GENERAL PROVISION—THIS CHAPTER

SEC. 2101. Funds appropriated under this chapter for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and section 15 of the State Department Basic Authorities Act of 1956, as amended.

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development", $38,100,000, for direct support of operations in Afghanistan, to remain available until September 30, 2005.

In addition, for direct support of operations in Iraq, $1,900,000, which shall be transferred to and merged with "Operating Expenses of the United States Agency for International Development Office of Inspector General" for financial and performance audits of the Iraq Relief and Reconstruction Fund and other assistance to Iraq, to remain available until September 30, 2005.

CAPITAL INVESTMENT FUND

For an additional amount for "Capital Investment Fund", $16,600,000, to remain available until expended: *Provided,* That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this

account as an offsetting collection: *Provided further,* That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OTHER BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

IRAQ RELIEF AND RECONSTRUCTION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961, for security, relief, rehabilitation and reconstruction in Iraq, $18,649,000,000, to remain available until September 30, 2006, to be allocated as follows: $5,090,000,000[2] for security and law enforcement; $1,960,000,000[3] for justice, public safety infrastructure, and civil society, of which $100,000,000 shall be made available for democracy building activities, and of which $10,000,000 shall be made available to the United States Institute for Peace for activities supporting peace enforcement, peacekeeping and post-conflict peacebuilding; $4,455,000,000[4] for the electric sector; $1,723,000,000[5] for oil infrastructure; $2,361,000,000[6] for water resources and sanitation; $500,000,000 for transportation and telecommunications; $370,000,000 for roads, bridges, and construction; $793,000,000 for health care; $845,000,000[7] for private sector development; and $342,000,000[8] for education, refugees, human rights, and governance: *Provided,* That the President may reallocate up to 10 percent of any of the preceding allocations, except that the total for the allocation receiving such funds may not be increased by more than 20 percent: *Provided further,* That the President may increase one such allocation only by up to an additional 20 percent in the event of unforeseen or emergency circumstances: *Provided further,* That such reallocations shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance

[2] Sec. 133(1) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1142) struck out "$3,243,000,000" and inserted in lieu thereof "$5,090,000,000" for security and law enforcement.

[3] Sec. 133(2) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1142) struck out "$1,318,000,000" and inserted in lieu thereof "$1,960,000,000" for justice, public safety infrastructure, and civil society.

[4] Sec. 133(3) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1142) struck out "$5,560,000,000" and inserted in lieu thereof "$4,455,000,000" for the electric sector.

[5] Sec. 133(4) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1142) struck out "$1,890,000,000" and inserted in lieu thereof "$1,723,000,000" for oil infrastructure.

[6] Sec. 133(5) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1143) struck out "$4,332,000,000" and inserted in lieu thereof "$2,361,000,000" for water resources and sanitation.

[7] Sec. 133(6) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1143) struck out "$153,000,000" and inserted in lieu thereof "$845,000,000" for private sector development.

[8] Sec. 133(17 of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1143) struck out "$280,000,000" and inserted in lieu thereof "$342,000,000" for education, refugees, human rights and governance.

of the obligation of funds: *Provided further,* That funds appropriated under this heading shall be apportioned only to the Coalition Provisional Authority in Iraq (in its capacity as an entity of the United States Government), the Department of State, the Department of Health and Human Services, the Department of Treasury, the Department of Defense, and the United States Agency for International Development: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That of the amount appropriated in this paragraph, not less than $6,000,000 shall be made available for administrative expenses of the Department of State Bureau of International Narcotics Control and Law Enforcement Affairs and not less than $119,000,000[9] shall be made available for administrative expenses of the United States Agency for International Development for support of the reconstruction activities in Iraq: *Provided further,* That of the funds appropriated under this heading, up to 10 percent of such funds that are obligated, managed, or administered by an agency of the United States Government, other than the United States Agency for International Development,[10] shall be made available to such agency for[11] administrative expenses: *Provided further,* That up to 1 percent of the amount appropriated in this paragraph may be transferred to "Operating Expenses of the Coalition Provisional Authority", and that any such transfer shall be in accordance with the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961: *Provided further,* That funds appropriated under this heading shall be used to protect and promote public health and safety, including for the arrest, detention and prosecution of criminals and terrorists: *Provided further,* That of the funds appropriated under this heading, assistance shall be made available for Iraqi civilians who have suffered losses as a result of military operations: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization, may be credited to this Fund and used for such purposes: *Provided further,* That the Administrator of the Coalition Provisional Authority shall seek to ensure that programs, projects and activities funded under this heading, comply fully with USAID's "Policy Paper: Disability" issued on September 12, 1997: *Provided further,* That the Coalition Provisional Authority shall work, in conjunction with relevant Iraqi officials, to ensure that a new Iraqi constitution preserves full rights to religious freedom and tolerance of all faiths: *Provided further,* That of the funds appropriated under this heading, $100,000,000 shall be transferred to and consolidated with funds appropriated by this Act for "Economic Support Fund" for assistance for Jordan, $100,000,000 of such

[9] Sec. 134(1) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1143) struck out "$29,000,000" and inserted in lieu thereof "$119,000,000".

[10] Sec. 134(2)(A) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1142) struck out "Coalition Provisional Authority," and inserted in lieu thereof "United States Agency for International Development".

[11] Sec. 134(2)(B) of the Continuing Appropriations Resolution (Public Law 108–309; 118 Stat. 1142) struck out "to fully pay for its" and inserted in lieu thereof "for".

funds shall be transferred to and consolidated with funds appropriated by this Act for "International Disaster and Famine Assistance" for assistance for Liberia, and $10,000,000 of such funds shall be transferred to and consolidated with funds appropriated by this Act for "International Disaster and Famine Assistance" for assistance for Sudan.

OPERATING EXPENSES OF THE COALITION PROVISIONAL AUTHORITY [12]

For necessary expenses of the Coalition Provisional Authority in Iraq, established pursuant to United Nations Security Council resolutions including Resolution 1483, for personnel costs, transportation, supply, equipment, facilities, communications, logistics requirements, studies, physical security, media support, promulgation and enforcement of regulations, and other activities needed to oversee and manage the relief and reconstruction of Iraq and the transition to democracy, $933,000,000, to remain available until September 30, 2005: *Provided,* That the appropriation of funds under this heading shall not be construed to limit or otherwise affect the ability of the Department of Defense to furnish assistance and services, and any other support, to the Coalition Provisional Authority.

In addition, $50,000,000, to remain available until September 30, 2005, to be used to fulfill the reporting and monitoring requirements of this Act and for the preparation and maintenance of public records required by this Act.

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund", $872,000,000, to remain available until December 31, 2004: *Provided,* That not less than $672,000,000 is available only for accelerated assistance for Afghanistan: Provided further, That these funds are available notwithstanding section 660 of the Foreign Assistance

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[12] A memorandum of December 5, 2003 (69 F.R. 1645), signed by the President, stated, in part, the following:

"1. The funds appropriated to the President under the heading Operating Expenses of the Coalition Provisional Authority in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), or in any subsequent appropriation under this heading, are transferred to the Secretary of Defense, for an account designated Operating Expenses of the Coalition Provisional Authority, International Reconstruction and Other Assistance, Army.".

A memorandum of June 29, 2004 (69 F.R. 40531), signed by the President, stated, in part, the following:

"1. The unobligated balances as of the end of June 30, 2004, of the funds appropriated to the President under the heading, 'Operating Expenses of the Coalition Provisional Authority,' in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106) and any funds appropriated to the President under that heading in any Act enacted subsequent to Public Law 108–106 are transferred to the Secretary of State. Such amounts shall exclude those made available to the Inspector General of the Coalition Provisional Authority, and the amount reapportioned to 'Operating Expenses of the Coalition Provisional Authority' on June 25, 2004. The Secretary of State shall ensure use of such funds in a manner consistent with Presidential guidance concerning United States Government operations in Iraq.

"2. Effective at the end of June 30, 2004, this memorandum supersedes paragraph (1) of the Presidential Memorandum entitled 'Transfer of Funds Appropriated to the President under the heading Operating Expenses of the Coalition Provisional Authority, and Delegation of the Functions of the President under the heading Iraq Relief and Reconstruction Fund, in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (December 5, 2003).".

Act of 1961, and section 620(q) of that Act or any comparable provision of law: *Provided further,* That these funds may be used for activities related to disarmament, demobilization, and reintegration of militia combatants, including registration of such combatants, notwithstanding section 531(e) of the Foreign Assistance Act of 1961: *Provided further,* That the obligation of funds made available by this Act or any prior appropriations Act for the purpose of deploying and supporting senior advisors to the United States Chief of Mission in Kabul, Afghanistan, is subject to the regular reprogramming and notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961: *Provided further,* That $60,000,000 should be made available for assistance for Afghan women and girls and $5,000,000 shall be made available for the Afghan Independent Human Rights Commission: *Provided further,* That not less than $8,000,000 is available only for the provision of adequate dedicated air transport and support for civilian personnel at provincial reconstruction team sites: *Provided further,* That upon the receipt by the Speaker of the House of Representatives and the President of the Senate of a determination by the President that the Government of Pakistan is cooperating with the United States in the global war on terrorism, not to exceed $200,000,000 appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan:[13] *Provided further,* That amounts that are made available under the previous proviso for the cost of modifying direct loans and guarantees shall not be considered "assistance" for the purposes of provisions of law limiting assistance to a country.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE[14]

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for International Disaster and Famine Assistance utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, to respond to or prevent unforeseen

[13] Presidential Determination No. 2004–25 of February 26, 2004 (69 F.R.10595), stated: "I hereby determine for the purposes of [Public Law 108–106] that the Government of Pakistan is cooperating with the United States in the Global War on Terrorism.".

[14] Presidential Determination No. 2004–51 of September 24, 2004 (69 F.R. 58791), stated, in part:

"Consistent with the authority vested in me by the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), under the heading 'International Disaster and Famine Assistance,' I hereby determine that it is in the national interest of the United States and essential to efforts to reduce international terrorism to furnish $20 million in assistance for Sudan from funds made available under that heading.".

Presidential Determination No. 2004–43 of August 20, 2004 (69 F.R. 52809), stated, in part:

"Consistent with the authority vested in me under the Act Making Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), under the heading 'International Disaster and Famine Assistance,' I hereby determine that it is in the national interest of the United States and essential to efforts to reduce international terrorism to furnish $86 million in assistance for Liberia from funds made available under that heading.".

Presidential Determination No. 2004–23 of February 25, 2004 (69 F.R. 9915), stated, in part:

"Consistent with the authority vested in me by the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), under the heading 'International Disaster and Famine Assistance,' I hereby determine that it is in the national interest of the United States and essential to efforts to reduce international terrorism to furnish $114 million in assistance for Liberia from funds made available under that heading.".

complex foreign crises in Liberia and Sudan, $110,000,000, and by transfer not to exceed 0.5 percent of the funds appropriated under any other heading in this chapter, to remain available to the Secretary of State until September 30, 2005: *Provided,* That funds appropriated under this heading may be made available only pursuant to a determination by the President, after consultation with the appropriate congressional committees, that it is in the national interest and essential to efforts to reduce international terrorism to furnish assistance on such terms and conditions as he may determine for such purposes, including support for peace and humanitarian intervention operations: *Provided further,* That none of these funds shall be available to respond to natural disasters: *Provided further,* That funds made available under this heading to respond to or prevent unforeseen complex foreign crises shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That not less than $100,000,000 of the funds appropriated under this heading shall be made available for assistance for Liberia.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement", $170,000,000, to remain available until December 31, 2004, for accelerated assistance for Afghanistan.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $35,000,000, for accelerated assistance for Afghanistan.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for the "Foreign Military Financing Program", $287,000,000, for accelerated assistance for Afghanistan.

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", $50,000,000, to support the global war on terrorism.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 2201. None of the funds appropriated by this Act or any unexpended funds provided in Public Law 108–11 may be used to repay, in whole or in part, principal or interest on any loan or guarantee agreement entered into by the Government of Iraq with any private or public sector entity including with the government of any country (including any agency of such government or any

entity owned in whole or in part by the government of such country) or with any international financial institution, prior to May 1, 2003: *Provided,* That for the purpose of this section, the term "international financial institution" shall mean those institutions contained in section 530(b) of division E of Public Law 108–7.

SEC. 2202 (a) Notwithstanding any other provision of law, none of the funds appropriated by this Act under the heading "Iraq Relief and Reconstruction Fund" and under the same heading in Public Law 108–11 may be used for entering into any Federal contract (including follow-on contract) using other than full and open competition, except in accordance with the Federal Property and Administrative Procedures Act (41 U.S.C. 251 et seq.), and any exception, if deemed necessary, shall be only upon the written approval of the Administrator of the Coalition Provisional Authority and the head of the executive agency of the United States awarding and managing such contract and such authority shall not be delegated.

(b) In any case in which procedures other than full and open competitive procedures are to be used to enter into a contract, the Administrator of the Coalition Provisional Authority or the head of such executive agency of the United States shall submit not later than 7 calendar days before the award of the contract a notification to the Committees on Appropriations, and the Committees on Government Reform and International Relations of the House of Representatives, and the Committees on Governmental Affairs and Foreign Relations of the Senate. Such notification shall provide the justification for use of other than full and open competitive procedures, a brief description of the contract's scope, the amount of the contract, a discussion of how the contracting agency identified and solicited offers from contractors, a list of the contractors solicited, and the justification and approval documents (as required under section 303(f)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)) on which was based the determination of use of procedures other than full and open competitive procedures.

(c)(1) This section shall not apply to contracts of less than $5,000,000.

(2) This section also shall apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and open competitive procedures using Iraq Relief and Reconstruction Funds in this Act and under Public Law 108–11 or funds made available in prior Foreign Operations, Export Financing and Related Programs Appropriations Acts.

(3) This section shall not apply to contracts authorized by the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 2203. (a) DISCLOSURE REQUIRED.—

(1) PUBLICATION AND PUBLIC AVAILABILITY.—The Administrator of the Coalition Provisional Authority or the head of an executive agency of the United States that enters into a contract for assistance for Iraq, using funds described in paragraph (2), through the use of other than full and open competitive procedures, shall publish in the Federal Register or Federal Business Opportunities, and otherwise make available to the public, including publication on the Coalition Provisional

Authority's website, not later than 7 days before the date on which the contract is entered into, the following information:

(A) The amount of the contract.

(B) A brief description of the scope of the contract.

(C) A discussion of how the executive agency and, when applicable, the Coalition Provisional Authority, identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(D) The justification and approval documents (as required under section 303(f)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)) on which was based the determination to use procedures other than competitive procedures.

(2) FUNDS.—The funds referred to in paragraph (1) are any funds under the heading "Iraq Relief and Reconstruction Fund" in this Act, and under the same heading in Public Law 108–11.

(3) APPLICABILITY.—

(A) This section shall also apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and open competitive procedures using Iraq Relief and Reconstruction Funds in this Act and under Public Law 108–11 or funds made available in prior Foreign Operations, Export Financing and Related Programs Appropriations Acts.

(B) This section shall not apply to contracts of less than $5,000,000.

(C) This section shall not apply to contracts authorized by the Small Business Act (15 U.S.C. 631 et seq.).

(b) CLASSIFIED INFORMATION.—

(1) AUTHORITY TO WITHHOLD.—The head of an executive agency may—

(A) withhold from publication and disclosure under subsection (a) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

(B) redact any part so classified that is in a document not so classified before publication and disclosure of the document under subsection (a).

(2) AVAILABILITY TO CONGRESS.—In any case in which the head of an executive agency withholds information under paragraph (1), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(A) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(B) The Committees on Appropriations of the Senate and the House of Representatives.

(C) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations

of such department or agency to which the information related.

(c) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(d) DEFINITIONS.—In this section and section 2202 of this Act, the terms "full and open competitive procedures" and "executive agency" have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 2204. Section 1503 of Public Law 108–11 is amended—

(1) by striking "equipment" and inserting in lieu thereof "equipment, including equipment"; and

(2) by striking "2004" and inserting in lieu thereof "2005".

SEC. 2205. Section 1504 of Public Law 108–11 is amended by—

(1) in the first proviso, striking the first proviso, and inserting in lieu thereof: "*Provided,* That, subject to the notification requirements of this section, exports may be authorized of lethal military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated by the Secretary of State for use for private security purposes:"; and

(2) in the last proviso, striking "2004" and inserting in lieu thereof "2005".

SEC. 2206. Section 202(b) of the Afghanistan Freedom Support Act of 2002 (Public Law 107–327) is amended by striking "$300,000,000" and inserting in lieu thereof "$450,000,000".[15]

SEC. 2207.[16] (a) The Director of the Office of Management and Budget, in consultation with the Administrator of the Coalition Provisional Authority (CPA) and the Committees on Appropriations, shall submit to the Committees on Appropriations not later than January 5, 2004 and prior to the initial obligation of funds appropriated by this Act under the heading "Iraq Relief and Reconstruction Fund" a report on the proposed uses of all funds under this heading on a project-by-project basis, for which the obligation of funds is anticipated during the 3 month period from such date, including estimates by the CPA of the costs required to complete each such project: *Provided,* That up to 20 percent of funds appropriated under such heading may be obligated before the submission of the report: *Provided further,* That in addition such report shall include the following:

(1) The use of all funds on a project-by-project basis for which funds appropriated under such heading were obligated prior to the submission of the report, including estimates by the CPA of the costs required to complete each project.

(2) The distribution of duties and responsibilities regarding such projects among the agencies of the United States Government.

[15] For text, see page 603.
[16] 22 U.S.C. 2151 note.

(3) Revenues to the CPA attributable to or consisting of funds provided by foreign governments and international organizations, disaggregated by donor, any obligations or expenditures of such revenues, and the purpose of such obligations and expenditures.

(4) Revenues to the CPA attributable to or consisting of foreign assets seized or frozen, any obligations or expenditures of such revenues, and the purpose of such obligations and expenditures.

(b) Any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures.

(c) The report required by subsection (a) shall be updated and submitted to the Committees on Appropriations every 3 months and shall include information on how the estimates and assumptions contained in previous reports have changed.

(d) The requirements of this section shall expire on October 1, 2007.

SEC. 2208.[17] Any reference in this chapter to the "Coalition Provisional Authority in Iraq" or the "Coalition Provisional Authority" shall be deemed to include any successor United States Government entity with the same or substantially the same authorities and responsibilities as the Coalition Provisional Authority in Iraq.

SEC. 2209. Assistance or other financing under chapter 2 of this title may be provided for Iraq and Afghanistan notwithstanding any other provision of law not contained in this Act that restricts assistance to foreign countries and section 660 of the Foreign Assistance Act of 1961: *Provided,* That funds made available for Iraq pursuant to the authority of this section shall be subject to the regular reprogramming notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except that notification shall be transmitted at least 5 days in advance of obligation.

SEC. 2210. Funds made available in chapter 2 of this title are made available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956, as amended.

SEC. 2211. Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: *Provided,* That funds made available pursuant to the authority of this section shall be subject to the regular reprogramming notification procedures of the Committees on Appropriations.

SEC. 2212. In addition to transfer authority otherwise provided in chapter 2 of this title, any appropriation made available in chapter 2 of this title may be transferred between such appropriations, to be available for the same purposes and the same time as the appropriation to which transferred: *Provided,* That the total amount transferred pursuant to this section shall not exceed $100,000,000: *Provided further,* That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority

[17] 22 U.S.C. 2151 note.

contained in this section: *Provided further,* That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 10 days in advance of the obligation of funds.

SEC. 2213. Public Law 107–57 is amended—[18]

(1) in section 1(b), by striking "2003" wherever appearing (including in the caption), and inserting in lieu thereof "2004";

(2) in section 3(2), by striking "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, as is" and inserting in lieu thereof "annual foreign operations, export financing, and related programs appropriations Acts for fiscal years 2002, 2003, and 2004, as are"; and

(3) in section 6, by striking "2003" and inserting in lieu thereof "2004".

SEC. 2214. The Afghanistan Freedom Support Act of 2002 (Public Law 107–327), is amended in section 108(a), by striking "$425,000,000 for each of the fiscal years 2003 through 2006" and inserting in lieu thereof "$1,825,000,000 for fiscal year 2004 and $425,000,000 for each of fiscal years 2005 and 2006".[19]

SEC. 2215.[20] REPORTS ON IRAQ AND AFGHANISTAN. (a)(1) The Coalition Provisional Authority (CPA) shall, on a monthly basis until September 30, 2006, submit a report to the Committees on Appropriations which details, for the preceding month, Iraqi oil production and oil revenues, and uses of such revenues.

(2) The first report required by this subsection shall be submitted not later than 30 days after enactment of this Act.

(3) The reports required by this subsection shall also be made publicly available in both English and Arabic, including through the CPA's Internet website.

(b) The Secretary of State, in consultation with the heads of other relevant Federal agencies, shall submit a report to the Committees on Appropriations not later than 90 days after enactment of this Act detailing:

(1) the amount of debt incurred by the Government of Saddam Hussein in Iraq, the impact forgiveness of such debt would have on reconstruction and long-term prosperity in Iraq, and the estimated amount that Iraq will pay, or that will be paid on behalf of Iraq, to a foreign country to service such debt during fiscal year 2004;

(2) the efforts of the Government of the United States to increase resources contributed by foreign countries and international organizations, including the United Nations, to the reconstruction and rehabilitation of Iraq and to increase international participation in peacekeeping and security efforts in Iraq;

(3) the manner in which the needs of people with disabilities are being addressed in the development and implementation of programs, projects and activities funded by the United States Government in Iraq and Afghanistan;

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[18] Public Law 107–57 exempts Pakistan from foreign assistance prohibitions; for text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[19] For text, see page 603.

[20] 22 U.S.C. 2151 note.

(4) the progress being made toward indicting and trying leaders of the former Iraqi regime for war crimes, genocide, and crimes against humanity; and

(5) the efforts of relevant Iraqi officials and legal advisors to ensure that a new Iraqi constitution preserves religious freedom and tolerance of all faiths.

(c) Title III of Public Law 107–327 is amended as follows by inserting the following new section:

"SEC. 304. REPORTS.[21]

"The Secretary of State shall submit reports to the Committees on Foreign Relations and Appropriations of the Senate, and the Committees on International Relations and Appropriations of the House of Representatives on progress made in accomplishing the 'Purposes of Assistance' set forth in section 102 of this Act utilizing assistance provided by the United States for Afghanistan. The first report shall be submitted no later than December 31, 2003, and subsequent reports shall be submitted in conjunction with reports required under section 303 of this title and thereafter through December 31, 2004.".

SEC. 2216. None of the funds appropriated or otherwise made available under chapter 2 of title II of this Act may be obligated or expended for any activity in contravention of Articles 1 and 4 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts.

SEC. 2217. PARTICIPATION OF WOMEN IN AFGHANISTAN AND IRAQ RECONSTRUCTION. (a) GOVERNANCE.—Activities carried out by the United States with respect to the civilian governance of Afghanistan and Iraq shall, to the maximum extent practicable—

(1) include the perspectives and advice of women's organizations in Afghanistan and Iraq, respectively; and

(2) promote the high level participation of women in future legislative bodies and ministries and ensure that human rights for women are upheld in any constitution or legal institution of Afghanistan and Iraq, respectively.

(b) POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT.—Activities carried out by the United States with respect to post-conflict stability in Afghanistan and Iraq shall, to the maximum extent practicable—

(1) encourage the United States organizations that receive funds made available by this Act to provide significant financial resources, technical assistance and capacity building to counterpart organizations led by Afghans and Iraqis, respectively;

(2) increase the access of women to, or ownership by women of, productive assets such as land, water, agricultural inputs, credit, and property in Afghanistan and Iraq, respectively;

(3) provide long-term financial assistance for education for girls and women in Afghanistan and Iraq, respectively; and

(4) integrate education and training programs for former combatants in Afghanistan and Iraq, respectively, with economic development programs to—

[21] 22 U.S.C. 7554.

(A) encourage the reintegration of such former combatants into society; and

(B) promote post-conflict stability in Afghanistan and Iraq, respectively.

(c) MILITARY AND POLICE.—Activities carried out by the United States with respect to training for military and police forces in Afghanistan and Iraq shall include training, designed in consultation with women's organizations in Afghanistan and Iraq, respectively, on the protection, rights, and particular needs of women.

TITLE III—SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION[22]

SEC. 3001.[23] SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.[24]

(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to—

(A) promote economy efficiency, and effectiveness in the administration of such programs and operations; and

(B) prevent and detect waste, fraud,[25] and abuse in such programs and operations.

(3) To provide for an independent and objective means of keeping the Secretary of State and the Secretary of Defense[26] fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress for corrective action.

(b) OFFICE OF INSPECTOR GENERAL.—There is hereby established the Office of the Special Inspector General for Iraq Reconstruction.[27]

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[22] Sec. 1203(a)(3)(B) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "**TITLE III—INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY**" and inserted in lieu thereof "**TITLE III—SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION**".

[23] 5 U.S.C. app. 8G note. Sec. 1203(a)(3)(A) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "**INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY.**" and inserted in lieu thereof "**SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.**" as the section heading.

[24] Sec. 1203(c)(1) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "of the Coalition Provisional Authority (CPA)" and inserted in lieu thereof "funded with amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund".

[25] Sec. 1203(c)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "fraud" and inserted in lieu thereof "waste, fraud,".

[26] Sec. 1203(c)(3) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "the head of the Coalition Provisional Authority" and inserted in lieu thereof "the Secretary of State and the Secretary of Defense".

[27] Sec. 1203(a)(1) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2078) struck out "Office of the Inspector General of the Coalition Provisional Authority" and inserted in lieu thereof "Office of the Special Inspector General for Iraq Reconstruction".

(c)[28] APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—(1) The head of the Office of the Special Inspector General for Iraq Reconstruction[27] is the Special Inspector General for Iraq Reconstruction (in this section referred to as the "Inspector General"),[29], who shall be appointed by the Secretary of Defense, in consultation with the Secretary of State.

(2) The appointment of Inspector General shall be made solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

(4) The Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(5) For purposes of section 7324 of title 5, United States Code, the Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) The annual rate of basic pay of the Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) ASSISTANT INSPECTORS GENERAL.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations supported by the Iraq Relief and Reconstruction Fund;[30] and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

(e) SUPERVISION.—(1) Except as provided in paragraph (2), the Inspector General shall report directly to, and be under the general supervision of, the Secretary of State and the Secretary of Defense.[31]

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[28] Sec. 1203(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) provided the following:

"(b) CONTINUATION IN OFFICE.—The individual serving as the Inspector General of the Coalition Provisional Authority as of the date of the enactment of this Act [October 28, 2004] may continue to serve in that position after that date without reappointment under paragraph (1) of section 3001(c) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, but remaining subject to removal as specified in paragraph (4) of that section.".

[29] Sec. 1203(a)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2078) struck out "Inspector General of the Coalition Provisional Authority" and inserted in lieu thereof "Special Inspector General for Iraq Reconstruction (in this section referred to as the 'Inspector General')".

[30] Sec. 1203(d) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "of the Coalition Provisional Authority" and inserted in lieu thereof "supported by the Iraq Relief and Reconstruction Fund".

[31] Sec. 1203(e)(1)(A) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "the head of the Coalition Provisional Authority" and inserted in lieu thereof "the Secretary of State and the Secretary of Defense".

(2) No officer[32] of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation related to the Iraq Relief and Reconstruction Fund or from issuing any subpoena during the course of any such[33] audit or investigation.

(f) DUTIES.—(1) It shall be the duty of the Inspector General to conduct, supervise, and coordinate audits and investigations of the treatment, handling, and expenditure of amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund,[34] and of the programs, operations, and contracts carried out utilizing such funds, including—

(A) the oversight and accounting of the obligation and expenditure of such funds;

(B) the monitoring and review of reconstruction activities funded by such funds;

(C) the monitoring and review of contracts funded by such funds;

(D) the monitoring and review of the transfer of such funds and associated information between and among departments, agencies, and entities of the United States and[35] private and nongovernmental entities; and

(E) the maintenance of records on the use of such funds to facilitate future audits and investigations of the use of such funds.

(2) The Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(4)[36] In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, each of the following:

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[32] Sec. 1203(e)(1)(B)(i) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "Neither the head of the Coalition Provisional Authority, any other officer of the Coalition Provisional Authority, nor any other officer" and inserted in lieu thereof "No officer".

[33] Sec. 1203(e)(1)(B)(ii) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "investigation, or from issuing any subpoena during the course of any" and inserted in lieu thereof "investigation related to the Iraq Relief and Reconstruction Fund or from issuing any subpoena during the course of any such".

[34] Sec. 1203(f)(1) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "appropriated funds by the Coalition Provisional Authority in Iraq" and inserted in lieu thereof "amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund".

[35] Sec. 1203(f)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "the Coalition Provisional Authority, other departments, agencies, and entities of the Federal Government, and" and inserted in lieu thereof "departments, agencies, and entities of the United States and".

[36] Sec. 1203(g) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out paras. (4) and (5), and inserted a new para. (4). Paras. (4) and (5) previously read as follows:

"(4) In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, the Inspector General of the Department of Defense.

"(5) In carrying out the duties, and responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of the Inspector General of the United States Agency for International Development.".

(A) The Inspector General of the Department of State.

(B) The Inspector General of the Department of Defense.

(C) The Inspector General of the United States Agency for International Development.

(g) POWERS AND AUTHORITIES.—(1) In carrying out the duties specified in subsection (f), the Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978, including the authorities under subsection (e) of such section.[37]

(2) The Inspector General shall carry out the duties specified in subsection (f)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(h) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—(1) The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title.

(3) To the extent and in such amounts as may be provided in advance by appropriations Acts, the Inspector General my enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4)(A) Upon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.

(B) Whenever information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary of State or Secretary of Defense, as appropriate,[38] and to the appropriate committees of Congress without delay.

(5) The Secretary of State or Secretary of Defense, as appropriate,[38] shall provide the Inspector General with appropriate and adequate office space within the Department of Defense or at appropriate locations of the Department of State in Iraq,[39] together with such equipment, office supplies, and communications facilities

[37] Sec. 1203(h) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) inserted ", including the authorities under subsection (e) of such section".

[38] Sec. 1203(e)(2)(A) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "head of the Coalition Provisional Authority" and inserted in lieu thereof "Secretary of State or Secretary of Defense, as appropriate,".

[39] Sec. 1203(e)(2)(B) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2079) struck out "at the central and field office locations of the Coalition Provisional Authority" and inserted in lieu thereof "within the Department of Defense or at appropriate locations of the Department of State in Iraq".

and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(i) REPORTS.—(1) Not later than 30 days after the end of each fiscal-year quarter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report,the activities during such period of the Inspector General and the activities under programs and operations funded with amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.[40] Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Iraq, including the following:

(A) Obligations and expenditures of appropriated funds.

(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Iraq, together with the estimate of the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable,[41] of the costs to complete each project and each program.

(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations, and any obligations or expenditures of such revenues.

(D) Revenues attributable to or consisting of foreign assets seized or frozen, and any obligations or expenditures of such revenues.

(E) Operating expenses of agencies[42] or entities receiving amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.[43]

(F) In the case of any contract described in paragraph (2)—

(i) the amount of the contract or other agreement;

(ii) a brief discussion of the scope of the contract or other agreement;

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[40] Sec. 1203(i)(1)(A) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "Not later than March 30, 2004, and every calendar quarter thereafter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Inspector General and the Coalition Provisional Authority during the 120-day period ending on the date of such report." and inserted in lieu thereof "Not later than 30 days after the end of each fiscal-year quarter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report,the activities during such period of the Inspector General and the activities under programs and operations funded with amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.".

[41] Sec. 1203(i)(1)(B) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "the Coalition Provisional Authority" and inserted in lieu thereof "the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable,".

[42] Sec. 1203(i)(1)(C)(i) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "the Coalition Provisional Authority and of any other" preceding "agencies".

[43] Sec. 1203(i)(1)(C)(ii) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "appropriated funds" and inserted in lieu thereof "amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund".

(iii) a discussion of how the contracting department or agency[44] identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers; and

(iv) the justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(2) A contract described in this paragraph is any major contract or other agreement that is entered into by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund[45] with any public or private sector entity for any of the following purposes:

(A) To build or rebuild physical infrastructure of Iraq.

(B) To establish or reestablish a political or societal institution of Iraq.

(C) To provide products or services to the people of Iraq.

(3) The[46] Inspector General shall submit to the appropriate committees of Congress semiannual reports[47] meeting the requirements of section 5 of the Inspector General Act of 1978. The first such report for a year, covering the first six months of the year, shall be submitted not later than July 31, of that year, and the second such report, covering the second six months of the year, shall be submitted not later than January 31, of the following year.[48]

(4) The Inspector General shall publish each report under this subsection in both English and Arabic on the Internet website of the Department of State and of the Department of Defense.[49]

(5) Each report under this subsection may include a classified annex if the Inspector General considers it necessary.

(6) Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

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[44] Sec. 1203(i)(1)(D) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "the Coalition Provisional Authority" and inserted in lieu thereof "the contracting department or agency".

[45] Sec. 1203(i)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "by the Coalition Provisional Authority" and inserted in lieu thereof "by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund".

[46] Sec. 1203(i)(3)(A) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "Not later than June 30, 2004, and semiannually thereafter, the" and inserted in lieu thereof "The".

[47] Sec. 1203(i)(3)(B) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "a report" and inserted in lieu thereof "semiannual reports".

[48] Sec. 1203(i)(3)(C) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) added this sentence.

[49] Sec. 1203(i)(4) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) struck out "of the Coalition Provisional Authority" and inserted in lieu thereof "of the Department of State and of the Department of Defense".

(j) REPORT COORDINATION.—(1) The Inspector General shall also submit each report under subsection (i) to the Secretary of State and the Secretary of Defense.[50]

(2)(A) Not later than 30 days after receipt of a report under paragraph (1), the Secretary of State or the Secretary of Defense[51] may submit to the appropriate committees of Congress any comments on the matters covered by the report as the Secretary of State or the Secretary of Defense, as the case may be,[52] considers appropriate.

(B) A report under this paragraph may include a classified annex if the Secretary of State or the Secretary of Defense, as the case may be,[53] considers it necessary.

(k) TRANSPARENCY.—(1) Not later than 60 days after the date of the submittal to Congress of a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly[54] make copies of such report available to the public upon request, and at a reasonable cost.

(2) Not later than 60 days after the date of the submittal to Congress under subsection (j)(2) of comments on a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly[54] make copies of such comments available to the public upon request, and at a reasonable cost.

(l) WAIVER.—(1) The President may waive the requirement under paragraph (1) or (3) of subsection (i) for the inclusion in a report under such paragraph of any element otherwise provided for under such paragraph if the President determines that the waiver is justified for national security reasons.

(2) The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which the reports required under paragraph (1) or (3) of subsection (i) are submitted to Congress. The reports required under paragraph (1) or (3) of subsection (i) shall specify whether waivers under this subsection were made and with respect to which elements.

(m) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

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[50] Sec. 1203(e)(3)(A) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "the head of the Coalition Provisional Authority" and inserted in lieu thereof "the Secretary of State and the Secretary of Defense".

[51] Sec. 1203(e)(3)(B)(i)(I) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "the head of the Coalition Provisional Authority" and inserted in lieu thereof "the Secretary of State or the Secretary of Defense".

[52] Sec. 1203(e)(3)(B)(i)(II) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "the head of the Coalition Provisional Authority" and inserted in lieu thereof "the Secretary of State or the Secretary of Defense, as the case may be,".

[53] Sec. 1203(e)(3)(B)(ii) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "the head of the Coalition Provisional Authority" and inserted in lieu thereof "the Secretary of State or the Secretary of Defense, as the case may be,".

[54] Sec. 1203(e)(4) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2080) struck out "the head of the Coalition Provisional Authority" in each place it appeared in subsec. (k), and inserted in lieu thereof "the Secretary of State and the Secretary of Defense shall jointly".

(2) the Committees on Appropriations, Armed Services, and International Relations of the House of Representatives.

(n) FUNDING.—(1) Of the amounts appropriated for fiscal year 2004 for the Operating Expenses of the Coalition Provisional Authority in title II of this Act, $75,000,000 shall be available to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(o)[55] TERMINATION.—The Office of the Inspector General shall terminate on the date that is 10 months after the date, as determined by the Secretary of State and the Secretary of Defense, on which 80 percent of the amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund by chapter 2 of title II of this Act have been obligated.

TITLE IV—GENERAL PROVISIONS, THIS ACT

SEC. 4001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 4002. The amounts provided in this Act are designated by the Congress as an emergency requirement pursuant to section 502 of H. Con. Res. 95 (108th Congress).

* * * * * * *

This Act may be cited as the "Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004".

[55] Sec. 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) amended and restated subsec. (o). It previously read as follows:

"(o) The Office of Inspector General shall terminate 6 months after the authorities and duties of the Coalition Provisional Authority cease to exist.".

f. Emergency Wartime Supplemental Appropriations Act, 2003

Partial text of Public Law 108–11 [H.R. 1559], 117 Stat. 559, approved April 16, 2003; amended by Public Law 108–106 [Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004; H.R. 3289], 117 Stat. 1209, approved November 6, 2003; Public Law 108–447 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT Making emergency wartime supplemental appropriations for the fiscal year 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, and for other purposes, namely:

TITLE I—WAR-RELATED APPROPRIATIONS

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CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

* * * * * * *

IRAQ FREEDOM FUND [1]

(TRANSFER OF FUNDS)

There is established in the Treasury of the United States a special account to be known as the "Iraq Freedom Fund". For additional expenses for ongoing military operations in Iraq, and those

[1] Sec. 8128 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1102), provided the following:

"(RESCISSION)

"SEC. 8128. Of the funds made available in chapter 3 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), under the heading 'Iraq Freedom Fund', $3,490,000,000 are hereby rescinded.".

Title I of Public Law 108–106 (117 Stat. 1211) provided the following:

"IRAQ FREEDOM FUND

"(INCLUDING TRANSFER OF FUNDS)

"For 'Iraq Freedom Fund', $1,988,600,000, to remain available for transfer until September 30, 2005, for the purposes authorized under this heading in Public Law 108–11: *Provided,* That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; military construction; the Defense Health Program; and working capital funds: *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the

operations authorized by Public Law 107–40, and other operations and related activities in support of the global war on terrorism, not otherwise provided for, necessary to finance the estimated partial costs of combat, stability operations (including natural resource risk remediation activities), force reconstitution, replacement of munitions and equipment, and other costs, there is hereby appropriated $15,678,900,000, to remain available for transfer until September 30, 2004: *Provided,* That amounts provided under this heading shall be available for transfer for the following activities:

Not less than $1,771,180,000 for classified programs, which shall be in addition to amounts provided for elsewhere in this chapter, and under this heading, for procurement and research, development, test and evaluation;

Not less than $1,100,000,000 for increased fuel costs, for transfer to "Defense Working Capital Funds";

Up to $1,400,000,000 for transfer to "Operation and Maintenance, Defense-Wide", only for purposes further specified in section 1310 of this chapter;

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funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further,* That not less than $62,100,000 shall be transferred to 'Other Procurement, Army' for the procurement of Up-armored High Mobility Multipurpose Wheeled Vehicles and associated equipment: *Provided further,* That $10,000,000 shall be for the Family Readiness Program of the National Guard.".

Sec. 1507 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2099) provided the following:

"SEC. 1507. IRAQ FREEDOM FUND.

"(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the account of the Iraq Freedom Fund in amount of $3,892,000,000, to remain available for transfer to other accounts in this title until September 30, 2006. Amounts of authorization so transferred shall be merged with and be made available for the same purposes as the authorization to which transferred. Of the amounts provided in this section $1,800,000,000 shall only be used for classified programs.

"(b) NOTICE TO CONGRESS.—A transfer may be made from the Iraq Freedom Fund only after the Secretary of Defense notifies the congressional defense committees with respect to the proposed transfer in writing not less than five days before the transfer is made.".

Title IX of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1005), provided the following:

"IRAQ FREEDOM FUND

"(INCLUDING TRANSFER OF FUNDS

"For an additional amount for 'Iraq Freedom Fund', $3,800,000,000, to remain available for transfer until September 30, 2006, only to support operations in Iraq or Afghanistan and classified activities: *Provided,* That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: *Provided further,* That of the amounts provided under this heading, $1,800,000,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: *Provided further,* That up to $100,000,000 shall be available for the Department of Homeland Security, 'United States Coast Guard, Operating Expenses': *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.".

Up to $489,300,000 for transfer to the "Natural Resources Risk Remediation Fund";

Up to $400,000,000 for transfer to Department of Homeland Security, "United States Coast Guard, Operating Expenses", to support military activities in connection with operations in and around Iraq and the global war on terrorism;

Up to $57,600,000 for research, development, test, and evaluation; and

Up to $25,000,000 for counter-terrorism military training activities for foreign governments in connection with the global war on terrorism, including equipment, supplies and services, on such terms as the Secretary of Defense, with the concurrence of the Secretary of State and 15 days following submission of a financial plan for the use of such funds to the congressional defense committees, may determine:

Provided further, That in addition to the transfers authorized in the preceding proviso, the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster Assistance, and Civic Aid; procurement; research, development, test and evaluation; military construction; the Defense Health Program appropriation; and working capital funds: *Provided further,* That the funds transferred under this heading shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary of Defense shall submit a report no later than July 1, 2003, and then 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

NATURAL RESOURCES RISK REMEDIATION FUND

(TRANSFER OF FUNDS)

There is established in the Treasury of the United States a special account to be known as the "Natural Resources Risk Remediation Fund". Funds transferred to, appropriated to, and contributions made to, the Natural Resources Risk Remediation Fund may be made available for expenses necessary, in and around Iraq, to address emergency fire fighting, repair of damage to oil facilities and related infrastructure, and preserve a distribution capability, and may remain available until expended: *Provided,* That up to $489,300,000 of the funds appropriated to the Iraq Freedom Fund in this Act may be transferred to this fund: *Provided further,* That the Secretary of Defense may accept from any person, foreign government, or international organization, and credit to this fund, any

contribution of money for such purposes: *Provided further,* That funds available in the Defense Cooperation Account may be transferred to and merged with the Natural Resources Risk Remediation Fund: *Provided further,* That the Secretary of Defense may transfer funds available in the Natural Resources Risk Remediation Fund to other appropriations or funds of the Department of Defense to carry out such purposes, or to reimburse such appropriations or funds for expenses incurred for such purposes: *Provided further,* That funds so transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided, such amounts may be transferred back to this appropriation: *Provided further,* That in administering the Natural Resources Risk Remediation Fund during fiscal year 2003, the Secretary of Defense may transfer funds from the Iraq Freedom Fund only to the extent that amounts transferred from the Defense Cooperation Account and amounts accepted pursuant to the authority of the second proviso of this paragraph are not currently available: *Provided further,* That, hereafter, contributions of money deposited into the Natural Resources Risk Remediation Fund shall be reported to the Congress in the same report, and under the same terms and conditions, as the report required for contributions to the Defense Cooperation Account under section 2608, chapter 155 of title 10, United States Code: *Provided further,* That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees of any transfer of funds from this appropriation.

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GENERAL PROVISIONS, THIS CHAPTER

SEC. 1301. Except as otherwise specifically provided in this chapter, amounts provided to the Department of Defense under each of the headings in this chapter shall be available for the same time period, and subject to the same terms and conditions, as the amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 2003 (Public Law 107–248) and Making Further Continuing Appropriations for the Fiscal Year 2003, and for Other Purposes (Public Law 108–7).

SEC. 1302. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in previous fiscal year 2003 appropriations acts which make appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees.

SEC. 1303. None of the funds in this chapter may be used to develop or procure any item or capability that will not be fielded within 4 years of enactment of this Act.

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(INCLUDING TRANSFER OF FUNDS)

SEC. 1307. In addition to amounts made available elsewhere in this Act for the Department of Defense, $165,000,000 is appropriated to the Department of Defense to reimburse applicable appropriations for the value of drawdown support provided by the Department of Defense under the Afghanistan Freedom Support Act of 2002: *Provided,* That this appropriation shall not increase the limitation set forth in section 202(b) of that Act: *Provided further,* That the Secretary of Defense may transfer the funds provided herein to the applicable appropriations of the Department of Defense: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That notwithstanding any other provision of law, none of the funds provided in this or any other appropriations Act for the Department of Defense may be used for the drawdown authority in section 202 of the Afghanistan Freedom Support Act of 2002 (Public Law 107–327) prior to notifying in writing the House and Senate Committees on Appropriations of the source of the funds to be used for such purpose.

SEC. 1308. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 1309. (a) Of the amounts available to the Secretary of Defense, $63,500,000 may be used to reimburse applicable appropriations for the value of support provided by the Department of Defense under the Iraq Liberation Act of 1998: *Provided,* That this appropriation shall not increase the limitation set forth in section (4)(a)(2)(B) of that Act.

(b) Section (4)(a)(2) of the Iraq Liberation Act of 1998[2] is amended by adding the following new subparagraph at the end:

> "(C) The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under this paragraph may not exceed $86,500,000 in fiscal year 2003.".

(c) Notwithstanding any other provision of law, none of the funds provided in this or any other appropriations Act for the Department of Defense may be used for the drawdown authority in section (4)(a)(2) of the Iraq Liberation Act of 1998 (including the drawdown authority of this section) unless the House and Senate Committees on Appropriations are notified in writing of the sources of the funds to be used for such purpose not later than 7 days following the exercise of the drawdown authority.

[2] Public Law 105–338 (112 Stat. 3178) may be found in *Legislation on Foreign Relations Through 2004*, vol. I–B.

(INCLUDING TRANSFER OF FUNDS)

SEC. 1310. Up to $1,400,000,000 of funds transferred under the authority provided under the heading "Iraq Freedom Fund" to "Operation and Maintenance, Defense-Wide" may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military support provided, or to be provided, to United States military operations in connection with military action in Iraq and the global war on terrorism: *Provided,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That unless expressly provided in an appropriations Act enacted after the date of enactment of this Act, and notwithstanding any other provision of law, no funds other than those additional amounts provided herein shall be made available for any payments intended to fulfill the purposes specified in this section and similar reimbursement authorities expressly provided in section 304 of Public Law 107–117 and within the "Operation and Maintenance, Defense-Wide" appropriation account enacted in Public Law 107–206: *Provided further,* That not later than July 1, 2003, the Secretary of Defense shall submit a report in writing to the Committees on Appropriations that includes a financial plan for the obligation and expenditure of such funds: *Provided further,* That if such report is not provided to the Committees on Appropriations by the date specified in the previous proviso, unobligated balances of funds that are available from the amounts provided in this chapter for the purposes specified under this section shall be returned to the Treasury of the United States: *Provided further,* That, beginning not later than July 1, 2003, the Secretary of Defense shall provide quarterly reports to the Committees on Appropriations on the uses of funds made available for payments to Pakistan, Jordan, and other key cooperating nations for logistical and military support provided to United States military operations in connection with military action in and around Iraq and the global war on terrorism.

(TRANSFER OF FUNDS)

SEC. 1311. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may transfer between appropriations up to $2,000,000,000 of the funds made available in this chapter: *Provided,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the

authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 107–248 except for the fourth proviso.

* * * * * * *

(TRANSFER OF FUNDS)

SEC. 1313. As of October 31, 2003, all unobligated[3] balances of funds remaining in the "Defense Emergency Response Fund" shall be transferred to, and merged with, the "Iraq Freedom Fund", and shall be available for the same purposes, and under the same terms and conditions, as funds appropriated to the "Iraq Freedom Fund" in this chapter.

* * * * * * *

CHAPTER 5

* * * * * * *

OTHER BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

IRAQ RELIEF AND RECONSTRUCTION FUND[4]

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for humanitarian assistance in and around Iraq and to carry out the purposes of the Foreign Assistance Act of 1961 for rehabilitation and reconstruction in Iraq, there is appropriated to the President, $2,475,000,000, to remain available until September 30, 2004, including for the costs of: (1) water/sanitation infrastructure; (2) feeding and food distribution; (3) supporting relief efforts related to refugees, internally displaced persons, and vulnerable individuals, including assistance for families of innocent Iraqi civilians who suffer losses as a result of military operations; (4) electricity; (5) healthcare; (6) telecommunications; (7) economic and financial policy; (8) education; (9) transportation; (10) rule of law and governance; (11) humanitarian demining; and

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[3] Sec. 1105(a) of Public Law 108–106 (117 Stat. 1214) inserted "unobligated" before "balances". Subsec. 1105(b) of that Act provided the following:

"(b) Effective November 1, 2003, adjustments to obligations that before such date would have been properly chargeable to the Defense Emergency Response Fund shall be charged to any current appropriations account of the Department of Defense available for the same purpose.".

[4] In a memorandum of May 6, 2003 (68 F.R. 25275), as amended by a memorandum signed by the President on December 5, 2003 (69 F.R. 1645), the President stated the following:

The functions of the President under the heading 'Iraq Relief and Reconstruction Fund' in the Emergency Wartime Supplemental appropriations Act, 2003 (Public Law 108–11), or in any subsequent appropriation under this heading, including with respect to apportionment, reimbursement, consultation, transfer of funds, retransfer of funds, and acceptance and crediting of contributions, are assigned to the Director of the Office of Management and Budget.

"In accordance with Presidential direction relating to Iraq relief and reconstruction, multiple agencies are deployed with the Coalition Provisional Authority (CPA) and are serving as implementing partners or executing agents for programs and projects. These agencies will identify funding requirements for such programs and projects through CPA. OMB will work with CPA to transfer funds to the appropriate implementing agency. The Director of OMB shall coordinate with the Secretary of Defense or his designee prior to apportioning funds. With respect to programs administered by the Department of State or the United States Agency for International Development, the Director of OMB shall coordinate with the Secretary of State or his designee prior to apportioning funds.".

See also secs. 2202 and 2203 of Public Law 108–106 (117 Stat. 1228, 1229), beginning at page 1056.

(12) agriculture: *Provided,* That these funds shall be apportioned only to the Department of State, the United States Agency for International Development, the Department of the Treasury, the Department of Defense, and the Department of Health and Human Services, as appropriate, for expenses to meet such costs: *Provided further,* That funds appropriated under this heading shall be used to fully reimburse accounts administered by the Department of State, the Department of the Treasury and the United States Agency for International Development, not otherwise reimbursed from funds appropriated by this chapter, for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: *Provided further,* That prior to the initial apportionment of funds made available under this heading to any agency or department, the President, or his designee, shall consult with the Committees on Appropriations on plans for the use of the funds appropriated under this heading that will be used for assistance for Iraq: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the United States may accept from any person, foreign government, or international organization, and credit to this Fund, any contribution of money for such purposes: *Provided further,* That funds appropriated under this heading shall be available notwithstanding any other provision of law, including section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided further,* That funds appropriated under this heading or transferred under provisions of this chapter or section 632 of the Foreign Assistance Act of 1961 that are made available for assistance for Iraq shall be subject to notification of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the obligation of funds.

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund", $2,422,000,000, of which:

(1) not less than $700,000,000 shall be made available for assistance for Jordan;

(2) $300,000,000, to remain available until September 30, 2005, shall be made available only for grants for Egypt: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made to Egypt, the principal amount, any part of which is to be guaranteed, shall not exceed $2,000,000,000: *Provided further,* That the Government of Egypt will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Egypt to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds

appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Egypt may be used by the Government of Egypt to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for full payment and performance of such obligations: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Egypt: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph;

(3) not to exceed $1,000,000,000, to remain available until September 30, 2005, for grants for Turkey: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, direct loans or loan guarantees may be made to Turkey, the principal amount of direct loans or loans, any part of which is to be guaranteed, shall not exceed $8,500,000,000: *Provided further,* That the Government of Turkey will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loans or loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loans or loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Turkey to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Turkey may be used by the Government of Turkey to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That none of the funds made available by this paragraph may be made available for assistance for Turkey if the Secretary of State determines and reports to the Committees on Appropriations of the House and Senate, the Committee on Foreign Relations of the Senate and Committee on International Relations of the House that the Government of Turkey is not cooperating with the United States in Operation Iraqi Freedom, including the facilitation of humanitarian assistance to Iraq, or has unilaterally deployed troops into northern Iraq: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Turkey: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may

suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph: *Provided further,* That any balance of funds not made available to Turkey under this paragraph shall be transferred to, and merged with, funds appropriated for "Iraq Relief and Reconstruction Fund";

(4) not less than $30,000,000 for the Philippines to further prospects for peace in Mindanao, and not less than $167,000,000 for assistance for Afghanistan: *Provided,* That of the funds appropriated under this heading, $10,000,000 should be made available for investigations and research into allegations of war crimes, crimes against humanity, or genocide committed by Saddam Hussein or other Iraqis, and for a contribution to an international tribunal to bring these individuals to justice;

(5) regional funds made available under this heading for assistance that are not specified in paragraphs (1) through (4) shall be subject to the regular notification procedures of the Committees on Appropriations; and

(6) unless otherwise specified herein, funds appropriated under this heading shall remain available until September 30, 2004.

LOAN GUARANTEES TO ISRAEL[5]

During the period beginning March 1, 2003, and ending September 30, 2007,[6] loan guarantees may be made available to Israel, guaranteeing 100 percent of the principal and interest on such loans, the principal amount, any part of which is to be guaranteed, not to exceed $9,000,000,000, of which up to $3,000,000,000 may be issued prior to October 1, 2003, or thereafter and of which $3,000,000,000 may be issued subsequent to September 30, 2004: *Provided,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2007,[7] the authority to issue the balance of such guarantees shall extend to the subsequent fiscal year: *Provided further,* That guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967: *Provided further,* That the amount of guarantees that may be issued shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the period from

[5] In a memorandum of September 12, 2003 (68 F.R. 54969), the President delegated to the Secretary of State the functions conferred on the President under this heading.

[6] Sec. 534(p)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "During the period beginning March 1, 2003, and ending September 30, 2005," and inserted in lieu thereof "During the period beginning March 1, 2003, and ending September 30, 2007,".

[7] Sec. 534(p)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005," and inserted in lieu thereof "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2007,".

March 1, 2003, to the date of issue of the guarantee, for activities which the President determines are inconsistent with the objectives and understandings reached between the United States and the Government of Israel regarding the implementation of the loan guarantee program: *Provided further,* That the President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under the preceding proviso and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year: *Provided further,* That the interest rate for loans guaranteed under this heading may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this heading in the event the borrower elects not to finance such costs or fees out of loan principal: *Provided further,* That no appropriations under this heading are available for the subsidy costs for these loan guarantees: *Provided further,* That the Government of Israel will pay the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, including any non-payment exposure risk, associated with the loan guarantees issued in any fiscal year, on a pro rata basis as each guarantee is issued during that year: *Provided further,* That all fees (as defined in section 601(e) of Public Law 102–391) associated with the loan guarantees shall be paid by the Government of Israel to the Government of the United States: *Provided further,* That funds made available for assistance to Israel under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government: *Provided further,* That the President shall determine the terms and conditions for issuing guarantees, taking into consideration the budgetary and economic reforms undertaken by Israel: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the loan guarantees not yet issued under this heading.

* * * * * * *

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1501. Any appropriation made available in this chapter under the headings "International Disaster Assistance", "United States Emergency Refugee and Migration Assistance Fund", "Nonproliferation, Anti-Terrorism, Demining and Related Programs", "Peacekeeping Operations", or "Iraq Relief and Reconstruction Fund" may be transferred between such appropriations for use for any of the purposes for which the funds in such receiving account may be used: *Provided,* That the total amount transferred from funds appropriated under these headings shall not exceed $100,000,000: *Provided further,* That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority contained in this section: *Provided further,* That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 5 days in advance of the obligations of funds.

SEC. 1502. Assistance or other financing under this chapter may be provided for Iraq notwithstanding any other provision of law: *Provided,* That the authority contained in this section shall not apply to section 553 of Public Law 108–7: *Provided further,* That funds made available for Iraq pursuant to this authority shall be subject to the regular reprogramming procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except that notification shall be transmitted at least 5 days in advance of obligation: *Provided further,* That the notification requirements of this section may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

SEC. 1503.[8] The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, including equipment[9] as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this

[8] Presidential Determination No. 2003–23 of May 7, 2003 (68 F.R. 26459), stated the following:
"* * * I hereby:
"(1) suspend the application of all of the provisions, other than section 586E, of the Iraq Sanctions Act of 1990, Public Law 101–513, and
"(2) make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87–195, as amended (the 'FAA'), and any other provision of law that applies to countries that have supported terrorism.
"In addition, I delegate the functions and authorities conferred upon the President by:
"(1) section 1503 of the Act to submit reports to the designated committees of the Congress to the Secretary of Commerce, or until such time as the principal licensing responsibility for the export to Iraq of items on the Commerce Control List has reverted to the Department of Commerce, to the Secretary of the Treasury; and,
"(2) section 1504 of the Act to the Secretary of State.".

[9] Sec. 2204 of Public Law 108–106 (117 Stat. 1230) struck out "equipment" and inserted in lieu thereof "equipment, including equipment".

Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

SEC. 1504. Notwithstanding any other provision of law, the President may authorize the export to Iraq of any nonlethal military equipment controlled under the International Trafficking in Arms Regulations on the United States Munitions List established pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778), if the President determines and notifies within 5 days prior to export the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that the export of such nonlethal military equipment is in the national interest of the United States: *Provided,* That, subject to the notification requirements of this section, exports may be authorized of lethal military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated by the Secretary of State for use for private security purposes:[10] *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

SEC. 1505. Division E of Public Law 108–7, under the heading "Assistance for the Independent States of the Former Soviet Union", is amended in subsection (f) by: (1) striking "assistance for the Government" and inserting "assistance for the central Government"; and (2) striking "unless" and inserting "if"; and striking "not facilitated" and inserting "facilitated".

SEC. 1506.[11] REPORTS ON UNITED STATES STRATEGY FOR RELIEF AND RECONSTRUCTION IN IRAQ.

(a) INITIAL REPORT.—Not later than 45 days after the date of enactment of this Act, the President shall submit to the Committees on Appropriations a report on the United States strategy regarding activities related to post-conflict security, humanitarian assistance,

[10] Sec. 2205 of Public Law 108–106 (117 Stat. 1230) amended and restated the first proviso, which formerly read as follows: "*Provided,* That the limitation regarding nonlethal military equipment shall not apply to military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force:".

[11] 22 U.S.C. 2151 note.

governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) The distribution of duties and responsibilities regarding such activities among agencies of the United States Government, including the Department of State, the United States Agency for International Development, and the Department of Defense (to be provided within 30 days of enactment of this Act).

(2) A detailed plan describing the roles and responsibilities of foreign governments and international organizations including the United Nations, in carrying out activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq.

(3) A strategy for coordinating such activities among the United States Government, foreign governments and international organizations, including the United Nations.

(4) An initial estimate of the costs expected to be associated with such activities.

(5) A strategy for distributing the responsibility for paying costs associated with reconstruction activities in Iraq among the United States, foreign governments, and international organizations, including the United Nations, and an estimate of the revenue expected to be generated by Iraqi oil production that could be used to pay such costs.

(b) SUBSEQUENT REPORTS.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2004, the President shall submit to the Committees on Appropriations a report that contains:

(1) A list of significant United States Government-funded activities related to reconstruction in Iraq that, during the 90-day period ending 15 days prior to the date the report is submitted to the Committees on Appropriations—

(A) were initiated; or

(B) were completed.

(2) A list of the significant activities related to reconstruction in Iraq that the President anticipates initiating during the 90-day period beginning on the date the report is submitted to the Committees on Appropriations, including:

(A) Cost estimates for carrying out the proposed activities.

(B) The source of the funds that will be used to pay such costs.

(3) Updated strategies, if changes are proposed regarding matters included in the reports required under subsection (a).

(4) An updated list of the financial pledges and contributions made by foreign governments or international organizations to fund activities related to humanitarian, governance, and reconstruction assistance in Iraq.

* * * * * * *

TITLE VI—GENERAL PROVISIONS—THIS ACT

SEC. 6001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the "Emergency Wartime Supplemental Appropriations Act, 2003".

g. Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002

Partial text of Public Law 107–115 [H.R. 2506], 115 Stat. 2118, approved January 10, 2002

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

* * * * * * *

TITLE II—BILATERAL ECONOMIC ASSISTANCE

* * * * * * *

OTHER BILATERAL ECONOMIC ASSISTANCE

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a)–(f) * * *

(g)(1) Section 907 of the FREEDOM Support Act shall not apply to—

(A) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 [1] or non-proliferation assistance;

(B) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(C) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(D) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(E) any financing provided under the Export-Import Bank Act of 1945; or

(F) humanitarian assistance.

[1] Sec. 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2301 note) relates to international border security among the states of the former Soviet Union, the Baltic States, and other countries of Eastern Europe. For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

(2)[2] The President may waive section 907 of the FREEDOM Support Act if he determines and certifies to the Committees on Appropriations that to do so—

(A) is necessary to support United States efforts to counter international terrorism; or

(B) is necessary to support the operational readiness of United States Armed Forces or coalition partners to counter international terrorism; or

(C) is important to Azerbaijan's border security; and

(D) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia.

(3)[2] The authority of paragraph (2) may only be exercised through December 31, 2002.

(4)[2] The President may extend the waiver authority provided in paragraph (2) on an annual basis on or after December 31, 2002 if he determines and certifies to the Committees on Appropriations in accordance with the provisions of paragraph (2).

(5)[2] The Committees on Appropriations shall be consulted prior to the provision of any assistance made available pursuant to paragraph (2).

(6)[2] Within 60 days of any exercise of the authority under paragraph (2) the President shall send a report to the appropriate congressional committees specifying in detail the following—

(A) the nature and quantity of all training and assistance provided to the Government of Azerbaijan pursuant to paragraph (2);

(B) the status of the military balance between Azerbaijan and Armenia and the impact of United States assistance on that balance; and

(C) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations.

* * * * * * *

KENNETH M. LUDDEN

SEC. 592. This Act may be cited as the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002".

[2] 22 U.S.C. 5812 note. On January 25, 2002, the President issued a memorandum for the Secretary of State, in which he determined that a waiver of sec. 907: "is necessary to support U.S. efforts to counter international terrorism; is necessary to support the operational readiness of U.S. Armed Forces or coalition partners to counter international terrorism; is important to Azerbaijan's border security; and will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia. Accordingly, I hereby waive section 907 of the FREEDOM Support Act." (Presidential Determination No. 2002–06; 67 F.R. 5921).

The waiver was extended and restated in Presidential Determination No. 2003–12 of January 17, 2003 (68 F.R. 3803); Presidential Determination No. 2004–18 of December 30, 2003 (69 F.R. 2057); and Presidential Determination No. 2005–18 of January 13, 2005 (70 F.R. 3853).

h. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001

Partial text of H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429 [H.R. 4811], 114 Stat. 1900, approved November 6, 2000; amended by Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002; Public Law 109–199 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004; H.J. Res. 2], 117 Stat. 3 at 143, approved January 23, 2004; and by Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 101.[1] (a) The provisions of H.R. 5526 of the 106th Congress, as introduced on October 24, 2000, are hereby enacted into law.

(b) In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end an appendix setting forth the text of the bill referred to in subsection (a) of this section.

* * * * * * *

APPENDIX A—H.R. 5526

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

INDOCHINESE PAROLEES

SEC. 586.[2] (a) The status of certain aliens from Vietnam, Cambodia, and Laos described in subsection (b) of this section may be

[1] 22 U.S.C. 2151u note.

[2] 8 U.S.C. 1255 note. Several amendments were made to this sec. in sec. 534(m) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), para. (7) (8 U.S.C. 1255 note) of which provided as follows:

"(7) The amendments made by this subsection shall take effect as if enacted as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001.".

adjusted by the Secretary of Homeland Security,[3] under such regulations as the Secretary of Homeland Security[4] may prescribe, to that of an alien lawfully admitted permanent residence if—

(1)[5] the alien makes an application for such adjustment and pays the appropriate fee;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence except as described in subsection (c); and

(3) the alien had been physically present in the United States prior to October 1, 1997.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who was inspected and paroled into the United States before October 1, 1997 and was physically present in the United States on October 1, 1997; and

(1) was paroled into the United States from Vietnam under the auspices of the Orderly Departure Program; or

(2) was paroled into the United States from a refugee camp in East Asia; or

(3) was paroled into the United States from a displaced person camp administered by the United Nations High Commissioner for Refugees in Thailand.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraph (4), (5), and (7)(A) and (9) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this subsection, and nothwithstanding[6] any other provision of law, the Secretary of Homeland Security[3] may waive 212(a)(1); 212(a)(6)(B), (C), and (F); 212(a)(8)(A);[7] 212(a)(10)(B) and (D) with respect to such an alien in order to prevent extreme hardship to the alien or the alien's spouse, parent, son or daughter, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Secretary of Homeland Security[3] shall be in writing and shall be granted only on an individual basis following an investigation.

(d)[8] DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Secretary of Homeland Security[3]

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[3] Sec. 534(m)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "Attorney General" and inserted "Secretary of Homeland Security" throughout sec. 586.

[4] Sec. 534(m)(2)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "she" and inserted in lieu thereof "Secretary of Homeland Security".

[5] Sec. 534(m)(2)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "within three years after the date of promulgation by the Secretary of Homeland Security of regulations in connection with this title" at the beginning of para. (1). The amendment refers to "Attorney General", not taking into consideration the amendment that incorporated the reference to Security of Homeland Security.

[6] As enrolled. Should read "notwithstanding".

[7] Sec. 534(m)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "212(8)(A)" and inserted in lieu thereof "212(a)(8)(A)".

[8] Sec. 534(m)(4) and (5) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out subsec. (d) and redesignated subsecs. (e) and (f) as subsecs. (d) and (e), respectively. Former subsec. (d) read as follows:

"(d) CEILING.—The number of aliens who may be provided adjustment of status under this provision shall not exceed 5,000.".

shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(1), (b)(2) and (b)(3).

(e)[8] NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

(f)[9] ADJUDICATION OF APPLICATIONS.—The Secretary of Homeland Security shall—

(1) adjudicate application for adjustment under this section, notwithstanding any limitation on the number of adjustments under this section or any deadline for such applications that previously existed in law or regulation; and

(2) not charge a fee in addition to any fee that previously was submitted with such application.

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TITLE VIII—INTERNATIONAL DEBT FORGIVENESS AND INTERNATIONAL FINANCIAL INSTITUTIONS REFORM

SEC. 801. DEBT RELIEF UNDER THE HEAVILY INDEBTED POOR COUNTRIES (HIPC) INITIATIVE.

(a) REPEAL OF LIMITATION ON AVAILABILITY OF EARNINGS ON PROFITS OF NONPUBLIC GOLD SALES.—Paragraph (1) of section 62 of the Bretton Woods Agreements Act, as added by section 503(a) of H.R. 3425 of the 106th Congress (as enacted by section 1000(a)(5) of Public Law 106–113 (113 Stat. 1536)), is amended—[10]

(1) by adding "and" at the end of subparagraph (B); and

(2) by striking subparagraph (D).

(b) CONTRIBUTIONS TO HIPC TRUST FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTIONS.—There is authorized to be appropriated (i)[11] for the period beginning October 1, 2000, and ending September 30, 2003, $600,000,000[12] for purposes of United States contributions to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the Bank; and (ii)[11] for fiscal years 2004–2006, not more than $150,000,000, for purposes of additional United States contributions to the HIPC Trust Fund administered by the Bank, which are authorized to remain available until expended.

(2) AVAILABILITY OF AMOUNTS.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

(c) CERTIFICATION REQUIRED.—

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[9] Sec. 534(m)(6) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), added subsec. (f).

[10] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[11] Sec. 591(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), added "(i)" after "appropriated"; and added clause (ii).

[12] Sec. 583 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2118), struck out "$435,000,000" and inserted in lieu thereof "$600,000,000".

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 30 days after the date of enactment of this Act, the Secretary shall certify to the appropriate congressional committees that the following requirements are satisfied:

(A) IMPLEMENTATION BY THE BANK OF CERTAIN POLICIES.—The Bank is implementing—

(i) policies providing for the suspension of a loan if funds are being diverted for purposes other than the purpose for which the loan was intended;

(ii) policies seeking to prevent loans from displacing private sector financing;

(iii) policies requiring that loans other than project loans must be disbursed—

(I) on the basis of specific prior reforms; or

(II) incrementally upon implementation of specific reforms after initial disbursement;

(iv) policies seeking to minimize the number of projects receiving financing that would displace a population involuntarily or be to the detriment of the people or culture of the area into which the displaced population is to be moved;

(v) policies vigorously promoting open markets and liberalization of trade in goods and services;

(vi) policies providing that financing by the Bank concentrates chiefly on projects and programs that promote economic and social progress rather than short-term liquidity financing; and

(vii) policies providing for the establishment of appropriate qualitative and quantitative indicators to measure progress toward graduation from receiving financing on concessionary terms, including an estimated timetable by which countries may graduate over the next 15 years.

(B) IMPLEMENTATION BY THE FUND OF CERTAIN POLICIES.—The Fund is implementing—

(i) policies providing for the suspension of a financing if funds are being diverted for purposes other than the purpose for which the financing was intended;

(ii) policies seeking to ensure that financing by the Fund normally serves as a catalyst for private sector financing and does not displace such financing;

(iii) policies requiring that financing must be disbursed—

(I) on the basis of specific prior reforms; or

(II) incrementally upon implementation of specific reforms after initial disbursement;

(iv) policies vigorously promoting open markets and liberalization of trade in goods and services;

(v) policies providing that financing by the Fund concentrates chiefly on short-term balance of payments financing; and

(vi) policies providing for the use, in conjunction with the Bank, of appropriate qualitative and quantitative indicators to measure progress toward graduation from receiving financing on concessionary terms, including an estimated timetable by which countries may graduate over the next 15 years.

(2) EXCEPTION.—In the event that the Secretary cannot certify that a policy described in paragraph (1)(A) or (1)(B) is being implemented, the Secretary shall, not later than 30 days after the date of enactment of this Act, submit a report to the appropriate congressional committees on the progress, if any, made by the Bank or the Fund in adopting and implementing such policy, as the case may be.

SEC. 802. STRENGTHENING PROCEDURES FOR MONITORING USE OF FUNDS BY MULTILATERAL DEVELOPMENT BANKS.

(a) IN GENERAL.—The Secretary shall instruct the United States Executive Director of each multilateral development bank to exert the influence of the United States to strengthen the bank's procedures and management controls intended to ensure that funds disbursed by the bank to borrowing countries are used as intended and in a manner that complies with the conditions of the bank's loan to that country.

(b) PROGRESS EVALUATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report evaluating the progress made toward achieving the objectives of subsection (a), including a description of—

(1) any progress made in improving the supervision, monitoring, and auditing of programs and projects supported by each multilateral development bank, in order to identify and reduce bribery and corruption;

(2) any progress made in developing each multilateral development bank's priorities for allocating anticorruption assistance;

(3) country-specific anticorruption programs supported by each multilateral development bank;

(4) actions taken to identify and discipline multilateral development bank employees suspected of knowingly being involved in corrupt activities; and

(5) the outcome of efforts to harmonize procurement practices across all multilateral development banks.

SEC. 803.[13] REPORTS ON POLICIES, OPERATIONS, AND MANAGEMENT OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a)[14] * * * [Repealed—2004]

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[13] 22 U.S.C. 262r–6.

[14] Sec. 599B(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 118 Stat. 211) repealed subsec. (a). It read as follows:

"(a) ANNUAL REPORT ON FINANCIAL OPERATIONS.—Beginning 180 days after the date of enactment of this Act, or October 31, 2000, whichever is later, and on October 31 of each year thereafter, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the sufficiency of audits of the financial operations of each multilateral development bank conducted by persons or entities outside such bank.".

(b) ANNUAL REPORT ON UNITED STATES SUPPORTED POLICIES.—Beginning 180 days after the date of enactment of this Act, or October 31, 2000, whichever is later, and on October 31 of each year thereafter, the Secretary shall submit a report to the appropriate congressional committees on—

(1) the actions taken by recipient countries, as a result of the assistance allocated to them by the multilateral development banks under programs referred to in section 802(b), to strengthen governance and reduce the opportunity for bribery and corruption; and

(2) how International Development Association-financed projects contribute to the eventual graduation of a representative sample of countries from reliance on financing on concessionary terms and international development assistance.

(c) AMENDMENT OF REPORT ON FUND.—Section 1705(a) of the International Financial Institutions Act (22 U.S.C. 262r–4(a)) is amended—[15]

(1) by inserting "(1)" before "the progress"; and

(2) by inserting before the period at the end the following: ", and (2) the progress made by the International Monetary Fund in adopting and implementing the policies described in section 801(c)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001".

(d) REPORT ON DEBT RELIEF.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on the history of debt relief programs led by, or coordinated with, international financial institutions, including but not limited to—

(1) the extent to which poor countries and the poorest-of-the-poor benefit from debt relief, including measurable evidence of any such benefits; and

(2) the extent to which debt relief contributes to the graduation of a country from reliance on financing on concessionary terms and international development assistance.

SEC. 804. REPEAL OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS.

Section 209(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2169(d); relating to bilateral funding for international financial institutions) is repealed.

Sec. 805. REFOCUSED ACTIVITIES OF THE IMF.

The Bretton Woods Agreement Act is amended by adding the following new section:

"SEC. 63.[16] PRINCIPLES FOR INTERNATIONAL MONETARY FUND LENDING.

"It is the policy of the United States to work to implement reforms in the International Monetary Fund (IMF) to achieve the following goals:

"(a) SHORT-TERM BALANCE OF PAYMENTS FINANCING.—Lending from the general resources of the Fund should concentrate chiefly on short-term balance of payments financing.

[15] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[16] 22 U.S.C. 286*oo*. Incorporated into the Bretton Woods Agreement Act; see *Legislation on Foreign Relations Through 2004*, vol. III.

"(b) LIMITATIONS ON MEDIUM-TERM FINANCING.—Use of medium-term lending from the general resources of the Fund should be limited to a set of well-defined circumstances, such as—

"(1) when a member's balance of payments problems will be protracted,

"(2) such member has a strong structural reform program in place, and

"(3) the member has little or no access to private sources of capital.

"(c) PREMIUM PRICING.—Premium pricing should be introduced for lending from the general resources of the Fund, for greater than 200 per centum of a member's quota in the Fund, to discourage excessive use of Fund lending and to encourage members to rely on private financing to the maximum extent possible.

"(d) REDRESSING MISREPORTING OF INFORMATION.—The Fund should have in place and apply systematically a strong framework of safeguards and measures to respond to, correct, and discourage cases of misreporting of information in the context of a Fund program, including—

"(1) Suspending Fund disbursements and ensuring that Fund lending is not resumed to members that engage in serious misreporting of material information until such time as remedial actions and sanctions, as appropriate, have been applied;

"(2) Ensuring that members make early repayments, where appropriate, of Fund resources disbursed on the basis of misreported information;

"(3) Making public cases of serious misreporting of material information;

"(4) Requiring all members receiving new disbursements from the Fund to undertake annually independent audits of central bank financial statements and publish the resulting audits; and

"(5) Requiring all members seeking new loans from the Fund to provide to the Fund detailed information regarding their internal control procedures, financial reporting and audit mechanisms and, in cases where there are questions about the adequacy of these systems, undertaking an on-site review and identifying needed remedies.".

SEC. 806.[17] DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and the Committee on Banking and Financial Services and the Committee on Appropriations of the House of Representatives.

(2) BANK.—The term "Bank" means the International Bank for Reconstruction and Development.

(3) FUND.—The term "Fund" means the International Monetary Fund.

[17] 22 U.S.C. 262r–6 note.

(4) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term "international financial institutions" means the multilateral development banks and the International Monetary Fund.

(5) MULTILATERAL DEVELOPMENT BANKS.—The term "multilateral development banks" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001".

i. Emergency Supplemental Act, 2000

Partial text of Public Law 106–246 [H.R. 4425], 114 Stat. 511, approved July 13, 2000; amended by Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002; and by Public Law 109–199 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004; H.J. Res. 2], 117 Stat. 3 at 143, approved January 23, 2004

AN ACT Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

DIVISION B—FISCAL YEAR 2000 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

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TITLE III—COUNTERNARCOTICS

* * * * * * *

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

ASSISTANCE FOR COUNTERNARCOTICS ACTIVITIES

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support Central and South America and Caribbean counternarcotics activities, $1,018,500,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, not less than $110,000,000 shall be made available for assistance for Bolivia, of which not less than $85,000,000 may be made available for alternative development and other economic activities: *Provided further,* That of the funds appropriated under this heading, not less than $20,000,000 may be made available for assistance for Ecuador, of which not less than $8,000,000 may be made available for alternative development and other economic activities: *Provided further,* That of the funds appropriated

under this heading, not less than $18,000,000 shall be made available for assistance for other countries in South and Central America and the Caribbean which are cooperating with United States counternarcotics objectives: *Provided further,* That of the funds appropriated under this heading not less than $60,000,000 shall be made available for the procurement, refurbishing, and support for UH–1H Huey II helicopters for the Colombian Army: *Provided further,* That of the funds appropriated under this heading, not less than $234,000,000 shall be made available for the procurement of and support for UH–60 Blackhawk helicopters for use by the Colombian Army and the Colombian National Police: *Provided further,* That procurement of UH–60 Blackhawk helicopters from funds made available under this heading shall be managed by the United States Defense Security Cooperation Agency: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of an illegal self-defense group or illegal security cooperative, then such helicopter shall be immediately returned to the United States: *Provided further,* That of the amount appropriated under this heading, $2,500,000 shall be available for a program for the demobilization and rehabilitation of child soldiers in Colombia: *Provided further,* That funds made available under this heading shall be in addition to amounts otherwise available for such purposes: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That the Secretary of State, in consultation with the Secretary of Defense and the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 30 days after the date of the enactment of this Act and prior to the initial obligation of any funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project or activity: *Provided further,* That at least 20 days prior to the obligation of funds made available under this heading the Secretary of State shall inform the Committees on Appropriations: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount provided shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3201. CONDITIONS ON ASSISTANCE FOR COLOMBIA. (a) CONDITIONS.—

(1) CERTIFICATION REQUIRED.—Assistance provided under this heading may be made available for Colombia in fiscal years 2000 and 2001 only if the Secretary of State certifies to

the appropriate congressional committees prior to the initial obligation of such assistance in each such fiscal year, that—

(A)(i) the President of Colombia has directed in writing that Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights will be brought to justice in Colombia's civilian courts, in accordance with the 1997 ruling of Colombia's Constitutional court regarding civilian court jurisdiction in human rights cases; and

(ii) the Commander General of the Colombian Armed Forces is promptly suspending from duty any Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights or to have aided or abetted paramilitary groups; and

(iii) the Colombian Armed Forces and its Commander General are fully complying with (A)(i) and (ii); and

(B) the Colombian Armed Forces are cooperating fully with civilian authorities in investigating, prosecuting, and punishing in the civilian courts Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights;

(C) the Government of Colombia is vigorously prosecuting in the civilian courts the leaders and members of paramilitary groups and Colombian Armed Forces personnel who are aiding or abetting these groups;

(D) the Government of Colombia has agreed to and is implementing a strategy to eliminate Colombia's total coca and opium poppy production by 2005 through a mix of alternative development programs; manual eradication; aerial spraying of chemical herbicides; tested, environmentally safe mycoherbicides; and the destruction of illicit narcotics laboratories on Colombian territory; and

(E) the Colombian Armed Forces are developing and deploying in their field units a Judge Advocate General Corps to investigate Colombian Armed Forces personnel for misconduct.

(2) CONSULTATIVE PROCESS.—The Secretary of State shall consult with internationally recognized human rights organizations regarding the Government of Colombia's progress in meeting the conditions contained in paragraph (1), prior to issuing the certification required under paragraph (1).

(3) APPLICATION OF EXISTING LAWS.—The same restrictions contained in section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (Public Law 106–113) and section 8098 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79) shall apply to the availability of funds under this heading.

(4) WAIVER.—Assistance may be furnished without regard to this section if the President determines and certifies to the appropriate committees that to do so is in the national security interest.

(b) DEFINITIONS.—In this section:

(1) AIDING OR ABETTING.—The term "aiding or abetting" means direct and indirect support to paramilitary groups, including conspiracy to allow, facilitate, or promote the activities of paramilitary groups.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(3) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

(4) ASSISTANCE.—The term "assistance" means assistance appropriated under this heading for fiscal years 2000 and 2001, and provided under the following provisions of law:

(A) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; relating to counter-drug assistance).

(B) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; relating to counter-drug assistance to Colombia and Peru).

(C) Section 23 of the Arms Export Control Act (Public Law 90–629; relating to credit sales).

(D) Section 481 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to international narcotics control).

(E) Section 506 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to emergency drawdown authority).

SEC. 3202. REGIONAL STRATEGY. (a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, the Committee on International Relations and the Committee on Appropriations of the House of Representatives, a report on the current United States policy and strategy regarding United States counternarcotics assistance for Colombia and neighboring countries.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall address the following:

(1) The key objectives of the United States' counternarcotics strategy in Colombia and neighboring countries and a detailed description of benchmarks by which to measure progress toward those objectives.

(2) The actions required of the United States to support and achieve these objectives, and a schedule and cost estimates for implementing such actions.

(3) The role of the United States in the efforts of the Government of Colombia to deal with illegal drug production in Colombia.

(4) The role of the United States in the efforts of the Government of Colombia to deal with the insurgency and paramilitary forces in Colombia.

(5) How the strategy with respect to Colombia relates to and affects the United States' strategy in the neighboring countries.

(6) How the strategy with respect to Colombia relates to and affects the United States' strategy for fulfilling global counternarcotics goals.

(7) A strategy and schedule for providing material, technical, and logistical support to Colombia and neighboring countries in order to defend the rule of law and to more effectively impede the cultivation, production, transit, and sale of illicit narcotics.

(8) A schedule for making Forward Operating Locations (FOL) fully operational, including cost estimates and a description of the potential capabilities for each proposed location and an explanation of how the FOL architecture fits into the overall Strategy.

SEC. 3203. REPORT ON EXTRADITION OF NARCOTICS TRAFFICKERS.—(a) Not later than 6 months after the date of the enactment of this title, and every 6 months thereafter, during the period Plan Colombia resources are made available, the Secretary of State shall submit to the Committee on Foreign Relations, the Committee on the Judiciary, and the Committee on Appropriations of the Senate; and the Committee on International Relations, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives a report setting forth—

(1) a list of the persons whose extradition has been requested from any country receiving counternarcotics assistance from the United States, indicating those persons who—

(A) have been surrendered to the custody of United States authorities;

(B) have been detained by the authorities and who are being processed for extradition;

(C) have been detained by the authorities and who are not yet being processed for extradition; or

(D) are at large;

(2) a determination whether authorities of each country receiving counternarcotics assistance from the United States are making good faith efforts to ensure the prompt extradition of each of the persons sought by United States authorities; and

(3) an analysis of—

(A) any legal obstacles in the laws of each country receiving counternarcotics assistance from the United States regarding prompt extradition of persons sought by United States authorities; and

(B) the steps taken by authorities of the United States and the authorities of each country receiving counternarcotics assistance from the United States to overcome such obstacles.

SEC. 3204.[1] LIMITATIONS ON SUPPORT FOR PLAN COLOMBIA AND ON THE ASSIGNMENT OF UNITED STATES PERSONNEL IN COLOMBIA. (a) LIMITATION ON SUPPORT FOR PLAN COLOMBIA.—

[1] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public law 108–7; 117 Stat. 172), provides funding for the Andean Counterdrug Initiative, including the following proviso:

Continued

(1) LIMITATION.—Except as provided in paragraph (2), none of the funds appropriated or otherwise made available by any Act shall be available for support of Plan Colombia unless and until—

(A) the President submits a report to Congress requesting the availability of such funds; and

(B) Congress enacts a joint resolution approving the request of the President under subparagraph (A).

(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to—

(A) appropriations made by this Act, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, the Military Construction Appropriations Act, 2001, the Commerce, Justice, State and the Judiciary Appropriations Act, 2001, the Treasury and General Government Appropriations Act, 2001, or the Department of Defense Appropriations Act, 2001, for the purpose of support of Plan Colombia; or

(B) the unobligated balances from any other program used for their originally appropriated purpose to combat drug production and trafficking, foster peace, increase the rule of law, improve human rights, expand economic development, and institute justice reform in the countries covered by Plan Colombia.

(3) WAIVER.—The limitations in subsection (a) may be waived by an Act of Congress.

(b) LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL IN COLOMBIA.—

(1) LIMITATION.—Except as provided in paragraph (2), none of the funds appropriated or otherwise made available by this or any other Act (including funds described in subsection (c)) may be available for—

(A) the assignment of any United States military personnel for temporary or permanent duty in Colombia in connection with support of Plan Colombia if that assignment would cause the number of United States military personnel so assigned in Colombia to exceed 400;[2] or

(B) the employment of any United States individual civilian retained as a contractor in Colombia if that employment would cause the total number of United States individual civilian contractors employed in Colombia in support of Plan Colombia who are funded by Federal funds to exceed 400.[3]

(2) EXCEPTION.—The limitation contained in paragraph (1) shall not apply if—

"*Provided further*, That the provisions of section 3204(b) through (d) of Public Law 106–246, as amended by Public Law 107–115, shall be applicable to funds appropriated for fiscal year 2003:".

[2] Title II, para. on Andean Counterdrug Inititiatve, of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131) struck out "500" and inserted in lieu thereof "400".

[3] Title II, para. on Andean Counterdrug Inititiatve, of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131) struck out "300" and inserted in lieu thereof "400".

(A) the President submits a report to Congress requesting that the limitation not apply; and

(B) Congress enacts a joint resolution approving the request of the President under subparagraph (A).

(c) WAIVER.—The President may waive the limitation in subsection (b)(1) for a single period of up to 90 days in the event that the Armed Forces of the United States are involved in hostilities or that imminent involvement by the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect the authority of the President to carry out any emergency evacuation of United States citizens or any search or rescue operation for United States military personnel or other United States citizens.

(e) REPORT ON SUPPORT FOR PLAN COLOMBIA.—Not later than June 1, 2001, and not later than June 1 and December 1 of each of the succeeding 4 fiscal years, the President shall submit a report to the appropriate congressional committees[4] setting forth any costs (including incremental costs incurred by the Department of Defense) incurred by any department, agency, or other entity of the executive branch of Government during the two previous fiscal quarters in support of Plan Colombia. Each such report shall provide an itemization of expenditures by each such department, agency, or entity.

(f)[5] QUARTERLY REPORTS.—Beginning within 90 days of the date of the enactment of this Act, and every 90[5] days thereafter, the President shall submit a report to the appropriate congressional committees[5] that shall include the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent United States military personnel and United States individual civilians retained as contractors involved in the antinarcotics campaign in Colombia.

(g) CONGRESSIONAL PRIORITY PROCEDURES.—

(1) JOINT RESOLUTIONS DEFINED.—

(A) For purposes of subsection (a)(1)(B), the term "joint resolution" means only a joint resolution introduced not later than 10 days of the date on which the report of the President under subsection (a)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the request of the President for additional funds for Plan Colombia contained in the report submitted by the President under section 3204(a)(1) of the 2000 Emergency Supplemental Appropriations Act.".

(B) For purposes of subsection (b)(2)(B), the term "joint resolution" means only a joint resolution introduced not later than 10 days of the date on which the report of the

[4] Sec. 599B(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 118 Stat. 211) struck out "Congress" and inserted in lieu thereof "the appropriate congressional committees".

[5] Sec. 599B(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 118 Stat. 210) (1) struck out "BIMONTHLY" in the subsec. heading and inserted in lieu thereof "QUARTERLY"; (2) struck out "60" and inserted in lieu thereof "90"; and (3) struck out "Congress" and inserted in lieu thereof "the appropriate congressional committees".

President under subsection (a)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the request of the President for exemption from the limitation applicable to the assignment of personnel in Colombia contained in the report submitted by the President under section 3204(b)(2)(B) of the 2000 Emergency Supplemental Appropriations Act.".

(2) PROCEDURES.—Except as provided in subparagraph (B), a joint resolution described in paragraph (1)(A) or (1)(B) shall be considered in a House of Congress in accordance with the procedures applicable to joint resolutions under paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473; 98 Stat. 1936).

(h) PLAN COLOMBIA DEFINED.—In this section, the term "Plan Colombia" means the plan of the Government of Colombia instituted by the administration of President Pastrana to combat drug production and trafficking, foster peace, increase the rule of law, improve human rights, expand economic development, and institute justice reform.

SEC. 3205. (a) DENIAL OF VISAS FOR PERSONS CREDIBLY ALLEGED TO HAVE AIDED AND ABETTED COLOMBIAN INSURGENT AND PARAMILITARY GROUPS.—None of the funds appropriated or otherwise made available in this Act for any fiscal year for the Department of State may be used to issue visas to any person who has been credibly alleged to have provided direct or indirect support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Colombian Self Defense organization (AUC), including conspiracy to allow, facilitate, or promote the illegal activities of such groups.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons, or to permit the prosecution of such person in the United States, or the person has cooperated fully with the investigation of crimes committed by individuals associated with the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Colombian Self Defense organization (AUC).

(c) WAIVER.—The President may waive the limitation in subsection (a) if the President determines that the waiver is in the national interest.

SEC. 3206. LIMITATION ON SUPPLEMENTAL FUNDS FOR POPULATION PLANNING.—Amounts appropriated under this division or under any other provision of law for fiscal year 2000 that are in addition to the funds made available under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as enacted into law by section 1000(a)(2) of Public Law 106–113) shall be deemed to have been appropriated under title II of such Act and shall be subject to all limitations and restrictions contained in section 599D of such Act, notwithstanding section 543 of such Act.

SEC. 3207. DECLARATION OF SUPPORT. (a) CERTIFICATION REQUIRED.—Assistance may be made available for Colombia in fiscal years 2000 and 2001 only if the Secretary of State certifies to the appropriate congressional committees, before the initial obligation of such assistance in each such fiscal year, that the United States Government publicly supports the military and political efforts of the Government of Colombia, consistent with human rights conditions in section 3101, necessary to effectively resolve the conflicts with the guerrillas and paramilitaries that threaten the territorial integrity, economic prosperity, and rule of law in Colombia.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the following:

(A) The Committees on Appropriations and Foreign Relations of the Senate.

(B) The Committees on Appropriations and International Relations of the House of Representatives.

(2) ASSISTANCE.—The term "assistance" means assistance appropriated under this heading for fiscal years 2000 and 2001, and provided under the following provisions of law:

(A) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; relating to counter-drug assistance).

(B) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; relating to counter-drug assistance to Colombia and Peru).

(C) Section 23 of the Arms Export Control Act (Public Law 90–629; relating to credit sales).

(D) Section 481 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to international narcotics control).

(E) Section 506 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to emergency drawdown authority).

* * * * * * *

This division may be cited as the "Emergency Supplemental Act, 2000".

* * * * * * *

j. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000

Partial text of H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113, 113 Stat. 1501 at 1535, approved November 29, 1999; amended by Public Law 106–429 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429], 114 Stat. 1900, approved November 6, 2000; Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002; and by Public Law 108–7 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003

A BILL Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

NOTE.—Fiscal year 1999 appropriations were continued into fiscal year 2000 in Public Law 106–62 (113 Stat. 505; approved September 30, 1999), as amended, pending final passage of several annual appropriations bills including foreign assistance appropriations.

NOTE.—Sec. 301 of the Miscellaneous Appropriations Act (H.R. 3425 enacted by reference in sec. 1000(a)(5) of Public Law 106–113; 113 Stat. 1535)), provided the following:

"SEC. 301. (a) GOVERNMENT-WIDE RESCISSIONS.—There is hereby rescinded an amount equal to 0.38 percent of the discretionary budget authority provided (or obligation limit imposed) for fiscal year 2000 in this or any other Act for each department, agency, instrumentality, or entity of the Federal Government.

"(b) RESTRICTIONS.—In carrying out the rescissions made by subsection (a)—

"(1) no program, project, or activity of any department, agency, instrumentality, or entity may be reduced by more than 15 percent (with 'programs, projects, and activities' as delineated in the appropriations Act or accompanying report for the relevant account, or for accounts and items not included in appropriations Acts, as delineated in the most recently submitted President's budget),

"(2) no reduction shall be taken from any military personnel account, and

"(3) the reduction for the Department of Defense and Department of Energy Defense Activities shall be applied proportionately to all Defense accounts.

"(c) REPORT.—The Director of the Office of Management and Budget shall include in the President's budget submitted for fiscal year 2001 a report specifying the reductions made to each account pursuant to this section.".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

* * * * * * *

OVERSEAS PRIVATE INVESTMENT CORPORATION

* * * * * * *

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961 to be derived by transfer from the Overseas Private Investment Corporation noncredit account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2000 and 2001: *Provided further,* That such sums shall remain available through fiscal year 2008 for the disbursement of direct and guaranteed loans obligated in fiscal year 2000, and through fiscal year 2009 for the disbursement of direct and guaranteed loans obligated in fiscal year 2001: *Provided further,* That in addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account: *Provided further,* That funds made available under this heading or in prior appropriations Acts that are available for the cost of financing under section 234 of the Foreign Assistance Act of 1961, shall be available for purposes of section 234(g) of such Act, to remain available until expended.

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

SEC. 579.[1] (a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the United States Agency for International Development;

(2) the term "Administrator" means the Administrator, United States Agency for International Development; and

(3) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is to be separated involuntarily for misconduct or unacceptable performance, and to whom specific notice has been given with respect to that separation;

(D) an employee who has previously received any voluntary separation incentive payment by the Government of the United States under this section or any other authority and has not repaid such payment;

(E) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(F) any employee who, during the 24-month period preceding the date of separation, received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of such title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The Administrator, before obligating any resources for voluntary separation incentive payments under this section, shall submit to the Committees on Appropriations and the Office of Management and Budget a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered;

(C) a description of how the agency will operate without the eliminated positions and functions; and

[1] 5 U.S.C. 5597 note.

(D) the time period during which incentives may be paid.

(3) APPROVAL.—The Director of the Office of Management and Budget shall review the agency's plan and approve or disapprove the plan and may make appropriate modifications in the plan with respect to the coverage of incentives as described under paragraph (2)(A), and with respect to the matters described in paragraphs (2)(B) through (D).

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by the agency to employees of such agency and only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment under this section—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any employee who voluntarily separates (whether by retirement or resignation) on or before January 1, 2003;[2]

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of

[2] Sec. 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900), struck out "December 31, 2000" and inserted in lieu thereof "December 31, 2001". Sec. 575 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2168), struck out "December 31, 2001" and inserted in lieu thereof "December 31, 2002". Sec. 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 208), struck out "December 31, 2002" and inserted in lieu thereof "January 1, 2003".

title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—

(1) An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the Government of the United States through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(2) If the employment under paragraph (1) is with an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under paragraph (1) is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) If the employment under paragraph (1) is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant for the position.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) REGULATIONS.—The Office of Personnel Management may prescribe such regulations as may be necessary to implement this section.

* * * * * * *

ABOLITION OF THE INTER-AMERICAN FOUNDATION

SEC. 586.[3] (a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(2) FOUNDATION.—The term "Foundation" means the Inter-American Foundation.

(3) FUNCTION.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(b) ABOLITION OF INTER-AMERICAN FOUNDATION.—During fiscal years 2000 and 2001,[4] the President is authorized to abolish the Inter-American Foundation. The provisions of this section shall only be effective upon the effective date of the abolition of the Inter-American Foundation.

(c) TERMINATION OF FUNCTIONS.—

(1) Except as provided in subsection (d)(2), there are terminated upon the abolition of the Foundation all functions vested in, or exercised by, the Foundation or any official thereof, under any statute, reorganization plan, Executive order, or other provisions of law, as of the day before the effective date of this section.

(2) REPEAL.—Section 401 of the Foreign Assistance Act of 1969 (22 U.S.C. 290f)[5] is repealed upon the effective date specified in subsection (j).

(3) FINAL DISPOSITION OF FUNDS.—Upon the date of transmittal to Congress of the certification described in subsection (d)(4), all unexpended balances of appropriations of the Foundation shall be deposited in the miscellaneous receipts account of the Treasury of the United States.

(d) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall be responsible for—

(A) the administration and wind-up of any outstanding obligation of the Federal Government under any contract or agreement entered into by the Foundation before the date of the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, except that the authority of this subparagraph does not include the renewal or extension of any such contract or agreement; and

(B) taking such other actions as may be necessary to wind-up any outstanding affairs of the Foundation.

(2) TRANSFER OF FUNCTIONS TO THE DIRECTOR.—There are transferred to the Director such functions of the Foundation under any statute, reorganization plan, Executive order, or

[3] 22 U.S.C. 290f note.

[4] Sec. 591(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–59), struck out "year 2000" and inserted in lieu thereof "years 2000 and 2001".

[5] Sec. 591(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–59), struck out "6290f" and inserted in lieu thereof "290f".

other provision of law, as of the day before the date of the enactment of this section, as may be necessary to carry out the responsibilities of the Director under paragraph (1).

(3) AUTHORITIES OF THE DIRECTOR.—For purposes of performing the functions of the Director under paragraph (1) and subject to the availability of appropriations, the Director may—

(A) enter into contracts;

(B) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule; and

(C) utilize, on a reimbursable basis, the services, facilities, and personnel of other Federal agencies.

(4) CERTIFICATION REQUIRED.—Whenever the Director determines that the responsibilities described in paragraph (1) have been fully discharged, the Director shall so certify to the appropriate congressional committees.

(e) REPORT TO CONGRESS.—The Director of the Office of Management and Budget shall submit to the appropriate congressional committees a detailed report in writing regarding all matters relating to the abolition and termination of the Foundation. The report shall be submitted not later than 90 days after the termination of the Foundation.

(f) TRANSFER AND ALLOCATION OF APPROPRIATIONS.—Except as otherwise provided in this section, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under subsection (g)(3)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions, terminated by subsection (c)(1) or transferred by subsection (d)(2) shall be transferred to the Director for purposes of carrying out the responsibilities described in subsection (d)(1).

(g) SAVINGS PROVISIONS.—

(1) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the Foundation in the performance of functions that are terminated or transferred under this section; and

(B) that are in effect as of the date of the abolition of the Foundation, or were final before such date and are to become effective on or after such date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) NO EFFECT ON JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Except as otherwise provided in this section—

(A) the provisions of this section shall not affect suits commenced prior to the date of the abolition of the Foundation; and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(3) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Foundation shall abate by reason of the enactment of this section. No cause of action by or against the Foundation, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this section.

(4) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the date of the abolition of the Foundation, the Foundation, or officer thereof in the official capacity of such officer, is a party to a suit, then effective on such date such suit shall be continued with the Director substituted or added as a party.

(5) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Director in the exercise of functions terminated or transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the Foundation immediately preceding their termination or transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this section shall apply to the exercise of such function by the Director.

(h) CONFORMING AMENDMENTS.—

(1) AFRICAN DEVELOPMENT FOUNDATION.—Section 502 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 290h) is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking the semicolon at the end of paragraph (3) and inserting a period; and

(C) by striking paragraphs (4) and (5).

(2) SOCIAL PROGRESS TRUST FUND AGREEMENT.—Section 36 of the Foreign Assistance Act of 1973 is amended—

(A) in subsection (a)—

(i) by striking "provide for" and all that follows through "(2) utilization" and inserting "provide for the utilization"; and

(ii) by striking "member countries;" and all that follows through "paragraph (2)" and inserting "member countries.";

(B) in subsection (b), by striking "transfer or";

(C) by striking subsection (c);

(D) by redesignating subsection (d) as subsection (c); and

(E) in subsection (c) (as so redesignated), by striking "transfer or".

(3) FOREIGN ASSISTANCE ACT OF 1961.—Section 222A(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182a(d)) is repealed.

(i) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(j) EFFECTIVE DATES.—The repeal made by subsection (c)(2) and the amendments made by subsection (h) shall take effect upon the date of transmittal to Congress of the certification described in subsection (d)(4).

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000".

k. Miscellaneous Appropriations, 2000

Partial text of H.R. 3425, enacted by reference in sec. 1000(a)(5) of Public Law 106–113, 113 Stat. 1501 at 1535, approved November 29, 1999; amended by Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

A BILL Making miscellaneous appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

* * * * * * *

TITLE V—INTERNATIONAL DEBT RELIEF

Sec. 501.[1] ACTIONS TO PROVIDE BILATERAL DEBT RELIEF.

(a) CANCELLATION OF DEBT.—Subject to the availability of amounts provided in advance in appropriations Acts, the President shall cancel all amounts owed to the United States (or any agency of the United States) by any country eligible for debt reduction under this section, as a result of loans made or credits extended prior to June 20, 1999, under any of the provisions of law specified in subsection (b).

(b) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are the following:

(1) Sections 221 and 222 of the Foreign Assistance Act.

(2) The Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) Section 5(f) of the Commodity Credit Corporation Charter Act, section 201 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621), or section 202 of such Act (7 U.S.C. 5622), or predecessor provisions under the Food for Peace Act of 1966.

(4) Title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(c) OTHER DEBT REDUCTION AUTHORITIES.—The authority provided in this section is in addition to any other debt relief authority and does not in any way limit such authority.

(d) ELIGIBLE COUNTRIES.—A country that is performing satisfactorily under an economic reform program shall be eligible for cancellation of debt under this section if—

(1) the country, as of December 31, 2000, is eligible to borrow from the International Development Association;

(2) the country, as of December 31, 2000, is not eligible to borrow from the International Bank for Reconstruction and Development; and

[1] 22 U.S.C. 2395a note.

(3)(A) the country has outstanding public and publicly guaranteed debt, the net present value of which on December 31, 1996, was at least 150 percent of the average annual value of the exports of the country for the period 1994 through 1996; or

(B)(i) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 150 percent of the annual value of the exports of the country; or

(ii) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 250 percent of the annual fiscal revenues of the country, and has minimum ratios of exports to Gross Domestic Product of 30 percent, and of fiscal revenues to Gross Domestic Product of 15 percent.

(e) PRIORITY.—In carrying out subsection (a), the President should seek to leverage scarce foreign assistance and give priority to heavily indebted poor countries with demonstrated need and the capacity to use such relief effectively.

(f) EXCEPTIONS.—A country shall not be eligible for cancellation of debt under this section if the government of the country—

(1) has an excessive level of military expenditures;

(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

(3) is failing to cooperate on international narcotics control matters; or

(4) (including its military or other security forces), engages in a consistent pattern of gross violations of internationally recognized human rights.

(g) ADDITIONAL REQUIREMENT.—A country which is otherwise eligible to receive cancellation of debt under this section may receive such cancellation only if the country has committed, in connection with a social and economic reform program—

(1) to enable, facilitate, or encourage the implementation of policy changes and institutional reforms under economic reform programs, in a manner that ensures that such policy changes and institutional reforms are designed and adopted through transparent and participatory processes;

(2) to adopt an integrated development strategy of the type described in section 1624(a) of the International Financial Institutions Act, to support poverty reduction through economic growth, that includes monitorable poverty reduction goals;

(3) to take steps so that the financial benefits of debt relief are applied to programs to combat poverty (in particular through concrete measures to improve economic infrastructure, basic services in education, nutrition, and health, particularly treatment and prevention of the leading causes of mortality) and to redress environmental degradation;

(4) to take steps to strengthen and expand the private sector, encourage increased trade and investment, support the development of free markets, and promote broad-scale economic growth;

(5) to implement transparent policy making and budget procedures, good governance, and effective anticorruption measures;

(6) to broaden public participation and popular understanding of the principles and goals of poverty reduction, particularly through economic growth, and good governance; and

(7) to promote the participation of citizens and nongovernmental organizations in the economic policy choices of the government.

(h) CERTAIN PROHIBITIONS INAPPLICABLE.—Except as the President may otherwise determine for reasons of national security, a cancellation of debt under this section shall not be considered to be assistance for purposes of any provision of law limiting assistance to a country. The authority to provide for cancellation of debt under this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961, or any similar provision of law.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the cancellation of any debt under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2000 through 2004,[2] which shall remain available until expended.

(j) ANNUAL REPORTS TO THE CONGRESS.—Not later than December 31 of each year, the President shall prepare and transmit to the Committees on Banking and Financial Services, Appropriations, and International Relations of the House of Representatives, and the Committees on Banking, Housing, and Urban Affairs, Foreign Relations, and Appropriations of the Senate a report, which shall be made available to the public, concerning the cancellation of debt under subsection (a), and a detailed description of debt relief provided by the United States as a member of the Paris Club of Official Creditors for the prior fiscal year.

SEC. 502. ACTIONS TO IMPROVE THE PROVISION OF MULTILATERAL DEBT RELIEF.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–5) is amended by adding at the end the following: * * *[3]

SEC. 503. ACTIONS TO FUND THE PROVISION OF MULTILATERAL DEBT RELIEF.

(a) CONTRIBUTIONS FOR DEBT REDUCTIONS FOR THE POOREST COUNTRIES.—The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following: * * *[4]

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[2] Sec. 591(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809) intended to strike out "2003–2004" and insert in lieu thereof "2000–2006". The amendment is not executable, as current language reads "fiscal years 2000 through 2004".

[3] Sec. 502 added new secs. 1623 and 1624 to the International Financial Institutions Act. For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[4] Sec. 503(a) added a new sec. 62 to the Bretton Woods Agreements Act. For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

(b)[5] CERTIFICATION.—Within 15 days after the United States Executive Director casts the votes necessary to carry out the instruction described in section 62 of the Bretton Woods Agreements Act, the Secretary of the Treasury shall certify to the Congress that neither the profits nor the earnings on the investment of profits from the gold sales made pursuant to the instruction or of the funds attributable to United States participation in SCA–2 will be used to augment the resources of any reserve account of the International Monetary Fund for the purpose of making loans.

SEC. 504.[6] ADDITIONAL PROVISIONS.

(a) PUBLICATION OF IMF OPERATIONAL BUDGETS.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to publish the operational budgets of the International Monetary Fund, on a quarterly basis, not later than one year after the end of the period covered by the budget.

(b) REPORT TO THE CONGRESS SHOWING COSTS OF UNITED STATES PARTICIPATION IN THE INTERNATIONAL MONETARY FUND.—The Secretary of the Treasury shall prepare and transmit to the Committees on Banking and Financial Services, on Appropriations, and on International Relations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs, on Foreign Relations, and on Appropriations of the Senate a quarterly report, which shall be made readily available to the public, on the costs or benefits of United States participation in the International Monetary Fund and which shall detail the costs and benefits to the United States, as well as valuation gains or losses on the United States reserve position in the International Monetary Fund.

(c) CONTINUATION OF FORGOING OF REIMBURSEMENT OF IMF FOR EXPENSES OF ADMINISTERING ESAF.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to continue to forgo reimbursements of the expenses incurred by the International Monetary Fund in administering the Enhanced Structural Adjustment Facility, until the Heavily Indebted Poor Countries Initiative (as defined in section 1623 of the International Financial Institutions Act) is terminated.

(d) NO GOLD SALES BY INTERNATIONAL MONETARY FUND WITHOUT PRIOR AUTHORIZATION BY THE CONGRESS.—(1) The first sentence of section 5 of the Bretton Woods Agreements Act (22 U.S.C. 286c) is amended in clause (g) by striking "approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the Fund." and inserting "approve any disposition of Fund gold, unless the Secretary certifies to the Congress that such

[5] 22 U.S.C. 286nn note.
[6] 22 U.S.C. 262o–2 note.

disposition is necessary for the Fund to restitute gold to its members, or for the Fund to provide liquidity that will enable the Fund to meet member country claims on the Fund or to meet threats to the systemic stability of the international financial system.".

(2) Not less than 30 days prior to the entrance by the United States into international negotiations for the purpose of reaching agreement on the disposition of Fund gold whereby resources of the Fund would be used for the special benefit of a single member, or of a particular segment of the membership of the Fund, the Secretary of the Treasury shall consult with the Committees on Banking and Financial Services, on Appropriations, and on International Relations of the House of Representatives and the Committees on Foreign Relations, on Appropriations, and on Banking, Housing and Urban Affairs of the Senate.

(e) ANNUAL REPORT BY GAO ON CONSISTENCY OF IMF PRACTICES WITH STATUTORY POLICIES.—The Comptroller General of the United States shall annually prepare and submit to the Congress of the United States a written report on the extent to which the practices of the International Monetary Fund are consistent with the policies of the United States, as expressly contained in Federal law applicable to the International Monetary Fund.

* * * * * * *

l. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999

Partial text of sec. 101(d) of Division A of Public Law 105–277 [H.R. 4328], 112 Stat. 2681, approved October 21, 1998; amended by Public Law 106–200 [Trade and Development Act of 2000; H.R. 434], 114 Stat. 251, approved May 18, 2000; and by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes.

NOTE.—Fiscal year 1998 appropriations were continued into fiscal year 1999 in Public Law 105–240 (112 Stat. 1566; approved September 25, 1998), as amended, pending final passage of several annual appropriations bills including foreign assistance appropriations.

Several programs for which this law provides appropriations are funded for multiple years. For full text of the foreign assistance appropriations for fiscal year 1999, see *Legislation on Foreign Relations Through 1998*, vol. I–A.

(d) For programs, projects or activities in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes.

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TITLE V—GENERAL PROVISIONS

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NATIONAL COMMISSION ON TERRORISM

SEC. 591.[1] (a) ESTABLISHMENT OF NATIONAL COMMISSION ON TERRORISM.—

[1] Sec. 306 of the Intelligence Authorization Act, Fiscal Year 2002 (Public Law 107–108; 115 Stat. 1399) provided the following:

(1) ESTABLISHMENT.—There is established a national commission on terrorism to review counter-terrorism policies regarding the prevention and punishment of international acts of terrorism directed at the United States. The commission shall be known as "The National Commission on Terrorism".

(2) COMPOSITION.—The commission shall be composed of 10 members appointed as follows:

(A) Three members shall be appointed by the Majority Leader of the Senate.

(B) Three members shall be appointed by the Speaker of the House of Representatives.

(C) Two members shall be appointed by the Minority Leader of the Senate.

(D) Two members shall be appointed by the Minority Leader of the House of Representatives.

(E) The appointments of the members of the commission should be made no later than 3 months after the date of the enactment of this Act.

(3) QUALIFICATIONS.—The members should have a knowledge and expertise in matters to be studied by the commission.

(4) CHAIR.—The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chair of the Commission.

(5) PERIOD OF APPOINTMENT: VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) SECURITY CLEARANCES.—All Members of the Commission should hold appropriate security clearances.

(b) DUTIES.—

(1) IN GENERAL.—The commission shall consider issues relating to international terrorism directed at the United States as follows:

(A) Review the laws, regulations, policies, directives, and practices relating to counterterrorism in the prevention

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"SEC. 306. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE NATIONAL COMMISSION ON TERRORISM AND OTHER ENTITIES.

"(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report concerning whether, and to what extent, the Intelligence Community has implemented recommendations relevant to the Intelligence Community as set forth in the following:

"(1) The report prepared by the National Commission on Terrorism established by section 591 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277).

"(2) The report prepared by the United States Commission on National Security for the 21st Century, Phase III, dated February 15, 2001.

"(3) The second annual report of the advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction established pursuant to section 1405 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 2301 note).

"(b) RECOMMENDATIONS DETERMINED NOT TO BE ADOPTED.—In a case in which the Director determines that a recommendation described in subsection (a) has not been implemented, the report under that subsection shall include a detailed explanation of the reasons for not implementing that recommendation.".

and punishment of international terrorism directed towards the United States.

(B) Assess the extent to which laws, regulations, policies, directives, and practices relating to counterterrorism have been effective in preventing or punishing international terrorism directed towards the United States. At a minimum, the assessment should include a review of the following:

(i) Evidence that terrorist organizations have established an infrastructure in the western hemisphere for the support and conduct of terrorist activities.

(ii) Executive branch efforts to coordinate counterterrorism activities among Federal, State, and local agencies and with other nations to determine the effectiveness of such coordination efforts.

(iii) Executive branch efforts to prevent the use of nuclear, biological, and chemical weapons by terrorists.

(C) Recommend changes to counterterrorism policy in preventing and punishing international terrorism directed toward the United States.

(2) REPORT.—Not later than 6 months after the date on which the Commission first meets, the Commission shall submit to the President and the Congress a final report of the findings and conclusions of the commission, together with any recommendations.

(c) ADMINISTRATIVE MATTERS.—

(1) MEETINGS.—

(A) The commission shall hold its first meeting on a date designated by the Speaker of the House which is not later than 30 days after the date on which all members have been appointed.

(B) After the first meeting, the commission shall meet upon the call of the chair.

(C) A majority of the members of the commission shall constitute a quorum, but a lesser number may hold meetings.

(2) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the commission may, if authorized by the commission, take any action which the commission is authorized to take under this section.

(3) POWERS.—

(A) The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out its duties.

(B) The commission may secure directly from any agency of the Federal Government such information as the commission considers necessary to carry out its duties. Upon the request of the chair of the commission, the head of a department or agency shall furnish the requested information expeditiously to the commission.

(C) The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) PAY AND EXPENSES OF COMMISSION MEMBERS.—

(A) Subject to appropriations, each member of the commission who is not an employee of the government shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the commission.

(B) Members and personnel for the commission may travel on aircraft, vehicles, or other conveyances of the Armed Forces of the United States when travel is necessary in the performance of a duty of the commission except when the cost of commercial transportation is less expensive.

(C) The members of the commission may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(D)(i) A member of the commission who is an annuitant otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the commission shall not be subject to the provisions of such section with respect to membership on the commission.

(ii) A member of the commission who is a member or former member of a uniformed service shall not be subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the commission.

(5) STAFF AND ADMINISTRATIVE SUPPORT.—

(A) The chairman of the commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to three additional staff members as necessary to enable the commission to perform its duties. The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53, of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the maximum rate of pay for GS–15 under the General Schedule.

(B) Upon the request of the chairman of the commission, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the commission to assist in carrying out its duties. The detail of an employee shall be without interruption or loss of civil service status or privilege.

(d) TERMINATION OF COMMISSION.—The commission shall terminate 30 days after the date on which the commission submits a final report.

(e) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

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TITLE VI—INTERNATIONAL FINANCIAL PROGRAMS AND REFORM

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ADVISORY COMMISSION

SEC. 603.[2] (a) IN GENERAL.—The Secretary of the Treasury shall establish an International Financial Institution Advisory Commission (in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 11 members, as follows:

(A) 3 members appointed by the Speaker of the House of Representatives.

(B) 3 members appointed by the Majority Leader of the Senate.

(C) 5 members appointed jointly by the Minority Leader of the House of Representatives and the Minority Leader of the Senate.

(2) TIMING OF APPOINTMENTS.—All appointments to the Commission shall be made not later than 45 days after the date of enactment of this Act.

(3) CHAIRMAN.—The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the House of Representatives and the Senate, shall designate 1 of the members of the Commission to serve as Chairman of the Commission.

(c) QUALIFICATIONS.—

(1) EXPERTISE.—Members of the Commission shall be appointed from among those with knowledge and expertise in the workings of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the World Trade Organization, and the Bank for International Settlements.

(2) FORMER AFFILIATION.—At least 4 members of the Commission shall be individuals who were officers or employees of the Executive Branch before January 20, 1992, and not more than half of such 4 members shall have served under Presidents from the same political party.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(e) DUTIES OF THE COMMISSION.—The Commission shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the

[2] 22 U.S.C. 262r note.

World Trade Organization, and the Bank for International Settlements. In carrying out such duties, the Commission shall meet with and advise the Secretary of the Treasury or the Deputy Secretary of the Treasury, and shall examine—

(1) the effect of globalization, increased trade, capital flows, and other relevant factors on such institutions;

(2) the adequacy, efficacy, and desirability of current policies and programs at such institutions as well as their suitability for respective beneficiaries of such institutions;

(3) cooperation or duplication of functions and responsibilities of such institutions; and

(4) other matters the Commission deems necessary to make recommendations pursuant to subsection (g).

(f) POWERS AND PROCEDURES OF THE COMMISSION.—

(1) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) INFORMATION.—The Commission may secure directly information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section.

(3) MEETINGS.—The Commission shall meet at the call of the Chairman.

(g) REPORT.—On the termination of the Commission, the Commission shall submit to the Secretary of the Treasury and the appropriate committees a report that contains recommendations regarding the following matters:

(1) Changes to policy goals set forth in the Bretton Woods Agreements Act and the International Financial Institutions Act.

(2) Changes to the charters, organizational structures, policies and programs of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act).

(3) Additional monitoring tools, global standards, or regulations for, among other things, global capital flows, bankruptcy standards, accounting standards, payment systems, and safety and soundness principles for financial institutions.

(4) Possible mergers or abolition of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), including changes to the manner in which such institutions coordinate their policy and program implementation and their roles and responsibilities.

(5) Any additional changes necessary to stabilize currencies, promote continued trade liberalization and to avoid future financial crises.

(h) TERMINATION.—The Commission shall terminate 6 months after the first meeting of the Commission, which shall be not later than 30 days after the appointment of all members of the Commission.

(i) REPORTS BY THE EXECUTIVE BRANCH.—

(1) Within three months after receiving the report of the Commission under subsection (g), the President of the United States through the Secretary of the Treasury shall report to the appropriate committees on the desirability and feasibility of implementing the recommendations contained in the report.

(2) Annually, for three years after the termination of the Commission, the President of the United States through the Secretary of the Treasury shall submit to the appropriate committees a report on the steps taken, if any, through relevant international institutions and international fora to implement such recommendations as are deemed feasible and desirable under paragraph (1).

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PROGRESS REPORTS TO CONGRESS ON UNITED STATES INITIATIVES TO UPDATE THE ARCHITECTURE OF THE INTERNATIONAL MONETARY SYSTEM

SEC. 606.[3] Not later than July 15, 1999, and July 15, 2000, the Secretary of the Treasury shall report to the Chairmen and Ranking Members of the appropriate committees on the progress of efforts to reform the architecture of the international monetary system. The reports shall include a discussion of the substance of the United States position in consultations with other governments and the degree of progress in achieving international acceptance and implementation of such position with respect to the following issues:

(1) Adapting the mission and capabilities of the International Monetary Fund to take better account of the increased importance of cross-border capital flows in the world economy and improving the coordination of its responsibilities and activities with those of the International Bank for Reconstruction and Development.

(2) Advancing measures to prevent, and improve the management of, international financial crises, including by—

(A) integrating aspects of national bankruptcy principles into the management of international financial crises where feasible; and

(B) changing investor expectations about official rescues, thereby reducing moral hazard and systemic risk in international financial markets,

in order to help minimize the adjustment costs that the resolution of financial crises may impose on the real economy, in the form of disrupted patterns of trade, employment, and progress in living standards, and reduce the frequency and magnitude of claims on United States taxpayer resources.

(3) Improving international economic policy cooperation, including among the Group of Seven countries, to take better account of the importance of cross-border capital flows in the determination of exchange rate relationships.

(4) Improving international cooperation in the supervision and regulation of financial institutions and markets.

[3] 22 U.S.C. 262r note.

(5) Strengthening the financial sector in emerging economies, including by improving the coordination of financial sector liberalization with the establishment of strong public and private institutions in the areas of prudential supervision, accounting and disclosure conventions, bankruptcy laws and administrative procedures, and the collection and dissemination of economic and financial statistics, including the maturity structure of foreign indebtedness.

(6) Advocating that implementation of European Economic and Monetary Union and the advent of the European Currency Unit, or euro, proceed in a manner that is consistent with strong global economic growth and stability in world financial markets.

DEFINITION

SEC. 607.[4] For purposes of sections 601 through 606 of this title, the term "appropriate committees" means the Committees on Appropriations, Foreign Relations, Finance,[5] and Banking, Housing, and Urban Affairs of the Senate and the Committees on Appropriations and, Ways and Means,[5] Banking and Financial Services of the House of Representatives.

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This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999".

[4] 22 U.S.C. 262r note.

[5] Sec. 404(a) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 291) inserted "Finance," after "Foreign Relations," and ", Ways and Means," before "and Banking and Financial Services".

m. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997

Partial text of Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; as amended by Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105–174 [1998 Supplemental Appropriations and Rescissions Act; H.R. 3579], 112 Stat. 58, approved May 1, 1998; and by Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B); H.R. 4328], 112 Stat. 2681, approved October 21, 1998

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SEC. 101. * * *

(c) For programs, projects or activities in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes

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TITLE V—GENERAL PROVISIONS

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RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO

SEC. 540.[1] (a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160),[2] with respect to Serbia or Montenegro, may cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the rights of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova; and

[1] 50 U.S.C. 1701 note.

[2] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

(c)[3] WAIVER AUTHORITY.—The President may waive the application in whole or in part, of subsection (a) if the President certifies to the Congress that the President has determined that the waiver is necessary to meet emergency humanitarian needs or to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties.

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POLICY TOWARD BURMA

SEC. 570.[4] (a) Until such time as the President determines and certifies to Congress that Burma has made measurable and substantial progress in improving human rights practices and implementing democratic government, the following sanctions shall be imposed on Burma:

(1) BILATERAL ASSISTANCE.—There shall be no United States assistance to the Government of Burma, other than:

(A) humanitarian assistance,

(B) subject to the regular notification procedures of the Committees on Appropriations, counter-narcotics assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, or crop substitution assistance, if the Secretary of State certifies to the appropriate congressional committees that—

(i) the Government of Burma is fully cooperating with United States counter-narcotics efforts, and

(ii) the programs are fully consistent with United States human rights concerns in Burma and serve the United States national interest, and

(C) assistance promoting human rights and democratic values.

(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of funds of the respective bank to or for Burma.

(3) VISAS.—Except as required by treaty obligations or to staff the Burmese mission to the United States, the United States should not grant entry visas to any Burmese government official.

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[3] On May 30, 1997, the President "determined that the waiver of the application of the prohibition in section 1511(b) of Public Law 103–160 and of the application of section 540(a) of the [Foreign Operations, Export Financing, and Related Programs Appropriations] Act is necessary to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties, to the extent that such provisions apply to the furnishing of assistance to facilitate destruction of military equipment. Therefore I hereby waive the application of these provisions with respect to such assistance." (Presidential Determination No. 97–26; 62 F.R. 32015).

See also sec. 1511 of Public Law 103–160, and notes, in *Legislation on Foreign Relations Through 2004*, vol. I–B.

[4] See related sanctions materials in *Legislation on Foreign Relations Through 2004*, vol. III.

(b)[5] CONDITIONAL SANCTIONS.—The President is hereby authorized to prohibit, and shall prohibit United States persons from new investment in Burma, if the President determines and certifies to Congress that, after the date of enactment of this Act, the Government of Burma has physically harmed, rearrested for political acts, or exiled Daw Aung San Suu Kyi or has committed large-scale repression of or violence against the Democratic opposition.

(c) MULTILATERAL STRATEGY.—The President shall seek to develop, in coordination with members of ASEAN and other countries having major trading and investment interests in Burma, a comprehensive, multilateral strategy to bring democracy to and improve human rights practices and the quality of life in Burma, including the development of a dialogue between the State Law and Order Restoration Council (SLORC) and democratic opposition groups within Burma.

(d)[6] PRESIDENTIAL REPORTS.—Every six months following the enactment of this Act, the President shall report to the Chairmen of the Committee on Foreign Relations, the Committee on International Relations and the House and Senate Appropriations Committees on the following:

(1) progress toward democratization in Burma;

(2) progress on improving the quality of life of the Burmese people, including progress on market reforms, living standards, labor standards, use of forced labor in the tourism industry, and environmental quality; and

(3) progress made in developing the strategy referred to in subsection (c).

(e) WAIVER AUTHORITY.—The President shall have the authority to waive, temporarily or permanently, any sanction referred to in subsection (a) or subsection (b) if he determines and certifies to Congress that the application of such sanction would be contrary to the national security interests of the United States.

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[5] On May 20, 1997, the President issued Executive Order 13047 (62 F.R. 28301) in which he determined and certified that "the Government of Burma has committed large-scale repression of the democratic opposition in Burma after September 30, 1996, and...the actions and policies of the Government of Burma constitute an unusual and extraordinary threat to the national security and foreign policy of the United States". The President declared a national emergency to deal with that threat, and prohibited U.S. persons from engaging in certain transactions and investments in Burma.

On July 28, 2003, the President issued Executive Order 13310 to take additional steps with respect to Burma, particularly to impose an import ban as required by the Burmese Freedom and Democracy Act of 2003, to prohibit exports of financial services, and to restrict transactions of property in which certain Burmese persons have an interest.

For text of Executive Orders 13047 and 13310, see *Legislation on Foreign Relations Through 2004*, vol. III.

Any national emergency declared pursuant to the President's authority stated in the International Emergency Economic Powers Act requires annual renewal to remain in force. Executive Order 13047 was renewed in the President's (unnumbered) Notice of May 18, 1998 (63 F.R. 27661); a Notice of May 18, 1999 (64 F.R. 27443); a Notice of May 18, 2000 (65 F.R. 32005); a Notice of May 15, 2001 (66 F.R. 27443); a Notice of May 16, 2002 (67 F.R. 35423); a Notice of May 16, 2003 (68 F.R. 27425); and a Notice of May 17, 2004 (69 F.R. 29041).

[6] The President filed a report pursuant to this section with Presidential Determination No. 97–29 of June 13, 1997 (62 F.R. 34157); Presidential Determination No. 98–6 of December 2, 1997 (62 F.R. 65005); Presidential Determination No. 98–30 of June 15, 1998 (63 F.R. 34255); an unnumbered memorandum for the Secretary of State of October 27, 1998 (63 F.R. 63123); a memorandum of October 27, 1999 (64 F.R. 60647); a memorandum of April 19, 2000 (65 F.R. 24851); a memorandum of October 31, 2000 (65 F.R. 66599); a memorandum of April 12, 2001 (66 F.R. 20725); a memorandum of February 1, 2002 (67 F.R. 5923); a memorandum of November 6, 2002 (67 F.R. 75799); Presidential Determination No. 03–07 of December 11, 2002 (67 F.R. 77645); and a memorandum of March 28, 2003 (68 F.R. 17529). No report is recorded in the 2004 *Federal Register*. See also previous note, annual extension of national emergency.

(f) DEFINITIONS.—

(1) The term "international financial institutions" shall include the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Asian Development Bank, and the International Monetary Fund.

(2) The term "new investment" shall mean any of the following activities if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma, on or after the date of the certification under subsection (b):

(A) the entry into a contract that includes the economical development of resources located in Burma, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract;

(B) the purchase of a share of ownership, including an equity interest, in that development;

(C) the entry into a contract providing for the participation in royalties, earnings, or profits in that development, without regard to the form of the participation:

Provided, That the term "new investment" does not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology.

* * * * * * *

TRANSPARENCY OF BUDGETS

SEC. 576.[7] (a) LIMITATION.—Beginning three years after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

(1)[8] does not have in place a functioning system for reporting to civilian authorities audits of receipts and expenditures that fund activities of the armed forces and security forces;

(2)[9] has not provided to the institution information about the audit process requested by the institution.

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[7] 22 U.S.C. 262k–1.

[8] Sec. 572(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2430), amended and restated subsec. (a)(1). It formerly read as follows:

"(1) does not have in place a functioning system for a civilian audit of all receipts and expenditures that fund activities of the armed forces and security forces;".

[9] Sec. 572(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2430), amended and restated subsec. (a)(2). It formerly read as follows:

"(2) has not provided a summary of a current audit to the institution.".

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

* * * * * * *

FEMALE GENITAL MUTILATION

SEC. 579.[10] (a) LIMITATION.—Beginning 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

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

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

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

* * * * * * *

REFUGEE STATUS FOR ADULT CHILDREN OF FORMER VIETNAMESE REEDUCATION CAMP INTERNEES RESETTLED UNDER THE ORDERLY DEPARTURE PROGRAM

SEC. 584. (a) ELIGIBILITY FOR ORDERLY DEPARTURE PROGRAM.—Notwithstanding any other provision of law, for purposes[11] of eligibility for the Orderly Departure Program for nationals of Vietnam, during fiscal years 1998 and 1999,[12] an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b)[13] ALIENS COVERED.—

[10] 22 U.S.C. 262k–2.

[11] Sec. 10005(1)(A) of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 99) struck out "For purposes" and inserted in lieu thereof "Notwithstanding any other provision of law, for purposes". Sec. 2244(1)(A) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) made the same amendment.

[12] Sec. 10005(1)(B) of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 99) struck out "fiscal year 1997" and inserted in lieu thereof "fiscal years 1998 and 1999". Sec. 2244(1)(B) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) would have made a similar amendment, striking out "fiscal year 1997" and inserting in lieu thereof "fiscal years 1997, 1998, and 1999". This second amendment is not executable, however, because "fiscal year 1997" is struck out.

[13] Sec. 10005(2) of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 99) amended and restated subsec. (b). Sec. 2244(2) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) also amended and restated subsec. (b), and it is that amendment that is shown here. The amendment in Public Law 105–174 would have clause (b)(2)(B)(ii) read "on or after April 1, 1995, is accepted—". Subsec. (b) formerly read as follows:

"(b) ALIENS COVERED.—An alien described in this subsection is an alien who—

(1) IN GENERAL.—An alien described in this subsection is an alien who—

(A) is the son or daughter of a qualified national;

(B) is 21 years of age or older; and

(C) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.

(2) QUALIFIED NATIONAL.—For purposes of paragraph (1), the term "qualified national" means a national of Vietnam who—

(A)(i) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(ii) is the widow or widower of an individual described in clause (i); and

(B)(i) qualified for refugee processing under the reeducation camp internees subprogram of the Orderly Departure Program; and

(ii) on or after April 1, 1995, is or has been accepted—

(I) for resettlement as a refugee; or

(II) for admission as an immigrant under the Orderly Departure Program.

(c) SUPERSEDES EXISTING LAW.—This section supersedes any other provision of law.

NORTH KOREA

SEC. 585.[14] Ninety days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State, in consultation with the Secretary of Defense, shall provide a report in a classified or unclassified form to the Committee on Appropriations including the following information:

(a) a best estimate on fuel used by the military forces of the Democratic People's Republic of Korea (DPRK);

(b) the deployment position and military training and activities of the DPRK forces and best estimate of the associated costs of these activities; and

(c) steps taken to reduce the DPRK level of forces.

* * * * * * *

"(1) is the son or daughter of a national of Vietnam who—

"(A) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; and

"(B) has been accepted for resettlement as a refugee under the Orderly Departure Program on or after April 1, 1995;

"(2) is 21 years of age or older; and

"(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.".

[14] Sec. 1308(g)(1)(D) and (2) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1441) struck out subsec. (d); inserted "and" at the end of subsec. (b); and replaced "; and" at the end of subsec. (c) with a period. Subsec. (d) formerly provided as follows: "(d) cooperation, training, or exchanges of information, technology or personnel between the DPRK and any other nation supporting the development or deployment of a ballistic missile capability.".

CIVIL LIABILITY FOR ACTS OF STATE SPONSORED TERRORISM

SEC. 589. (a) an[15] official, employee, or agent of a foreign state designated as a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 while acting within the scope of his or her office, employment, or agency shall be liable to a United States national or the national's legal representative for personal injury or death caused by acts of that official, employee, or agent for which the courts of the United States may maintain jurisdiction under section 1605(a)(7) of title 28, United States Code, for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in section 1605(a)(7).

(b) Provisions related to statute of limitations and limitations on discovery that would apply to an action brought under 28 U.S.C. 1605(f) and (g) shall also apply to actions brought under this section. No action shall be maintained under this action if an official, employee, or agent of the United States, while acting within the scope of his or her office, employment, or agency would not be liable for such acts if carried out within the United States.

Titles I through V of this Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997".[16]

[15] As enrolled.

[16] In sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208), see also title VI for the "NATO Enlargement Facilitation Act of 1996," in *Legislation on Foreign Relations Through 2004*, vol. II; and title VII for the "Bank for Economic Cooperation and Development in the Middle East Development and North Africa Act," in vol. III.

n. Mexican Debt Disclosure Act of 1995

Title IV of Public Law 104–6 [Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995; H.R. 889], 109 Stat. 73, approved April 10, 1995

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TITLE IV—MEXICAN DEBT DISCLOSURE ACT OF 1995

SEC. 401.[1] SHORT TITLE.

This title may be cited as the "Mexican Debt Disclosure Act of 1995".

SEC. 402. FINDINGS.

The Congress finds that—

(1) Mexico is an important neighbor and trading partner of the United States;

(2) on January 31, 1995, the President approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in the amount of $20,000,000,000, using the exchange stabilization fund;

(3) the program of assistance involves the participation of the Board of Governors of the Federal Reserve System, the International Monetary Fund, the Bank for International Settlements, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Bank of Canada, and several Latin American countries;

(4) the involvement of the exchange stabilization fund and the Board of Governors of the Federal Reserve System means that United States taxpayer funds will be used in the assistance effort to Mexico;

(5) assistance provided by the International Monetary Fund, the International Bank for Reconstruction and Development, and the Inter-American Development Bank may require additional United States contributions of taxpayer funds to those entities;

(6) the immediate use of taxpayer funds and the potential requirement for additional future United States contributions of taxpayer funds necessitates congressional oversight of the disbursement of funds; and

(7) the efficacy of the assistance to Mexico is contingent on the pursuit of sound economic policy by the Government of Mexico.

SEC. 403. PRESIDENTIAL REPORTS.

(a) REPORTING REQUIREMENT.—Not later than June 30, 1995, and every 6 months thereafter, the President shall transmit to the

[1] 31 U.S.C. 5302 note.

appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall contain a description of the following actions taken, or economic situations existing, during the preceding 6-month period or, in the case of the initial report, during the period beginning on the date of enactment of this Act:

(1) Changes in wage, price, and credit controls in the Mexican economy.

(2) Changes in taxation policy of the Government of Mexico.

(3) Specific actions taken by the Government of Mexico to further privatize the economy of Mexico.

(4) Actions taken by the Government of Mexico in the development of regulatory policy that significantly affected the performance of the Mexican economy.

(5) Consultations concerning the program approved by the President, including advice on economic, monetary, and fiscal policy, held between the Government of Mexico and the Secretary of the Treasury (including any designee of the Secretary) and the conclusions resulting from any periodic reviews undertaken by the International Monetary Fund pursuant to the Fund's loan agreements with Mexico.

(6) All outstanding loans, credits, and guarantees provided to the Government of Mexico, by the United States Government, including the Board of Governors of the Federal Reserve System, set forth by category of financing.

(7) The progress the Government of Mexico has made in stabilizing the peso and establishing an independent central bank or currency board.

(c) SUMMARY OF TREASURY DEPARTMENT REPORTS.—In addition to the information required to be included under subsection (b), each report required under this section shall contain a summary of the information contained in all reports submitted under section 404 during the period covered by the report required under this section.

SEC. 404. REPORTS BY THE SECRETARY OF THE TREASURY.

(a) REPORTING REQUIREMENT.—Beginning on the last day of the first month which begins after the date of enactment of this Act, and on the last day of every month thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall include a description of the following actions taken, or economic situations existing, during the month in which the report is required to be submitted:

(1) The current condition of the Mexican economy.

(2) The reserve positions of the central bank of Mexico and data relating to the functioning of Mexican monetary policy.

(3) The amount of any funds disbursed from the exchange stabilization fund pursuant to the program of assistance to the Government of Mexico approved by the President on January 31, 1995.

(4) The amount of any funds disbursed by the Board of Governors of the Federal Reserve System pursuant to the program of assistance referred to in paragraph (3).

(5) Financial transactions, both inside and outside of Mexico, made during the reporting period involving funds disbursed to Mexico from the exchange stabilization fund or proceeds of Mexican Government securities guaranteed by the exchange stabilization fund.

(6) All outstanding guarantees issued to, and short-term and medium-term currency swaps with, the Government of Mexico by the Secretary of the Treasury, set forth by category of financing.

(7) All outstanding currency swaps with the central bank of Mexico by the Board of Governors of the Federal Reserve System and the rationale for, and any expected costs of, such transactions.

(8) The amount of payments made by customers of Mexican petroleum companies that have been deposited in the account at the Federal Reserve Bank of New York established to ensure repayment of any payment by the United States Government, including the Board of Governors of the Federal Reserve System, in connection with any guarantee issued to, or any swap with, the Government of Mexico.

(9) Any setoff by the Federal Reserve Bank of New York against funds in the account described in paragraph (8).

(10) To the extent such information is available, once there has been a setoff by the Federal Reserve Bank of New York, any interruption in deliveries of petroleum products to existing customers whose payments were setoff.

(11) The interest rates and fees charged to compensate the Secretary of the Treasury for the risk of providing financing.

SEC. 405. TERMINATION OF REPORTING REQUIREMENTS.

The requirements of sections 403 and 404 shall terminate on the date that the Government of Mexico has paid all obligations with respect to swap facilities and guarantees of securities made available under the program approved by the President on January 31, 1995.

SEC. 406. PRESIDENTIAL CERTIFICATION REGARDING SWAP OF CURRENCIES TO MEXICO THROUGH EXCHANGE STABILIZATION FUND OR FEDERAL RESERVE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no loan, credit, guarantee, or arrangement for a swap of currencies to Mexico through the exchange stabilization fund or by the Board of Governors of the Federal Reserve System may be extended or (if already extended) further utilized, unless and until the President submits to the appropriate congressional committees a certification that—

(1) there is no projected cost (as defined in the Credit Reform Act of 1990) to the United States from the proposed loan, credit, guarantee, or currency swap;

(2) all loans, credits, guarantees, and currency swaps are adequately backed to ensure that all United States funds are repaid;

(3) the Government of Mexico is making progress in ensuring an independent central bank or an independent currency control mechanism;

(4) Mexico has in effect a significant economic reform effort; and

(5) the President has provided the documents described in paragraphs (1) through (28) of House Resolution 80, adopted March 1, 1995.[2]

(b) TREATMENT OF CLASSIFIED OR PRIVILEGED MATERIAL.—For purposes of the certification required by subsection (a)(5), the President shall specify, in the case of any document that is classified or subject to applicable privileges, that, while such document may not have been produced to the House of Representatives, in lieu thereof it has been produced to specified Members of Congress or their designees by mutual agreement among the President, the Speaker of the House, and the chairmen and ranking members of the Committee on Banking and Financial Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House.

SEC. 407. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committees on International Relations and Banking and Financial Services of the House of Representatives, the Committees on Foreign Relations and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

(2) EXCHANGE STABILIZATION FUND.—The term "exchange stabilization fund" means the stabilization fund referred to in section 5302(a)(1) of title 31, United States Code.

This Act may be cited as the "Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995".

[2] For text of H.Res. 80 as adopted by the House on March 1, 1995, see *Congressional Record*, p. H2444–5.

o. Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994

Partial text of Public Law 103–306 [H.R. 4426], 108 Stat. 1608, approved August 23, 1994; amended by Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and for other purposes, namely:

* * * * * * *

TITLE VI—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, and for other purposes, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RELIEF FOR JORDAN

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—For fiscal year 1994 and thereafter, the President is authorized to reduce or cancel amounts owed to the United States or any agency of the United States by the Hashemite Kingdom of Jordan as a result of loans originally made or credits originally extended by the United States or any agency of the United States before January 1, 1994.

(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—The authority of this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961, as amended, section 321 of the International Development and Food Assistance Act of 1975, or similar provisions of law. In addition, a reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(b) APPROPRIATIONS.—

(1) APPROPRIATIONS.—For the cost of modifying direct loans, as defined in section 502 of the Congressional Budget Act of 1974, for Jordan, in accordance with the authority contained in this section, $99,000,000 is appropriated, to remain available until September 30, 1994.

(2) FISCAL YEAR 1994.—For fiscal year 1994—

(A) funds appropriated under this section may be used only for the cost of modifying direct loans entered into under programs administered by the Agency for International Development; and

(B) such funds may be used to reduce or cancel not to exceed $220,000,000 of the amounts owed pursuant to such loans.

* * * * * * *

This title may be cited as the "Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994".

p. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993

Partial text of Public Law 102–391 [H.R. 5368], 106 Stat. 1633, approved October 6, 1992; amended by Public Law 106–429 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429], 114 Stat. 1900, approved November 6, 2000

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

HUMAN RIGHTS

SEC. 511. (a) * * *

(b)[1] HUMAN RIGHTS REPORT.—The Secretary of State shall also transmit the report required by section 116(d) of the Foreign Assistance Act of 1961 to the Committees on Appropriations each year by the date specified in that section: *Provided,* That each such report submitted pursuant to such section shall (1) include a review of each country's commitment to children's rights and welfare as called for by the Declaration of the World Summit for Children; (2) * * * [Repealed—2000];[2] and (3) describe the extent to which indigenous people are able to participate in decisions affecting their lands, cultures, traditions and the allocation of natural resources, and assess the extent of protection of their civil and political rights.

* * * * * * *

ENVIRONMENT

SEC. 532.[3] (a) * * *

(b) * * *

[1] 22 U.S.C. 2151n note.

[2] Sec. 590 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–59), repealed "paragraph (2)" *[sic]*, which had read as follows: "(2) a description of the military expenditures of each country receiving United States foreign assistance, and the efforts each country is making to reduce those expenditures;"

[3] 22 U.S.C. 262*l*.

(c)(1) In furtherance of the policies contained in section 533(a) of Public Law 101–513 and section 1308 of the International Development and Finance Act of 1989 (Public Law 101–240), and as a basis for measuring more effectively progress by the MDBs toward improved environmental performance, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDBs to encourage each MDB, at a minimum, to meet the benchmarks established in paragraph (2) in the areas of sustainable energy development, forest conservation, forced displacement of populations, and environmental impact assessment. On March 1, 1993 and March 1, 1994, the Secretary of the Treasury shall submit a report to the Congress describing in detail the progress being made by the MDBs in meeting these benchmarks.

(2) For the purposes of paragraph (1), benchmarks are as follows:

(A) In the area of sustainable energy development—

(i) all loans in the energy sector should be based on, or support development of, "least-cost" integrated resource plans. Such plans shall include analyses of possible end-use energy efficiency measures and nonconventional renewable energy options, and such plans shall reflect the quantifiable environmental costs of proposed energy developments;

(ii) a substantial portion of loans and grants in the energy, industry, and transportation sectors shall be devoted to end-use energy efficiency improvements and nonconventional renewable energy development; and

(iii) all organizational units within the MDBs should create staff positions in a management role in end-use efficiency and renewable energy, which positions shall be staffed by individuals with professional experience in program design and management and educational degrees in relevant technical disciplines.

(B) In the area of forest conservation—

(i) forestry loans should not support commercial logging in relatively undisturbed primary forests, nor should loans result in any significant loss of tropical forests;

(ii) forestry loans should not be disbursed until legal, economic, land tenure, and other policy conditions needed to ensure sustainability are in place;

(iii) loans should not support mineral, petroleum, or other industrial development in, or construction or upgrading of roads through, relatively undisturbed primary forests unless adequate safeguards and monitoring systems, developed in consultation with local populations, are already in place to prevent degradation of the surrounding forests;

(iv) loans should be consistent with and support the needs and rights of indigenous peoples and other long-term forest inhabitants and should not be made to countries which have shown an unwillingness to resolve fairly the territorial claims of such people; and

(v) support for protection of biological diversity, in close consultation with local communities, should be increased to account for a larger proportion of MDB lending.

(C) In the area of forced displacement of populations—

(i) the World Bank, Inter-American Development Bank, and Asian Development Bank should maintain a listing, available to the Secretary of the Treasury, of all ongoing projects involving forced displacement of populations, including the number of people displaced and a report on the status of the implementation of their resettlement policy guidelines for each such project, and obtain agreements with borrowers to ensure that all ongoing projects involving forced displacement will be in full compliance with their resettlement policy guidelines by mid-1993; and

(ii) the African Development Bank should adopt and implement policy guidelines on forced displacement similar to such guidelines of the other MDBs.

(D) In the area of procedures for environmental impact assessment (EIA)—

(i) each MDB should require that draft and final EIA reports be made available to the public in borrowing and donor countries and that the public be offered timely opportunities for comment on the EIA process, including initial scoping sessions, review of EIA categories assigned to individual projects, and opportunities to comment on draft and final EIA reports;

(ii) each MDB should apply EIA requirements to all sector loans and develop and apply the methodology for environmental assessment of structural adjustment loans;

(iii) each MDB should require that the EIA process include analyses of the potential impacts of proposed projects on the global environment; and

(iv) each MDB should require the head of the appropriate environmental unit, rather than project officers, determine the appropriate type of environmental analysis required under the bank's EIA procedures.

* * * * * * *

(g) Funds appropriated by this Act or any subsequent Act for the Development Assistance Fund and the Development Fund for Africa may be used for expenses (including related support costs) relating to the environment and energy sectors, of individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative"[4] described in this subsection.

* * * * * * *

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 548.[5] The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered

[4] As enrolled. Should read "Global Warming Initiative".

[5] 22 U.S.C. 2395a note. Similar language through the first proviso was first enacted as sec. 563 of the Foreign Assistance Appropriations, 1988. The second and third provisos were first enacted in sec. 550 of the Foreign Assistance Appropriations Act, 1991.

into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements: *Provided further,* That the Secretary of State and the Secretary of the Treasury should in every feasible instance notify the Appropriations Committees of the Congress and such other Committees as appropriate not less than 15 days prior to any formal multilateral or bilateral negotiation for official debt restructuring, rescheduling, or relief: *Provided further,* That the Secretary of State or the Secretary of the Treasury, as appropriate, shall report not later than February 1 of each year a consolidated statement of the budgetary implications of all debt-related agreements entered into force during the preceding fiscal year.

* * * * * * *

AID BUDGET SUBMISSION

SEC. 599E.[6] The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Agency for International Development.

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993".

[6] 22 U.S.C. 2381 note.

q. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991

Partial text of Public Law 101–513 [H.R. 5114], 104 Stat. 1979, approved November 5, 1990; amended by Public Law 102–27 [Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991; H.R. 1281], 105 Stat. 130, approved April 10, 1991; Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102–145 [Further Continuing Appropriations, 1992; H.J. Res. 360], 105 Stat. 968, approved October 28, 1991; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1993; Public Law 102–499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 103–87 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994; H.R. 2295], 107 Stat. 931, approved September 30, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–306 [[Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

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TITLE V—GENERAL PROVISIONS

* * * * * * *

ASSISTANCE FOR EL SALVADOR

SEC. 531[1] (a) STATEMENT OF POLICY.—United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights, and the rule of law; and (3) to advance political accommodation and national reconciliation.

(b) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—Of the funds available for United States military assistance for fiscal year 1991, not more than $85,000,000 shall be made available for El Salvador.

[1] 22 U.S.C. 2370 note.

(c) PROHIBITION OF MILITARY ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States military assistance may be furnished to the Government of El Salvador if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;

(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(C) the Government of El Salvador has rejected a plan for the settlement of the conflict which—

(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 15 days from its announcement, by the FMLN and is being complied with by the FMLN;

(D) the Government of El Salvador has failed to conduct a thorough and professional investigation into, and prosecution of those responsible for the eight murders at the University of Central America on November 16, 1989; or

(E) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces; or

(F) the Government of El Salvador has failed to actively seek and encourage a law enforcement service from outside El Salvador, such as Scotland Yard or INTERPOL, to accompany and monitor investigators of the Government of El Salvador in their investigation into the eight murders at the University of Central America on November 16, 1989.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(d) WITHHOLDING OF MILITARY ASSISTANCE.—(1) IN GENERAL.—Fifty per centum of the total United States military assistance allocated for El Salvador for fiscal year 1991 shall be withheld from obligation or expenditure (as the case may be) except as provided in paragraphs (2) and (3).

(2) RELEASE OF ASSISTANCE.—The United States military assistance withheld pursuant to paragraph (1) may be obligated and expended only if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—

(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or

(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(B) the FMLN has rejected a plan for the settlement of the conflict which—

(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 15 days from its announcement, by the Government of El Salvador and is being complied with by the Government of El Salvador;

(C) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;

(D) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the Congress; or

(E) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(3) EXCEPTION.—Notwithstanding any other provision of law, funds withheld pursuant to paragraph (1) of this subsection may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.

(e) CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States assistance may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(f) ESTABLISHMENT OF A FUND FOR CEASE-FIRE MONITORING, DEMOBILIZATION, AND TRANSITION TO PEACE.—(1) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the "Demobilization and Transition Fund" (hereafter in this section referred to as the "Fund"). Amounts in this Fund shall be available for obligation and expenditure only upon notification by the President to the Congress that the Government of El Salvador and representatives

of the FMLN have reached a permanent settlement of the conflict, including a final agreement on a cease-fire.

(2) TRANSFER OF CERTAIN MILITARY ASSISTANCE FUNDS.—Upon notification of the Congress of a permanent settlement of the conflict, including an agreement on a cease-fire, or on September 30, 1991, if no such notification has occurred prior to that date, the President shall transfer to the Fund any United States military assistance funds withheld pursuant to subsection (d) of this section.

(3) USE OF THE FUND.—Notwithstanding any other provision of law, amounts in the Fund shall be available for El Salvador solely to support costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in El Salvador, and of the monitoring of the permanent settlement and cease-fire.

(4) DURATION OF AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts transferred to the Fund shall remain available until expended.

(g) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically-elected civilian Government of El Salvador over the armed forces of that country, United States military assistance for any fiscal year may be delivered to the armed forces of El Salvador only with the prior approval of the duly elected President of El Salvador.

(h) SUPPORT FOR DEMOCRACY.—(1) ESTABLISHING A PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador.

(2) ELECTION MONITORING.—Of the amounts made available to carry out this subsection, up to $2,000,000 may be used for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) ASSISTANCE.—Up to $10,000,000 of funds appropriated under the heading "Economic Support Fund" for fiscal year 1991 may be used to carry out this subsection.

(i)[2] REPORTING REQUIREMENTS. * * * [Repealed—1994]

(j) DEFINITIONS.—For purposes of this section—

(1) the term "United States assistance" has the same meaning as is given to such term by section 481(i)(4) of the Foreign Assistance Act of 1961 and includes United States military assistance as defined in paragraph (2); and

(2) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international

[2] Sec. 139(22) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 399) repealed subsec. (i), which had required that the President report to Congress every 180 days on progress in the negotiations in El Salvador.

military education and training) of part II of the Foreign Assistance Act of 1961; and

(B) assistance to carry out section 23 of the Arms Export Control Act.

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ENVIRONMENT AND GLOBAL WARMING

SEC. 533.[3] (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

(b) The Secretary of the Treasury shall, not later than March 1, 1991, submit an annual report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection

[3] 22 U.S.C. 262*l*. Similar language was first enacted as sec. 540 of the Foreign Assistance Appropriations Act, 1986.

(a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of CO_2 and the status of proposals for specific forestry and energy sector activities to reduce CO_2 emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1988, report on "Debt-for-Nature Swaps" by the World Bank.

(c)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative",[4] which will continue to emphasize the need to reduce emissions of greenhouse gases, especially CO_2 and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101–167.

(3) None of the funds appropriated in this Act shall be available for any program, project or activity which would—

(A) result in any significant loss of tropical forests; or

[4] See sec. 534 of the Foreign Assistance Appropriations Act, 1990, page 1155.

(B) involve commercial[5] timber extraction in primary tropical forest areas unless an environmental assessment:[6]

(i) identifies potential impacts on biological diversity;

(ii) demonstrates that all timber extraction will be conducted according to an environmentally sound management system which maintains the ecological functions of the natural forest and minimizes impacts on biological diversity; and

(iii) demonstrates that the activity will contribute to reducing deforestation.

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(5) Funds appropriated by this Act to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 may be used for expenses (including related support costs) relating to the environment and energy sectors, of employees or individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

(d) * * *

(e) * * *

(f)[7] Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding the following new section: * * *

(g) * * *

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GENERAL AUTHORIZATIONS

SEC. 562. GENERAL AUTHORIZATIONS.—

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(c)[8] REPORTS TO CONGRESS.—As part of the annual Congressional Presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961 in three countries in sub-Saharan Africa which represent differing economic situations and levels of progress. The description shall include—

(1) the nature and extent of consultation to ensure local perspectives, as described in subsections (e)(1) and (f) of section 496;

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[5] Sec. 308(1) of Public Law 102–27 (105 Stat. 152) struck out "industrial" and inserted in lieu thereof "commercial".

[6] Sec. 308(2) of Public Law 102–27 (105 Stat. 152) inserted "unless an environmental assessment" and three clauses under subpara. (B).

[7] Subsec. (f) added a new sec. 518 to the Foreign Assistance Act of 1961 (22 U.S.C. 2321*l.*), relating to natural resources and wildlife management.

[8] 22 U.S.C. 2293 note.

(2) the degree of involvement of local people in the implementation of projects having a local focus;

(3) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

(5) a description of the assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.

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INTERNATIONAL BANKING PROVISIONS

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(c) EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.—* * *[9]

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PROPERTY MANAGEMENT FUND

SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.

(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.

IRAQ SANCTIONS ACT OF 1990[10]

SEC. 586. SHORT TITLE.

Sections 586 through 586J of this Act may be cited as the "Iraq Sanctions Act of 1990".

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BENEFITS FOR UNITED STATES HOSTAGES IN IRAQ AND KUWAIT AND UNITED STATES HOSTAGES CAPTURED IN LEBANON

SEC. 599C.[11] (a) ELIGIBILITY.—United States hostages in Iraq and Kuwait, and United States hostages captured in Lebanon,

[9] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[10] For this and other legislation relating to Iraq, see *Legislation on Foreign Relations Through 2004*, vol. I–B.

[11] The Department of State established criteria for benefits for hostages in Iraq, Kuwait, or Lebanon in Public Notice 1308, November 30, 1990 (55 F.R. 52837–8, 52928; 22 CFR Part 193),

shall, subject to the availability of funds under subsection (e), be entitled to the benefits described in this section. Except as otherwise provided in this section or other provision of law, no such individual or any family member shall receive any benefit under the provisions of title 5, United States Code during fiscal year 1991 and hereafter.[12]

(b) PAYMENTS FOR DURATION OF HOSTAGE STATUS, LIFE INSURANCE, AND HEALTH INSURANCE.—(1) Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management, after consultation with the Department of State, shall prescribe regulations, consistent with this section, for the application of the provisions of chapter 87 (relating to life insurance) and chapter 89 (relating to health insurance) of title 5, United States Code, to the United States hostages in Iraq or Kuwait, and United States hostages captured in Lebanon, and their family members for the period that such hostages remain in hostage status.

(2) United States hostages in Iraq or Kuwait, and United States hostages captured in Lebanon, shall, subject to the availability of funds under subsection (e), be paid at the rate of pay for a position at GS–9 of the General Schedule for the period in which such hostages remained in a hostage status without the hostages (or their family members on their behalf) receiving salaries or wages from their employers. For purposes of this paragraph, any United States hostage captured in Lebanon who was paid a salary or wage in Lebanese pounds in amounts that were not adjusted to compensate for any devaluation of the Lebanese pound that occurred during such hostage's period of captivity shall not be considered to have received a salary or wage from an employer.[13]

(3) Except as provided in paragraph (5), during[14] the period of an individual's hostage status and during the 12-month period after the hostage status of that individual ceases, such individual and his family members shall, subject to the availability of funds under subsection (e), be entitled to health benefits covered by paragraph (1) if such benefits were not provided by any other insurance coverage.

(4) Except as provided in paragraph (5), during[14] the period of an individual's hostage status and during the 12-month period after the hostage status of that individual ceases, that individual shall, subject to the availability of funds under subsection (e), be entitled to life insurance benefits covered by paragraph (1) if such benefits were not provided by any other insurance coverage.

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and amended those criteria in Public Notice 1565, effective January 16, 1992 (57 F.R. 3282; January 29, 1992).

[12] Sec. 302(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 707), added "during fiscal year 1991 and hereafter", effective November 5, 1990.

[13] Sec. 5(a) of Public Law 102–499 (106 Stat. 3266) added the last sentence to para. (2). Sec. 5(b) of that Act further provided that "the amendment made by subsection (a) shall be deemed to have become effective as of the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.".

[14] Sec. 302(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 707), struck out "During" in paras. (3) and (4), and inserted in lieu thereof "Except as provided in paragraph (5), during", effective November 5, 1990.

(5)[15] For purposes of the application of paragraphs (3) and (4) to United States hostages captured in Lebanon, the period of entitlement of benefits, subject to the availability of funds, shall be the period of an individual's hostage status, plus a 60-month period following the termination of the hostage status of that individual.

(c) ADMINISTRATION OF AUTHORITIES.—(1) For purposes of this section, the Secretary of State shall certify to such officer of the United States as may require such information the names of the United States hostages in Iraq and Kuwait, and United States hostages captured in Lebanon, and their family members.

(2) For purposes of the protection of the identity of any individual, the Secretary of State may submit any certification under this subsection in classified form.

(3) The Secretary of State may require of any individual such verification of hostage status as he may deem necessary.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "hostage status" means, with respect to United States hostages in Iraq and Kuwait, the status of being held in custody by governmental or military authorities of a country or taking refuge within that country in fear of being taken into such custody (including residing in any diplomatic mission or consular post in that country); and, with respect to United States hostages captured in Lebanon, the status of a person described in paragraph (4)(B);

(2) the term "family members" means spouses, dependents, and any individuals who are members of the households of United States hostages in Iraq and Kuwait or United States hostages captured in Lebanon;

(3) the term "United States economic sanctions against Iraq" means the exercise of authorities under the International Emergency Economic Powers Act by the President with respect to financial transactions with Iraq;

(4)(A) the term "United States hostages in Iraq and Kuwait" means United States nationals, or family members of United States nationals, who are in a hostage status in Iraq or Kuwait during the period beginning on August 2, 1990, and terminating on the date on which United States economic sanctions against Iraq are lifted; and

(B)[16] the term "United States hostages captured in Lebanon" means United States nationals, including lawful permanent residents of the United States, who have been forcibly detained, held hostage, or interned for any period of time after June 1, 1982, by any government (including the agents thereof) or group in Lebanon for the purpose of coercing the United States Government or any other government.

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[15] Sec. 302(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 708), added para. (5), effective November 5, 1990.

[16] Sec. 302(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 708), amended and restated subpara. (B), effective November 5, 1990. It formerly read as follows:

"(B) the term 'United States hostages captured in Lebanon' means United States nationals who have been forcibly detained, held hostage, or interned by an enemy government or its agents, or a hostile force, in Lebanon since January 1, 1990.".

(5) the term "United States national" means any individual who is a citizen of the United States or who, though not a citizen of the United States, owes permanent allegiance to the United States.

(e) ALLOCATION OF FUNDS.—(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", up to $10,000,000 shall be available to carry out this section.

(2)[17] Notwithstanding any other provision of law, funds allocated under paragraph (1) are authorized to remain available until expended.

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991".

[17] Sec. 302(a)(5) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 708), amended and restated para. (2), effective November 5, 1990. It formerly read as follows:

"(2) The authority to obligate funds under the authority provided by this section shall expire six months after the date of enactment of this Act.".

r. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990

Partial text of Public Law 101–167 [H.R. 3743], 103 Stat. 1195, approved November 21, 1989, as amended by Public Law 101–302 [Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101–649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; Public Law 102–27 [Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991; H.R. 1281], 105 Stat. 130, approved April 10, 1991; Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102–232 [Miscellaneous and Technical Immigration and Naturalization Amendments of 1991; H.R. 3049], 105 Stat. 1733, approved December 12, 1991; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; and Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 104–208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104–319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864, approved October 19, 1996; Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105–277 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f)); H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106–113 [Department of Health and Human Services Appropriations Act, 2000; title II of H.R. 3424, enacted by reference in sec. 1000(a)(4) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–554 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001; H.R. 5656, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of the Consolidated Appropriations Act for Fiscal Year 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000; Public Law 107–116 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002; H.R. 3061], 115 Stat. 2177, approved January 10, 2002; Public Law 108–7 [Department of Health and Human Services Appropriations Act, 2003; H.J. Res. 2], 117 Stat. 11 at 307, approved February 20, 2003; Public Law 108–199 [Department of Health and Human Services Appropriations Act, 2004; H.R. 2673], 118 Stat. 3 at 237, approved January 23, 2004; and by Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes, namely:

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TITLE V—GENERAL PROVISIONS

* * * * * * *

UNITED NATIONS VOTING RECORD

SEC. 527.[1] (a) IN GENERAL.—Not later than March 31 of each year, the Secretary of State shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete annual report which assesses for the prior calendar year, with respect to each foreign country member of the United Nations, the voting practices of the governments of such countries at the United Nations, and evaluates General Assembly and Security Council actions and the responsiveness of those governments to United States policy on issues of special importance to the United States.

(b) INFORMATION ON VOTING PRACTICES IN THE UNITED NATIONS.—Such report shall include, with respect to voting practices and plenary actions in the United Nations during the preceding year, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of—

(1) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which member countries supported United States policy objectives at the United Nations;

(2) an analysis and discussion, prepared in consultation with the Secretary of State, of actions taken by the United Nations by consensus;

(3) with respect to plenary votes of the United Nations General Assembly—

(A) a listing of all such votes on issues which directly affected important United States interests and on which the United States lobbied extensively and a brief description of the issues involved in each such vote;

(B) a listing of the votes described in subparagraph (A) which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(C) a country-by-country listing of votes described in subparagraph (A); and

(D) a listing of votes described in subparagraph (A) displayed in terms of United Nations regional caucus groups;

[1] 22 U.S.C. 2414a note. See also sec. 406 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246), requiring an annual report to Congress on voting practices at the United Nations, in *Legislation on Foreign Relations Through 2004*, vol. II.

(4) a listing of all plenary votes cast by member countries of the United Nations in the General Assembly which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(5) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which other members supported United States policy objectives in the Security Council and a separate listing of all Security Council votes of each member country in comparison with the United States; and

(6) a side-by-side comparison of agreement on important and overall votes for each member country and the United States.

(c) FORMAT.—Information required pursuant to subsection (b)(3) shall also be submitted, together with an explanation of the statistical methodology, in a format identical to that contained in chapter II of the March 14, 1988, Report to Congress on Voting Practices in the United Nations.

(d) STATEMENT BY THE SECRETARY OF STATE.—Each report under subsection (a) shall contain a statement by the Secretary of State discussing the measures which have been taken to inform United States diplomatic missions of United Nations General Assembly and Security Council activities.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—* * *

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GLOBAL WARMING INITIATIVE

SEC. 534. (a) TROPICAL FORESTRY ASSISTANCE.—(1) In order to achieve the maximum impact from activities relating to tropical forestry, the Agency for International Development shall focus tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases related to global warming as a result of industrialization and the burning of fossil fuels, and destruction of tropical forests.

(2) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation makes a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(3) In providing assistance relating to tropical forests, the Administrator of that Agency shall, to the extent feasible and appropriate, assist countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry.

(b) ENERGY ASSISTANCE.—(1) In order to achieve the maximum impact from activities relating to energy, the Agency for International Development shall focus energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases. Such assistance

shall be focused on improved energy efficiency, increased use of renewable energy resources and national energy plans (such as least-cost energy plans) which include investment in end-use efficiency and renewable energy resources.

(2) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting energy programs aimed at reducing emissions of greenhouse gases related to global warming with regard to the key countries, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(3) It is the sense of the Congress that the Agency for International Development should increase its efforts in the fields of energy efficiency, renewable energy, and energy planning. Such increase should take place with respect to key countries and countries with large Economic Support Fund project assistance. Such efforts should include—

(A) an increase in the number of Agency for International Development staff with energy expertise, including staff with expertise in renewable energy technologies and end-use efficiency;

(B) assistance to develop analyses of energy-sector actions that could minimize emissions of greenhouse gases at least cost, while at the same time meeting basic economic and social development needs. Such assistance should include country-specific analyses which compare the economic and environmental costs of actions to promote energy efficiency and nonconventional renewable energy with the economic and environmental costs of investments to provide additional conventional energy supplies;

(C) assistance to develop energy-sector plans that employ end-use analysis and other techniques to identify the most cost-effective actions to minimize increased reliance on fossil fuels, ensuring to the maximum extent feasible that nongovernmental organizations and academic institutions are involved in this planning;

(D) insuring that AID energy assistance—including support for private-sector initiatives—is consistent with the analyses and plans described in subparagraphs (B) and (C) above, and that environmental impacts (including that on global warming) and alternatives have been fully analyzed;

(E) assistance to improve efficiency in the production, transmission, distribution, and use of energy. Such assistance should focus on the development of institutions to (i) promote energy efficiency in all sectors of energy production and use, (ii) provide training and technical assistance to help energy producers and users identify cost-effective actions to improve energy efficiency, (iii) finance specific investments in energy efficiency in all sectors of energy production and use, and (iv) improve local capabilities in the research, development, and sale of energy efficient technologies;

(F) assistance in exploiting nonconventional renewable energy resources, including wind, solar, small-hydro, geothermal,

and advanced biomass systems. This assistance should also promote efficient use of traditional biomass fuels through improved fuelwood management and improved methods of charcoal production;

(G) expanding efforts to meet the energy needs of the rural poor through the methods described in subparagraphs (E) and (F). Specifically these efforts should promote improved efficiency in the use of biomass fuels for household energy, improved systems of fuelwood management, and the development of the nonconventional renewable energy systems described in subparagraph (F);

(H) encouraging host countries to sponsor meetings with officials from the United States utility sector who are leaders in energy efficiency and other United States experts to discuss the application of least-cost planning techniques;

(I) developing a cadre of United States experts from industry, academia, nonprofit organizations, and government agencies capable of providing technical assistance to developing countries concerning energy policy and planning, energy efficiency and renewable energy resources;

(J) in cooperation with the Department of Energy, the Environmental Protection Agency, the World Bank, and the Development Assistance Committee of the OECD, supporting research concerning the ways developing nations can meet their energy needs while minimizing global warming and how to meet those needs; and

(K) strengthening the Agency for International Development's partnership with the Department of Energy in order to ensure that the Agency's energy efforts take full advantage of United States expertise and technology.

(c) REPORTS AND AUTHORITIES.—(1) The Agency for International Development, in consultation with the Environmental Protection Agency (EPA), the Department of State, and other appropriate agencies, shall submit to Congress no later than April 15, 1990, a report which (1) examines the potential contributions of developing countries to future global emissions of greenhouse gases under different economic growth scenarios, (2) estimates the relative contributions of those countries to global greenhouse gas emissions, and (3) identifies specific key countries which stand to contribute significantly to global greenhouse gas emissions, and in which actions to promote energy efficiency, reliance on renewable energy resources, and conservation of forest resources could significantly reduce emissions of greenhouse gases. This report should utilize existing data, including the models and methodologies already developed by the EPA for their report to Congress on policy options for stabilizing global climate.

(2) Of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, the Agency for International Development may use such amounts as may be necessary to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full costs of employees detailed or assigned to the Agency for International Development for the purpose of carrying out activities relating to forestry and energy programs aimed

at reducing emissions of greenhouse gases related to global warming. Personnel who are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

(d)[2] EXPORT-IMPORT BANK.—(1) Of the financing provided by the Export-Import Bank that is utilized for the support of exports for the energy sector, the Bank shall seek to provide not less than 5 per centum of such financing for renewable energy projects.

(2) The Export-Import Bank shall take all appropriate steps to finance information exchanges and training whose purpose it is to help link United States producers in the renewable energy sector with assistance programs and potential foreign customers.

(3) Beginning on April 15, 1990, the Chairman of the Export-Import Bank shall submit an annual report to the Committees on Appropriations on the Bank's implementation of this subsection.

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NARCOTICS CONTROL PROGRAM

SEC. 569. * * *

(d)(1)[3] If any funds made available for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of any provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production of trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(A) Those funds may be transferred to and consolidated with the funds made available to carry out section 481 of the Foreign Assistance Act of 1961 in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funds for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610 of the Foreign Assistance Act.

(B) Any such funds not used under subparagraph (A) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures of the Committees on Appropriations) in order to provide additional security assistance for those countries.

(2) As used in this section, the term "security assistance" means economic support fund assistance, foreign military financing, and international military education and training.

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[2] 12 U.S.C. 635g note.
[3] 22 U.S.C. 2291 note.

MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN COUNTRIES

SEC. 573.[4] (a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—

(1) NATO SOUTHERN FLANK COUNTRIES.—The President may transfer—

(A) to any NATO southern flank country which is eligible for United States security assistance and which is integrated into NATO's military structure; and

(B) to any major non-NATO ally on the southern and southeastern flank of NATO which is eligible for United States security assistance, such excess defense articles as may be necessary to help modernize the defense capabilities of such country.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Subject to subsection (f), the President may transfer to any country—

(A) which is a major illicit drug producing country,

(B) which has a democratic government, and

(C) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights, such excess defense articles as may be necessary to carry out subsection (f)(1).

(3) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

(1) they are drawn from existing stocks of the Department of Defense;

(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

(c) NOTIFICATION TO CONGRESS.—

(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until thirty days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

(A) a certification of the need for the transfer;

(B) an assessment of the impact of the transfer on the military readiness of the United States; and

(C) the value of the excess defense articles to be transferred.

(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

[4] 22 U.S.C. 2321j note.

(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) of the Foreign Assistance Act of 1961 does not apply with respect to transfers of excess defense articles under this section.

(e)[5] MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Cooperation Act of 1989, of maintaining the military balance in the Eastern Mediterranean.

(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the four-year period beginning on October 1, 1992,[6] the ratio of—

(A) the value of excess defense articles made available for Turkey under this section, to

(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(i) the amount of foreign military financing provided for Turkey, to

(ii) the amount of foreign military financing provided for Greece.

(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).

(f) MAJOR ILLICIT DRUG PRODUCING COUNTRIES IN LATIN AMERICA AND THE CARIBBEAN.—

(1) PURPOSE.—Excess defense articles shall be transferred under subsection (a)(2) for the purpose of encouraging the military forces of an eligible country in Latin America and the Caribbean to participate with local law enforcement agencies in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances.

(2) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a)(2) only if that country ensures that those excess defense articles will be used only in support of antinarcotics activities.

(3) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a)(2) and insure that

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[5] Sec. 578(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1685), provided that:

"(b) During fiscal year 1993, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, (as amended by subsection (a) of this section) shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.".

See paragraph (2) for subsec. (a) amendment.

[6] Sec. 578(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1685), struck out "three year [sic] period beginning on October 1, 1989" and inserted in lieu thereof "four-year period beginning on October 1, 1992".

any transfer is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

(4) LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a)(2) in any fiscal year may not exceed $10,000,000.

(g) DEFINITIONS.—As used in this section—

(1) the term "excess defense article" has the meaning given that term by section 644(g);

(2) the term "made available" means that a good faith offer is made by the United States to furnish the excess defense articles to a country;

(3) the term "major non-NATO ally" includes Australia, Egypt, Israel, Japan, and New Zealand;

(4) the term "NATO" means the North Atlantic Treaty Organization; and

(5) the term "NATO southern flank countries" means Greece, Italy, Portugal, Spain, and Turkey.

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STINGERS FOR BAHRAIN

SEC. 581. (a) PREVIOUSLY TRANSFERRED STINGERS.—Notwithstanding section 580,[7] section 573(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988,[8] and section 566(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989,[9] shall cease to apply with respect to Stingers made available to Bahrain under those sections if the President determines, and notifies the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, that—

(1) the Stingers are needed by Bahrain to counter an immediate air threat or to contribute to the protection of United states personnel, facilities, equipment, or operations;

(2) no other appropriate system is available from the United States;

(3) Bahrain has agreed, in writing, to such safeguards to protect against diversion of the Stingers as may be required by the United States; and

(4) Bahrain has agreed in writing to return to the possession and control of the United States all Stingers made available under those sections and subsection (b) of this section, other than Stingers which have been fired or otherwise destroyed, at any time the United States determines, subject to subsection (c).

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[7] Sec. 580 provided that "Except as provided in section 581, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act of chapter 2 of part II of the Foreign Assistance Act of 1961.".

[8] Sec. 573(b)(4) provided:

"(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the enactment of this legislation.".

[9] Sec. 566(b)(4) provided the same intent as the previous note.

(b) REPLACEMENT STINGERS.—Notwithstanding section 580, Stingers may be made available to Bahrain under the Arms Export Control Act of the Foreign Assistance Act of 1961 after September 30, 1989, in order to replace, on a one-for-one basis, Stingers previously made available under this subsection, sec. 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, or section 566 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, that have been fired or otherwise destroyed, subject to the following conditions:

(1) DETERMINATIONS.—Replacement Stingers may be made available to Bahrain pursuant to this subsection only if the President makes the determinations specified in paragraphs (1) through (4) of subsection (a).

(2) NOTICE TO CONGRESS BEFORE STINGERS ARE TRANSFERRED.—At least 30 days before making any replacement Stingers available to Bahrain pursuant to this subsection, the President shall notify the committees designated in subsection (a) that he has made the determinations required by paragraph (1). Any such notification shall include the information required in a certification under section 36(b) of the Arms Export Control Act. This paragraph applies without regard to the value of the Stingers to be made available.

(c) RETURN OF STINGERS TO THE UNITED STATES.—All Stingers made available to Bahrain pursuant to subsections (a) and (b), other than those fired or otherwise destroyed, shall be returned to the possession and control of the United states not later than September 30, 1991, unless the President—

(1) determines that each of the conditions specified in subsection (a) continues to apply; and

(2) notifies the committees designated in subsection (a) not later than September 15, 1991, in accordance with the regular reprogramming procedures of such committees, that the United States intends to waive the requirement that the Stingers be returned to the United States by the date specified in the subsection.

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ESTABLISHING CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS

SEC. 599D.[10] (a) IN GENERAL.—In the case of an alien who is within a category of aliens established under subsection (b), the alien may establish, for purposes of admission as a refugee under section 207 of the Immigration and Nationality Act, that the alien has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution.

(b) ESTABLISHMENT OF CATEGORIES.—

[10] 8 U.S.C. 1157 note. A subsec. (f) at the end of this section, relating to GAO Reports on Soviet Refugee Processing, was repealed by sec. 582(c) of Public Law 102–391 (106 Stat. 1686). Sec. 905(c) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

(1) For purposes of subsection (a), the Attorney General, in consultation with the Secretary of State and the Coordinator for Refugee Affairs, shall establish—

(A) one or more categories of aliens who are or were nationals and residents of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania[11] and who share common characteristics that identify them as targets of persecution in that state[12] on account of race, religion, nationality, membership in a particular social group, or political opinion,[13]

(B) one or more categories of aliens who are or were nationals and residents of Vietnam, Laos, or Cambodia and who share common characteristics that identify them as targets of persecution in such respective foreign state on such an account; and[13]

(C)[13] one or more categories of aliens who are nor were nationals and residents of the Islamic Republic of Iran who, as members of a religious minority in Iran, share common characteristics that identify them as targets of persecution in that state on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2)(A) Aliens who are (or were) nationals and residents of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania[11] and who are Jews or Evangelical Christians shall be deemed a category of alien established under paragraph (1)(A).

(B) Aliens who are (or were) nationals of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania[11] and who are current members of, and demonstrate public, active, and continuous participation (or attempted participation) in the religious activities of, the Ukrainian Catholic Church or the Ukrainian Orthodox Church, shall be deemed a category of alien established under paragraph (1)(A).

(C) Aliens who are (or were) nationals and residents of Vietnam, Laos, or Cambodia and who are members of categories of individuals determined, by the Attorney General in accordance with "Immigration and Naturalization Service Worldwide Guidelines for Overseas Refugee Processing" (issued by the Immigration and Naturalization Service in August 1983) shall be deemed a category of alien established under paragraph (1)(B).

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[11] Sec. 582(b)(1)(A) of Public Law 102–391 (106 Stat. 1686) struck out "of the Soviet Union" each place it appeared in paras. (1)(A), (2)(A), and (2)(B), and inserted in lieu thereof "of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania". Sec. 905(b)(1)(A) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

[12] Sec. 582(b)(1)(B) of Public Law 102–391 (106 Stat. 1686) struck out "in the Soviet Union" and inserted in lieu thereof "in that state". Sec. 905(b)(1)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

[13] Sec. 213(1)(C) of the Department of Health and Human Services Appropriations Act, 2003 (title II of division E of Public Law 108–199; 118 Stat. 253) struck out "and" at the end of subpara. (A), struck out a period at the end of subpara. (B) and inserted in lieu thereof "; and", and added para. (C). Sec. 213(1)(C) of the Department of Health and Human Services Appropriations Act, 2005 (title II of division F of Public law 108–447; 118 Stat. 2809), made identical amendments.

(3) Within the number of admissions of refugees allocated for each of fiscal years 1990, 1991, and 1992[14] for refugees who are nationals of the Soviet Union under section 207(a)(3) of the Immigration and Nationality Act and within the number of such admissions allocated for each of fiscal years 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, and 2006[15] for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section,[16] notwithstanding any other provision of law, the President shall allocate one thousand of such admissions for such fiscal year to refugees who are within the category of aliens described in paragraph (2)(B).

(c) WRITTEN REASONS FOR DENIALS OF REFUGEE STATUS.—Each decision to deny an application for refugee status of an alien who is within a category established under this section shall be in writing and shall state, to the maximum extent feasible, the reason for the denial.

(d) PERMITTING CERTAIN ALIENS WITHIN CATEGORIES TO REAPPLY FOR REFUGEE STATUS.—Each alien who is within a category established under this section and who (after August 14, 1988, and before the date of the enactment of this Act) was denied refugee status shall be permitted to reapply for such status. Such an application shall be determined taking into account the application of this section.

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[14] Sec. 598(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2063), struck out "fiscal year 1990" and inserted in lieu thereof "for each of fiscal years 1990, 1991, and 1992".

[15] Sec. 213(1)(A) of the Department of Health and Human Services Appropriations Act, 2005 (title II of division F of Public law 108–447; 118 Stat. 2809), struck out "1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, and 2005" and inserted in lieu thereof "1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, and 2006".

Previously, sec. 512(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 466) struck out "1993 and 1994" and inserted in lieu thereof "1993, 1994, 1995, and 1996". Sec. 575(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) further extended this to include 1997. Sec. 101(1)(A) of Public Law 104–319 (110 Stat. 3864) made the same amendment as Public Law 104–208. Sec. 574(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2432), struck out "and 1997" and inserted in lieu thereof "1997, and 1998". Sec. 705(1)(A) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f), of Public Law 105–277; 112 Stat. 2681) struck out "1997, and 1998" and inserted in lieu thereof "1997, 1998, and 1999". Sec. 214(1)(A) of the Department of Health and Human Services Appropriations Act, 2000 (title II of H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106–113; 113 Stat. 1535), struck out "1997, 1998, and 1999", and inserted in lieu thereof "1997, 1998, 1999, and 2000". Sec. 212(1)(A) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106–554; 114 Stat. 2763), struck out "1997, 1998, 1999, and 2000" and inserted in lieu thereof "1998, 1999, 1999, 2000, and 2001". Sec. 213(1)(A) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116; 115 Stat. 2200), struck out "1997, 1998, 1999, 2000, and 2001" and inserted in lieu thereof "1997, 1998, 1999, 1999, 2000, 2001, and 2002". Sec. 213(1)(A) of the Department of Health and Human Services Appropriations Act, 2003 (title II of division G of Public Law 108–7; 117 Stat. 324) struck out "1997, 1998, 1999, 2000, and 2001" and inserted in lieu thereof "1997, 1998, 1999, 2000, 2001, 2002, and 2003". Sec. 213(1)(A) of the Department of Health and Human Services Appropriations Act, 2003 (title II of division E of Public Law 108–199; 118 Stat. 253) struck out "1997, 1998, 1999, 2000, 2001, and 2002" and inserted in lieu thereof "1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004".

[16] Sec. 582(a)(1)(A) of Public Law 102–391 (106 Stat. 1686) inserted "and within the number of such admissions allocated for each of fiscal years 1993 and 1994 for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section" after "Act".

Sec. 905(a)(1) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

(e) PERIOD OF APPLICATION.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall only apply to applications for refugee status submitted before October 1, 2005.[17]

(2) Subsection (c) shall apply to decisions made after the date of the enactment of this Act and before October 1, 2005.[17]

(3) Subsection (d) shall take effect on the date of the enactment of this Act and shall only apply to reapplications for refugee status submitted before October 1, 2005.[17]

ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

SEC. 599E.[18] (a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,[19] Vietnam, Laos, or Cambodia, and

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[17] Sec. 213(1)(B) of the Department of Health and Human Services Appropriations Act, 2005 (title II of division F of Public law 108–447; 118 Stat. 2809), struck out "October 1, 2004" and inserted in lieu thereof "October 1, 2005".

Previously, sec. 598(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2063), struck out "October 1, 1990" each place it appeared in subsec. (e), and inserted in lieu thereof "October 1, 1992". Sec. 582(a)(1)(B) of Public Law 102–391 (106 Stat. 1686) extended this date to October 1, 1994. Sec. 905(a)(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment. Sec. 512(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 466) further extended this date to October 1, 1996. Subsequent to that amendment, sec. 575(1)(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) extended the date to October 1, 1997. Sec. 101(1)(B) of Public Law 104–319 (110 Stat. 3864) made the same amendment as Public Law 104–208. Sec. 574(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2432), extended the date to October 1, 1998. Sec. 705(1)(B) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f), of Public Law 105–277; 112 Stat. 2681) extended the date to October 1, 1999. Sec. 214(1)(B) of the Department of Health and Human Services Appropriations Act, 2000 (H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106–113; 113 Stat. 1535), extended the date to October 1, 2000. Sec. 212(1)(B) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106–554; 114 Stat. 2763), extended the date to October 1, 2001. Sec. 213(1)(B) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116; 115 Stat. 2200), extended the date to October 1, 2002. Sec. 213(1)(B) of the Department of Health and Human Services Appropriations Act, 2003 (title II of division G of Public Law 108–7; 117 Stat. 324) struck out "October 1, 2002" and inserted in lieu thereof "October 1, 2003". Sec. 213(1)(B) of the Department of Health and Human Services Appropriations Act, 2003 (title II of division E of Public Law 108–199; 118 Stat. 253) struck out "October 1, 2003" and inserted in lieu thereof "October 1, 2004".

[18] 8 U.S.C. 1255 note.

[19] Sec. 582(b)(2) of Public Law 102–391 (106 Stat. 1686) struck out "of the Soviet Union," and inserted in lieu thereof "of an independent state of the former Soviet Union, Estonia, Latvia,

(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 2005,[20] after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A)[21] of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph[22] (A), (B), (C), or (E) of paragraph (3))[23] with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990".

Lithuania,". Sec. 905(b)(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

[20] Sec. 213(2) of the Department of Health and Human Services Appropriations Act, 2005 (title II of division F of Public law 108–447; 118 Stat. 2809), struck out "September 30, 2004" and inserted in lieu thereof "September 30, 2005".

Previously, sec. 598(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2063), struck out "September 30, 1990" at this point and inserted in lieu thereof "September 30, 1992". Sec. 582(a)(2) of Public Law 102–391 (106 Stat. 1686) extended the date to September 30, 1994. Sec. 512(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 466) further extended this date to September 30, 1996. Sec. 575(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) further extended the date to September 30, 1997. Sec. 101(2) of Public Law 104–319 (110 Stat. 3864) made the same amendment as Public Law 104–208. Sec. 574(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2432) extended the date to September 30, 1998. Sec. 705(2) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f), of Public Law 105–277; 112 Stat. 2681) extended this date to September 30, 1999. Sec. 214(2) of the Department of Health and Human Services Appropriations Act, 2000 (H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106–113; 113 Stat. 1535), extended this date to September 30, 2000. Sec. 212(2) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106–554; 114 Stat. 2763), extended the date to September 30, 2001. Sec. 213(2) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116; 115 Stat. 2200), extended the date to September 30, 2002. Sec. 213(2) of the Department of Health and Human Services Appropriations Act, 2003 (title II of division G of Public Law 108–7; 117 Stat. 324), extended the date to September 30, 2003. Sec. 213(2) of the Department of Health and Human Services Appropriations Act, 2004 (title II of division E of Public Law 108–199; 118 Stat. 253), extended the date to September 30, 2004.

[21] Sec. 603(a)(22) of Public Law 101–649 (104 Stat. 5084) struck out "(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)" and inserted in lieu thereof "(4), (5), and (7)(A)".

[22] Sec. 219(bb) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4319) struck out "and subparagraphs" and inserted in lieu thereof "or subparagraph".

[23] Sec. 307(l)(9) of Public Law 102–232 (105 Stat. 1757) struck out "(23)(B), (27), (29), or (33)" and inserted in lieu thereof "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

s. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989

Partial text of Public Law 100–461 [H.R. 4637], 102 Stat. 2268, approved October 1, 1988

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 572.[1] During fiscal years 1990 and 1991, the President may use the authority of paragraphs (A) and (B) of section 124(c)(1) of the Foreign Assistance Act of 1961 with respect to such aggregate amounts of principal and interest payable during each of these fiscal years as the President may determine, or at any time after September 30, 1989, the President may, if he determines it is in the national interest to do so, use the authority of those paragraphs with respect to such aggregate amounts of outstanding principal and interest payable at any time after that date as the President may determine. The authority provided in this section may be exercised with respect to any country described in the last sentence of this section and may be exercised notwithstanding section 124(c)(2) of that Act. In exercising the authority provided in this section, the President may waive the requirement that equivalent amounts of local currencies be deposited into local currency accounts in accordance with paragraph (A) of section 124(c)(1) of that Act, to the extent that the President determines that sufficient local currencies are otherwise available to achieve development objectives. This section applies with respect to any relatively least developed country, or any country in Sub-Saharan Africa (without regard to whether that country is a relatively least developed country within the meaning of section 124(a) of that Act), if—

(1) an International Monetary Fund standby agreement is in effect with respect to that country; or

[1] 22 U.S.C. 2151 note.

(2) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country; or

(3) a structural adjustment facility or enhanced structural adjustment facility with the International Monetary Fund is in effect with respect to that country.

* * * * * * *

t. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988

Partial text of Public Law 100–202 [Sec. 101(e) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329–131, approved December 22, 1987, as amended by Public Law 100–461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 100–690 [International Narcotics Control Act of 1988, H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101–240 [International Development and Finance Act of 1989, H.R. 2494], 103 Stat. 2492, approved December 19, 1989; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101–649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; H.R. 2621 as passed by the House on June 19, 1991 [sections of which were enacted by reference by Public Law 102–145 [Further Continuing Appropriations, Fiscal Year 1992; H.J. Res. 360]], as amended, 105 Stat. 968, approved October 28, 1991; and Public Law 102–232 [Miscellaneous and Technical Immigration and Naturalization Amendments of 1991; H.R. 3049], 105 Stat. 1733, approved December 12, 1991

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * * * *

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1988, and for other purposes.

* * * * * * *

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

* * * * * * *

FOREIGN MILITARY SALES DEBT REFORM

(a) REFINANCING.—Notwithstanding any other provision of law, the President is authorized during fiscal years 1988 through 1991 to transfer existing United States guaranties of outstanding Foreign Military Sales (FMS) credit debt, or to issue new guaranties, either of which would be applied to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions (the private lender) to finance the prepayment at par of the principal amounts maturing after September

30, 1989 of existing FMS loans bearing interest rates of eight[1] percent or higher, and arrearages thereon. The loans, bonds, notes or other obligations are hereinafter referred to as the "private loan": *Provided,* That such guaranties which are transferred or are made pursuant to paragraph (a) shall cover no more and no less than ninety percent of the private loan or any portion or derivative thereof plus unpaid accrued interest and arrearages, if any, outstanding at the time of guaranty transfer or extension: *Provided further,* That the total amount of the guaranty of the private loan cannot exceed ninety percent of the outstanding principal, unpaid accrued interest and arrearages, if any, at any time: *Provided further,* That of the total amount of the private loan, the ninety percent guaranteed portion of the private loan cannot be separated from the private loan at any time: *Provided further,* That no sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989 of the loan (or advance), plus unpaid accrued interest thereon, and arrearages, if any, shall be charged by the private lender or the Federal Financing Bank as a result of such prepayment against the borrower, the guarantor, or the Guaranty Reserve Fund (GRF), except that the private lender may include, in the interest rate charged, a standard fee to cover costs, such fee which will be set at prevailing market rates, and no guaranty fee shall be charged on guarantees transferred or issued pursuant to this provision: *Provided further,* That the terms of guaranties transferred or issued under this paragraph shall be exactly the same as the existing loans or guarantees, except as modified by this paragraph and including but not limited to the final maturity and principal and interest payment structure of the existing loans which shall not be altered, except that the repayments of the private loan issued debt may be consolidated into two payments per year: *Provided further,* That the private loan or guarantees transferred or issued pursuant to this paragraph shall be fully and freely transferable, except that any guaranty transferred or extended shall cease to be effective if the private loan or any derivative thereof is to be used to provide significant support for any nonregistered obligation: *Provided further,* That for purposes of sections 23 and 24 of the Arms Export Control Act (AECA), the term "defense services" shall be deemed to include the refinancing of FMS debt outstanding at the date of the enactment of this Act: *Provided further,* That not later than ninety days after the enactment of this Act, the Secretary of the Treasury (Secretary) shall issue regulations to carry out the purposes of this heading and that in issuing such regulations, the Secretary shall (1) facilitate the prepayment of loans and loan advances hereunder, (2) provide for full processing of each application within thirty days of its submission to the Secretary, and (3) except as provided in section 24(a) of the AECA, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder: *Provided further,* That the Secretary of State shall transmit to the Committee on Foreign Affairs of the

[1] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1214) amended subsections (a) and (b) by striking all reference to "ten" and inserting in lieu thereof "eight".

House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

(b)[2] * * * [Repealed—1992]

(c) ARREARAGES.—(1) None of the funds provided pursuant to the Arms Export Control Act (relating to Foreign Military Sales credits) or pursuant to chapter 2 of part II of the Foreign Assistance Act (relating to the Military Assistance program) shall be made available to any country for which one or more loans is refinanced pursuant to paragraph (a) of this heading and which is in default for a period in excess of ninety days in payment of principal or interest on (A) any loan made to such country guaranteed by the United States pursuant to paragraph (a) of this heading, and (B) any other loan issued pursuant to the Arms Export Control Act outstanding on the date of enactment of this provision.

(2) In conjunction with any interest rate reduction pursuant to the authority provided in paragraph (b) of this heading, the President shall require the country to commit in writing that within two years of the effective date of the interest rate reduction it will be no more than ninety days in arrears on the repayment of principal and interest on all loans for which the interest rate is thus reduced and will remain no more than ninety days in arrears for the remaining life of all such loans. None of the funds provided pursuant to the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act shall be made available to any country during any period in which it fails to comply with such commitment.

(d) PURPOSES AND REPORTS.—The authorities of paragraphs (a) and (b) of this heading may be utilized by the President in efforts to negotiate base rights and base access agreements, and for other bilateral foreign policy matters: *Provided further,* That the Secretaries of Defense, State, and Treasury shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate a joint report detailing the United States financial and foreign policy purposes served by implementation of this authority on a country

[2] The paragraph under "Foreign Military Sales Debt Reform" in H.R. 2621 as passed by the House on June 19, 1991, and enacted by reference in sec. 118 of the Further Continuing Appropriations (Public Law 102–145, as amended by Public Law 102–266) repealed subsec. (b), which had provided as follows:

"(b) INTEREST RATE REDUCTION.—Notwithstanding any other provision of law, there is hereby appropriated such sums as may be necessary, but not more than $270,000,000, to be made available after October 1, 1988 to the Secretary of Defense for the Defense Security Assistance Agency for deposit into a new account, to remain available until expended: *Provided,* That the funds shall be used solely for the purpose of lowering the interest rate on Foreign Military Sales (FMS) credits which were financed through the Federal Financing Bank (FFB) for countries which do not refinance one or more FFB loans pursuant to paragraph (a) of this heading, and which loans have interest rates exceeding eight percent, down to an interest rate of eight percent for the remaining life of such loans: *Provided further,* That these funds shall be available only subject to a Presidential budget request: *Provided further,* That it is the intent of the Congress that these funds shall be available to all countries having FMS credits from the FFB that carry interest rates in excess of eight percent.".

by country basis not later than March 1, 1989, and a second joint report not later than August 1, 1989.

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TITLE V—GENERAL PROVISIONS

* * * * * * *

AMERASIAN IMMIGRATION

SEC. 584. (a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam on or after March 22, 1988, and ending on September 30, 1990.[3]

(2) The provisions of paragraphs (4), (5), and (7)(A)[4] of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E)[5] of paragraph (3))[5] with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of one year.[6]

(b)(1) An alien described in this section is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the

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[3] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1211) struck out "during the 2-year period beginning 90 days after the date of the enactment of this Act" and restated this paragraph to read "they are issued an immigrant visa and depart from Vietnam during the period beginning on March 22, 1988, and ending on September 30, 1990.".

Subsequently, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1996), struck out "during the period beginning on March 22, 1988" following "Vietnam" and inserted in lieu thereof "on or after March 22, 1988".

[4] Sec. 603(a)(20)(A) of Public Law 101–649 (104 Stat. 5084) struck out "(14), (15), (20), (21), (25), and (32)" and inserted in lieu thereof "(4), (5), and (7)(A)".

[5] Sec. 603(a)(20)(B) of Public Law 101–649 (104 Stat. 5084) struck out "(other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics)" and inserted in lieu thereof "(other than paragraph (2)(C) or subparagraph (A), (B), (C), or (D) of paragraph (3))".

Subsequently, sec. 307(l)(8) of Public Law 102–232 (105 Stat. 1757) struck out "(D)" and inserted in lieu thereof "(E)" in para. (2).

[6] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1211) struck out "8 months" at this point and inserted in lieu thereof "one year".

United States (such an alien in this section referred to as a "principal alien");

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless[7] the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such parentage.

(3) For purposes of this section, the term "child" has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

* * * * * * *

[7] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1996), struck out "the principal alien involved is unmarried and" at this point.

u. Foreign Assistance and Related Programs Appropriations Act, 1984

Partial text of Public Law 98–151 [Further Continuing Appropriations for Fiscal Year 1984, H.J. Res. 413], 97 Stat. 964, approved November 14, 1983

A JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1984.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organization units of the government for the fiscal year 1984, and for other purposes, namely:

Sec. 101. (a) * * *

(b)(1) * * *

None[1] of the funds heretofore appropriated or otherwise made available for Syria for the purpose of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from

[1] 22 U.S.C. 2346a note. See also sec. 1004 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1017), for provision concerning termination of assistance programs for Syria, *Legislation on Foreign Relations Through 2003*, vol. II.

Sec. 101(j) of the Continuing Appropriations Act, 1986 (Public Law 99–190) provided the following:

"RESCISSION

"Deobligation and rescission of funds: $11,200,000 of the funds remaining in the 'Syria Termination Account' created by Public Law 98–151 are deobligated and are rescinded: *Provided,* That the authority contained in sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, shall not be exercised to permit the use of funds remaining in the 'Syria Termination Account' created by Public Law 98–151 for any other purposes than those for which the account was created.".

the termination under this subsection of assistance programs for Syria authorized by such chapter: *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

v. Title 31, United States Code—Valid Obligations

§1108.[1] Preparation and submission of appropriations requests to the President

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the requests contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

[1] Sections 1108, 1501, and 1502 were originally enacted as sec. 1311 of the Supplemental Appropriations Act, 1955 (Public Law 84–663; 68 Stat. 800). Public Law 97–258 (96 Stat. 877) revised and codified certain general and permanent laws of the United States relating to money and finance, including sec. 1311 of Public Law 84–663.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or requests, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

* * * * * * *

CHAPTER 15—APPROPRIATION ACCOUNTING

SUBCHAPTER I—GENERAL

§ 1501.[1] Documentary evidence requirement for Government obligations

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

(A) when necessary because of a public exigency;

(B) for perishable subsistence supplies; or

(C) within specific monetary limits;

(5) a grant or subsidy payable—

(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

(B) under an agreement authorized by law; or

(C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

§ 1502.[1] Balances available

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expense properly incurred during the period of availability or to compete contracts properly made with that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

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SUBCHAPTER IV—CLOSING ACCOUNTS[2]

§ 1551. Definitions; applicability of subchapter[3]

(a) In this subchapter—

(1) An obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

(2) An unobligated balance is the difference between the obligated balance and the total unexpended balance.

(3) A fixed appropriation account is an appropriation account available for obligation for a definite period.

(b) The limitations on the availability for expenditure prescribed in this subchapter apply to all appropriations unless specifically otherwise authorized by a law that specifically—

(1) identifies the appropriate account for which the availability for expenditure is to be extended;

(2) provides that such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to that account; and

(3) extends the availability for expenditure of the obligated balances.

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[2] Section 1405(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1675) amended and restated subchapter IV of chapter 15 of title 31, U.S.C., secs. 1551–1557. See also sec. 1405(b) of that Act, as amended, in *Legislation on Foreign Relations Through 2003*, vol. I–B.

[3] Sec. 1054(e)(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2503) restated the section catchline. It formerly read "Definitions and applications".

(c) This subchapter does not apply to—

(1) appropriations for the District of Columbia government; or

(2) appropriations to be disbursed by the Secretary of the Senate or the Chief Administrative Officer[4] of the House of Representatives.

§ 1552. Procedure for appropriation accounts available for definite periods

(a)[5] On September 30th of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

(b) Collections authorized or required to be credited to an appropriation account, but not received before closing of the account under subsection (a) or under section 1555 of this title shall be deposited in the Treasury as miscellaneous receipts.

§ 1553. Availability of appropriation accounts to pay obligations

(a) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or 1555 of this title, obligations and adjustments to obligations that would have been properly

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[4] Sec. 219(b)(1) of Public Law 104–186 (110 Stat. 1748) struck out "Clerk" and inserted in lieu thereof "Chief Administrative Officer".

[5] Sec. 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) required the following:

"Sec. 1406. Audit of Obligated Balances of Department of Defense

"(a) AUDIT REQUIREMENT.—The Secretary of Defense shall provide for an audit of each account of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act. The audit shall, with respect to each such account, identify—

"(1) the balance in the account;

"(2) the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts required for valid obligations (as supported by documentary evidence as required by section 1501 of title 31) and the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts for obligations that are considered no longer valid;

"(3) the sources of amounts in the account, shown by fiscal year and by amount for each fiscal year; and

"(4) such other matters as the Secretary considers appropriate.

"(b) DEOBLIGATION OF OBLIGATIONS NO LONGER VALID.—Any obligated amounts in accounts of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, that are determined pursuant to the audit under subsection (a) to represent amounts for obligations that are no longer valid shall be deobligated and canceled.

"(c) REPORT ON AUDIT.—Not later than December 31, 1991, the Secretary of Defense shall submit to Congress a report containing the results of the audit conducted pursuant to subsection (a). The report shall set forth—

"(1) the information required to be identified pursuant to subsection (a); and

"(2) for each appropriation account (A) the average length of time funds have been obligated, (B) the average size of the obligation, and (iii) the object classification of the obligations, all shown for total obligations and separately for valid obligations and obligations that are no longer valid.".

See also sec. 1003 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2481), in *Legislation on Foreign Relations Through 2003*, vol. I–B.

chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

(2) The total amount of charges to an account under paragraph (1) may not exceed an amount equal to 1 percent of the total appropriations for that account.

(c)(1) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount of obligations from that appropriation during a fiscal year for contract changes for that program, project, or activity to exceed $4,000,000, the obligation may only be made if the obligation is approved by the head of the agency (or an officer of the agency within the Office of the head of the agency to whom the head of the agency has delegated the authority to approve such an obligation).

(2) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount obligated from that appropriation during a fiscal year for that program, project, or activity to exceed $25,000,000, the obligation may not be made until—

(A) the head of the agency submits to the appropriate authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives a notice in writing of the intent to obligate such funds, together with a description of the legal basis for the proposed obligation and the policy reasons for the proposed obligation; and

(B) a period of 30 days has elapsed after the notice is submitted.

(3) In this subsection, the term 'contract change' means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under an escalation clause.

(d)(1) Obligations under this section may be paid without prior action of the Comptroller General.

(2) This subchapter does not—

(A) relieve the Comptroller General of the duty to make decisions requested under law; or

(B) affect the authority of the Comptroller General to settle claims and accounts.

§ 1554. Audit, control, and reporting

(a) Any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability for obligation of that account.

(b)(1) After the close of each fiscal year, the head of each agency shall submit to the President and the Secretary of the Treasury a report regarding the unliquidated obligations, unobligated balances, canceled balances, and adjustments made to appropriation

accounts of that agency during the completed fiscal year. The report shall be submitted no later than 15 days after the date on which the President's budget for the next fiscal year is submitted to Congress under section 1105 of this title.

(2) Each report required by this subsection shall—

(A) provide a description, with reference to the fiscal year of appropriations, of the amount in each account, its source, and an itemization of the appropriations accounts;

(B) describe all current and expired appropriations accounts;

(C) describe any payments made under section 1553 of this title;

(D) describe any adjustment of obligations during that fiscal year pursuant to section 1553 of this title;

(E) contain a certification by the head of the agency that the obligated balances in each appropriation account of the agency reflect proper existing obligations and that expenditures from the account since the preceding review were supported by a proper obligation of funds and otherwise were proper;

(F) describe all balances canceled under sections 1552 and 1555 of this title.

(3) The head of each Federal agency shall provide a copy of each such report to the Speaker of the House of Representatives and the Committee on Appropriations, the Committee on Governmental Affairs, and other appropriate oversight and authorizing committees of the Senate.

(c)[6] * * * [Repealed—1991]

(c)[6] The head of each agency shall establish internal controls to assure that an adequate review of obligated balances is performed to support the certification required by section 1108(c) of this title.

§ 1555. Closing of appropriation accounts available for indefinite periods

An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if—

(1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and

(2) no disbursement has been made against the appropriation for two consecutive fiscal years.

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[6] Sec. 1004(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1457) (1) struck out subsec. (c), and (2) redesignated subsec. (d) as subsec. (c).

The former subsec. (c) had required the Director of the Congressional Budget Office to estimate the effect on the Federal deficit of payments and adjustments made with respect to sections 1552 and 1553 of this title for each agency and annually report on the same.

Sec. 1004(a) of Public Law 102–190 further required the following:

"(a) TEMPORARY REQUIREMENT FOR OMB REPORT.—At the same time that the President submits to Congress the budget for each of fiscal years 1993, 1994, 1995, and 1996 under section 1105 of title 31, United States Codes, the Director of the Office of Management and Budget shall submit to Congress a report regarding the effect on the Federal Deficit of payments and adjustments made with respect to sections 1552 and 1553 of such title for the fiscal year in which such budget is submitted, the fiscal year preceding that fiscal year, and the fiscal year covered by that budget. The report shall include separate estimates for the accounts of each agency.".

§ 1556. Comptroller General: reports on appropriation accounts

(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

(1) the head of the agency concerned;

(2) the Secretary of the Treasury; and

(3) the President.

(b) A report under this section shall include an appraisal of unpaid obligations under fixed appropriation accounts for which the period of availability for obligation has ended.

§ 1557. Authority for exemptions in appropriation laws

A provision of an appropriation law may exempt an appropriation from the provisions of this subchapter and fix the period for which the appropriation remains available for expenditure.

§ 1558. Availability of funds following resolution of a protest [7]

(a) Notwithstanding section 1552 of this title or any other provision of law, funds available to an agency for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such an appeal or request, whichever is later.

(b) Subsection (a) applies with respect to any protest filed under subchapter V of chapter 35 of this title or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).

[7] Added by sec. 813(a) of Public Law 101–189 (103 Stat. 1494).

[redacted]

Appendix I

NOTE.—Appendix I lists Public Laws included in *Legislation on Foreign Relations Through 2004*, either as free-standing law or in amendments, arranged by Public Law number with corresponding short title or popular name.

Public Law No.	Short Title
108–497	Comprehensive Peace in Sudan Act of 2004
108–484	Microenterprise Results and Accountability Act of 2004
108–458	Intelligence Reform and Terrorism Prevention Act of 2004
108–458	Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104)
108–447	Consolidated Appropriations Act, 2005
108–447	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A)
108–447	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B)
108–447	Department of State and Related Agency Appropriations Act, 2005 (division B, title IV)
108–447	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D)
108–447	Department of the Interior and Related Agencies Appropriations Act, 2005 (division E)
108–447	Migratory Bird Treaty Reform Act of 2004 (division E, sec. 143)
108–447	Miscellaneous Appropriations and Offsets Act, 2005 (division J, title I)
108–429	Miscellaneous Trade and Technical Corrections Act of 2004
108–375	Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005
108–370	Prevention of Child Abduction Partnership Act
108–347	Belarus Democracy Act of 2004
108–333	North Korean Human Rights Act of 2004
108–332	Global Anti-Semitism Review Act of 2004
108–323	Tropical Forest Conservation Act Reauthorization

108–309	Continuing Appropriations, 2005
108–302	United States-Morocco Free Trade Agreement Implementation Act
108–297	Cape Town Treaty Implementation Act of 2004
108–287	Department of Defense Appropriations Act, 2005
108–286	United States-Australia Free Trade Agreement Implementation Act
108–283	Northern Uganda Crisis Response Act
108–274	AGOA Acceleration Act of 2004
108–272	Approving the Renewal of Import Restrictions—Burma
108–266	Marine Turtle Conservation Act of 2004
108–235	Taiwan's Participation in the World Health Organization
108–215	Amendments to U.S.–Mexico Agreement Establishing a Border Environment Cooperation Commission and North American Development Bank
108–200	Congo Basin Forest Partnership Act of 2004
108–199	Consolidated Appropriations, 2004
108–199	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D)
108–199	HELP Commission Act (division B, sec. 637)
108–199	Millennium Challenge Act of 2003 (division D, title VI)
108–175	Syria Accountability and Lebanese Sovereignty Restoration Act of 2003
108–106	Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004
108–77	United States-Chile Free Trade Agreement Implementation Act
108–31	Microenterprise Report to Congress
108–28	Taiwan's Participation in the World Health Organization
108–25	United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003
108–19	Clean Diamond Trade Act
108–11	Emergency Wartime Supplemental Appropriations Act, 2003
108–7	Consolidated Appropriations, 2003
107–365	Caribbean National Forest Wild and Scenic Rivers Act of 2002
107–327	Afghanistan Freedom Support Act of 2002
107–314	Bob Stump National Defense Authorization Act for Fiscal Year 2003
107–258	Persian Gulf POW/MIA Accountability Act of 2002
107–246	Russian Democracy Act of 2002
107–245	Sudan Peace Act
107–243	Authorization for Use of Military Force Against Iraq Resolution of 2002
107–228	Foreign Relations Authorization Act, Fiscal Year 2003
107–228	Department of State Authorization Act, Fiscal Year 2003 (division A)
107–228	Security Assistance Act of 2002 (division B)

107–228	Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A)
107–228	Tibetan Policy Act of 2002 (division A, title VI, subtitle B)
107–228	East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C)
107–228	Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D)
107–228	Freedom Investment Act of 2002 (division A, title VI, subtitle E)
107–228	Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B)
107–228	Nonproliferation Assistance Coordination Act of 2002 (division B, title XIII, subtitle C)
107–228	Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D)
107–210	Trade Act of 2002
107–210	Andean Trade Promotion and Drug Eradication Act (title XXXI)
107–206	2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States
107–206	American Servicemembers Protection Act (title II)
107–197	Terrorist Bombings Convention Implementation Act of 2002
107–189	Export-Import Bank Reauthorization Act of 2002
107–187	Gerald B. H. Solomon Freedom Consolidation Act of 2002
107–173	Ehanced Border Security and Visa Entry Reform Act of 2002
107–148	Radio Free Afghanistan Act
107–141	Asian Elephant Conservation Reauthorization Act of 2002
107–117	Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002
107–115	Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002
107–112	Rhinoceros and Tiger Conservation Reauthorization Act of 2001
107–111	African Elephant Conservation Reauthorization Act of 2001
107–107	National Defense Authorization Act for Fiscal Year 2002
107–99	Zimbabwe Democracy and Economic Recovery Act of 2001
107–81	Afghan Women and Children Relief Act of 2001
107–56	Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001
107–56	International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III)

107–43	United States-Jordan Free Trade Area Implementation Act
107–40	Authorization for Use of Military Force [international terrorism]
107–39	Condemnation of Terrorist Attacks
107–24	ILSA [Iran and Libya Sanctions Act] Extension Act of 2001
106–570	Assistance for International Malaria Control Act
106–570	International Malaria Control Act (title I)
106–570	United States-Macau Policy Act of 2000 (title II)
106–570	Pacific Charter Commission Act of 2000 (title IV)
106–570	Paul D. Coverdell World Wise Schools Act of 2000 (title VI)
106–567	Intelligence Authorization Act for Fiscal Year 2001
106–567	Japanese Imperial Government Disclosure Act of 2000 (title VIII)
106–557	Shark Finning Prohibition Act
106–555	Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000
106–554	Consolidated Appropriations Act, 2001
106–554	Vietnam Education Foundation Act of 2000 (title II)
106–553	Department of State and Related Agency Appropriations Act, 2001
106–531	Reports Consolidation Act of 2000
106–484	Bring Them Home Alive Act of 2000
106–476	Tariff Suspension and Trade Act of 2000
106–450	Yukon River Salmon Act of 2000
106–429	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001
106–411	Great Ape Conservation Act of 2000
106–398	Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001
106–387	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001
106–387	Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX)
106–386	Victims of Trafficking and Violence Protection Act of 2000
106–386	Trafficking Victims Protection Act of 2000 (division A)
106–373	Famine Prevention and Freedom From Hunger Improvement Act of 2000
106–346	National Terrorist Asset Trading Center
106–309	Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000
106–309	Microenterprise for Self-Reliance Act of 2000 (title I)
106–309	International Anti-Corrpution and Good Governance Act of 2000 (title II)
106–309	International Academic Opportunities Act of 2000 (title III)
106–309	Support for Overseas Cooperative Development Act (sec. 401)

106–309	Paul D. Coverdell Fellows Program Act of 2000 (sec. 408)
106–286	U.S.-China Relations Act of 2000
106–280	Security Assistance Act of 2000
106–279	Intercountry Adoption Act of 2000
106–264	Global AIDS and Tuberculosis Relief Act of 2000
106–264	Global AIDS Research and Relief Act of 2000 (title I)
106–264	International Tuberculosis Control Act of 2000 (title II)
106–256	Oceans Act of 2000
106–247	Neotropical Migratory Bird Conservation Act
106–212	American Institute in Taiwan Facilities Enhancement Act
106–200	Trade and Development Act of 2000
106–200	African Growth and Opportunity Act (title I)
106–200	U.S.-Caribbean Basin Trade Partnership Act (title II)
106–178	Iran Nonproliferation Act of 2000
106–158	Export Enhancement Act of 1999
106–120	Intelligence Authorization Act for Fiscal Year 2000
106–120	Foreign Narcotics Kingpin Designation Act (title VIII)
106–113	Consolidated Appropriations, Fiscal Year 2000
106–113	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference)
106–113	Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference)
106–113	Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)
106–113	Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference)
106–113	North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference)
106–113	United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference)
106–113	Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference)
106–113	Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference)
106–113	National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference)
106–113	Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference)
106–113	Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference)
106–113	Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference)

106–113	International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference)
106–108	Arctic Tundra Habitat Emergency Conservation Act
106–87	Torture Victims Relief Reauthorization Act of 1999
106–79	Department of Defense Appropriations Act, 2000
106–65	National Defense Authorization Act for Fiscal Year 2000
106–65	Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV)
106–38	National Missile Defense Act of 1999
106–36	Miscellaneous Trade and Technical Corrections Act of 1999
106–35	Western Hemisphere Drug Elimination Technical Corrections Act
106–30	Peace Corps Reauthorization
105–385	Africa: Seeds of Hope Act of 1998
105–384	Governing International Fisheries Agreement with Poland
105–382	Department of State Special Agents Retirement Act of 1998
105–366	International Anti-Bribery and Fair Competition Act of 1998
105–362	Federal Reports Elimination Act of 1998
105–338	Iraq Liberation Act of 1998
105–323	Extradition Treaties Interpretation Act of 1998
105–319	Irish Peace Process Cultural and Training Program Act of 1998
105–312	Rhinoceros and Tiger Conservation Act of 1998
105–303	Commercial Space Act of 1998
105–292	International Religious Freedom Act of 1998
105–277	Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999
105–277	Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX)
105–277	Trade Deficit Review Commission Act (division A, sec. 127)
105–277	Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII)
105–277	Western Hemisphere Drug Elimination Act (division C, title VIII)
105–277	Foreign Affairs Reform and Restructuring Act of 1998 (division G)
105–277	Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A)
105–277	Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B)
105–277	United Nations Reform Act of 1998 (division G, subdivision C)
105–277	European Security Act of 1998 (division G, title XXVII)
105–277	Chemical Weapons Convention Implementation Act of 1998 (division I)
105–262	Department of Defense Appropriations Act, 1999

105–261	Strom Thurmond National Defense Authorization Act for Fiscal Year 1999
105–261	Defense Against Weapons of Mass Destruction Act of 1998 (title XIV)
105–261	Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV)
105–261	Radio Free Asia Act of 1998 (title XXXIX)
105–246	Nazi War Crimes Disclosure Act
105–235	Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations
105–217	African Elephant Conservation Reauthorization Act of 1998
105–194	Agriculture Export Relief Act of 1998
105–186	U.S. Holocaust Assets Commission Act of 1998
105–174	1998 Supplemental Appropriations and Rescissions Act
105–173	International Parental Kidnapping Crime Act
105–158	Holocaust Victims Redress Act
105–119	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998
105–107	Intelligence Authorization Act for Fiscal Year 1998
105–100	Nicaraguan Adjustment and Central American Relief Act (title II)
105–96	Asian Elephant Conservation Act of 1997
105–85	National Defense Authorization Act for Fiscal Year 1998
105–42	International Dolphin Conservation Program Act
104–319	Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996
104–309	Records Relating to Nazi War Crimes
104–297	Sustainable Fisheries Act
104–293	Intelligence Authorization Act for Fiscal Year 1997
104–293	Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII)
104–269	Release of USIA Materials: VOA, Radio Marti Recordings
104–264	Federal Aviation Reauthorization Act of 1996
104–227	Antarctic Science, Tourism, and Conservation Act of 1996
104–208	Omnibus Consolidated Appropriations for Fiscal Year 1997
104–208	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c))
104–203	Most-Favored-Nation Treatment for Cambodia
104–201	National Defense Authorization Act for Fiscal Year 1997
104–201	Defense Against Weapons of Mass Destruction Act of 1996 (title XIV)
104–201	Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV, subtitle A)
104–201	Panama Canal Act Amendments of 1996 (title XXXV, subtitle B)

104–172	Iran and Libya Sanctions Act of 1996
104–171	Most-Favored-Nation Treatment for Romania
104–164	Miscellaneous Amendments and Authorization—FYs 1996 and 1997
104–162	Most-Favored-Nation Treatment for People's Republic of Bulgaria
104–161	Release of USIA Materials: "Fragile Ring of Life"
104–132	Antiterrorism and Effective Death Penalty Act of 1996
104–127	Federal Agriculture Improvement and Reform Act of 1996
104–114	Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996
104–106	National Defense Authorization Act for Fiscal Year 1996
104–106	Ballistic Missile Defense Act of 1995 (title II, subtitle C)
104–93	Intelligence Authorization Act for Fiscal Year 1996
104–72	Au Pair Extension
104–66	Federal Reports Elimination and Sunset Act of 1995
104–45	Jerusalem Embassy Act of 1995
104–43	Fisheries Act of 1995
104–43	High Seas Fishing Compliance Act of 1995 (title I)
104–43	Northwest Atlantic Fisheries Convention Act of 1995 (title II)
104–43	Atlantic Tunas Convention Act of 1995 (title III)
104–43	Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V)
104–43	High Seas Driftnet Fishing Moratorium Protection Act (title VI)
104–43	Yukon River Salmon Act of 1995 (title VII) Act for Fiscal Year 1997
104–6	Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995
104–6	Mexican Debt Disclosure Act of 1995 (title IV)
103–465	Uruguay Rounds Agreements Act
103–465	Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a))
103–447	International Narcotics Control Corrections Act of 1994
103–447	NATO Participation Act of 1994 (title II)
103–423	United States Policy Toward Haiti
103–416	Visa for Officials of Taiwan
103–392	Jobs Through Trade Expansion Act of 1994
103–391	Rhinoceros and Tiger Conservation Act of 1994
103–381	African Conflict Resolution Act
103–372	To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974
103–337	National Defense Authorization Act for Fiscal Year 1995
103–306	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995
103–294	Helsinki Human Rights Day

103–236	Foreign Relations Authorization Act, Fiscal Years 1994 and 1995
103–236	Mike Mansfield Fellowship Act (title II, part C)
103–236	United States International Broadcasting Act of 1994 (title III)
103–236	Spoils of War Act of 1994 (title V, part B)
103–236	Anti-Economic Discrimination Act of 1994 (title V, part C)
103–236	Cambodian Genocide Justice Act (title V, part D)
103–236	Middle East Peace Facilitation Act of 1994 (title V, part E)
103–236	Arms Control and Nonproliferation Act of 1994 (title VII, part A)
103–236	Nuclear Proliferation Prevention Act of 1994 (title VIII)
103–236	Protection and Reduction of Government Secrecy Act (title IX)
103–206	Coast Guard Authorization Act of 1993
103–199	Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)
103–182	North American Free Trade Agreement Implementation Act
103–160	National Defense Authorization Act for Fiscal Year 1994
103–160	Cooperative Threat Reduction Act of 1993 (title XII)
103–160	Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII)
103–160	National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D)
103–160	Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV)
103–158	Act to Honor the Victims of the Bombing of Panam Flight 103
103–149	South African Democratic Transition Support Act of 1993
103–133	Nondiscriminatory Treatment Toward Products of Romania
103–125	Middle East Peace Facilitation Act of 1993
102–588	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993
102–587	Oceans Act of 1992
102–587	North Pacific Anadromous Stocks Convention Act of 1992 (title VIII)
102–582	High Seas Driftnet Fisheries Enforcement Act
102–582	Central Bering Sea Fisheries Enforcement Act of 1992 (title III)
102–567	North Pacific Anadromous Stocks Act of 1992 (title VIII)
102–565	Peace Corps Authorization for Fiscal Year 1993
102–549	Jobs Through Exports Act of 1992
102–549	Aid, Trade, and Competitiveness Act of 1992 (title III)
102–549	Enterprise for the Americas Act of 1992 (title VI)

102–532	Enterprise for the Americas Initiative Act of 1992
102–523	International Dolphin Conservation Act of 1992
102–511	Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act)
102–509	Soviet Scientists Immigration Act of 1992
102–486	Energy Policy Act of 1992
102–484	National Defense Authorization Act for Fiscal Year 1993
102–484	Former Soviet Union Demilitarization Act of 1992 (title XIV)
102–484	Weapons of Mass Destruction Control Act of 1992 (title XV)
102–484	Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI)
102–484	Cuban Democracy Act of 1992 (title XVII)
102–484	Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV)
102–454	Distribution of USIA Materials
102–450	Asian/Pacific American Heritage Month—Designation
102–429	Export Enhancement Act of 1992
102–420	Withdrawal of MFN From Serbia and Montenegro
102–404	Chinese Student Protection Act of 1992
102–396	Department of Defense Appropriations Act, 1993
102–391	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993
102–383	United States-Hong Kong Policy Act of 1992
102–372	Tourism Policy and Export Promotion Act of 1992
102–363	Nondiscriminatory Treatment Toward Products of Albania
102–311	International Peacekeeping Act of 1992
102–274	Horn of Africa Recovery and Food Security Act
102–270	Peace Process in Liberia
102–256	Torture Victim Protection Act of 1991
102–247	Omnibus Insular Areas Act of 1992
102–237	Food, Agriculture, Conservation, and Trade Act Amendments of 1991
102–228	Conventional Forces in Europe Treaty Implementation Act of 1991
102–228	Soviet Nuclear Threat Reduction Act of 1991 (title II)
102–197	Most-Favored Nation Treatment for the Union of Soviet Socialist Republics
102–195	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992
102–190	National Defense Authorization Act for Fiscal Years 1992 and 1993
102–190	Missile Defense Act of 1991 (title II, part C)
102–190	Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV)
102–183	David L. Boren National Security Education Act of 1991 (title VIII)
102–182	Termination of Trade Restrictions to Czechoslovakia and Hungary
102–182	Andean Trade Preference Act (title II)

102–182	Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III)
102–158	Most-Favored Nation Treatment for People's Republic of Bulgaria
102–157	Most-Favored Nation Treatment for Mongolian People's Republic
102–138	Foreign Relations Authorization Act, Fiscal Years 1992 and 1993
102–138	Dante B. Fascell North-South Center Act of 1991 (sec. 208)
102–21	Emergency Supplemental Assistance for Israel Act of 1991
102–20	Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991
102–1	Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678
101–649	Immigration Act of 1990
101–647	Crime Control Act of 1990
101–646	Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990
101–627	Fishery Conservation Amendments of 1990
101–627	Dolphin Protection Consumer Information Act (title IX)
101–624	Food, Agriculture, Conservation, and Trade Act of 1990
101–624	Agricultural Development and Trade Act of 1990 (title XV)
101–624	Global Climate Change Prevention Act of 1990 (title XXIV)
101–623	International Narcotics Control Act of 1990
101–620	Protection of Antarctica
101–611	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991
101–610	National and Community Service Act of 1990
101–606	Global Change Research Act of 1990
101–606	International Cooperation in Global Change Research Act of 1990 (title II)
101–604	Aviation Security Improvement Act of 1990
101–594	Antarctic Protection Act of 1990
101–549	Clean Air Act Amendments
101–541	Most-Favored-Nation Treatment for Czechoslovakia
101–533	Foreign Direct Investment and International Financial Date Improvements Act of 1990
101–513	Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991
101–513	European Bank for Reconstruction and Development Act (sec. 562(c))
101–513	Iraq Sanctions Act of 1990 (secs. 586–586J)
101–513	International Forestry Cooperation Act of 1990 (title VI)
101–511	Department of Defense Appropriations Act, 1991
101–510	National Defense Authorization Act for Fiscal Year 1991

101–510	Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV)
101–454	Eisenhower Exchange Fellowship Act of 1990
101–454	Fascell Fellowship Amendments Act of 1990 (sec. 9)
101–438	Rio Grande American Canal Extension Act of 1990
101–382	Customs and Trade Act of 1990
101–382	Caribbean Basin Economic Recovery Expansion Act of 1990 (title II)
101–382	Forest Resources Conservation and Shortage Relief Act of 1990 (title IV)
101–380	Oil Pollution Act of 1990
101–328	National Space Council Authorization Act of 1990
101–298	Biological Weapons Anti-Terrorism Act of 1989
101–246	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991
101–246	PLO Commitments Compliance Act of 1989 (title VIII)
101–243	Urgent Assistance for Democracy in Panama Act of 1990
101–240	International Development and Finance Act of 1989
101–240	Foreign Debt Reserving Act of 1989 (title IV)
101–240	Global Environmental Protection Assistance Act of 1989 (title VII)
101–231	International Narcotics Control Act of 1989
101–219	Implementation of Compact of Free Association With Palau
101–216	Arms Control and Disarmament Amendments Act of 1989
101–215	Survival Assistance for Victims of Civil Strife in Central America
101–189	National Defense Authorization Act for Fiscal Years 1990 and 1991
101–179	Support for East European Democracy (SEED) Act of 1989
101–167	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990
101–162	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990
101–62	Implementing Agreement for Vienna Convention on Diplomatic Relations
100–690	International Narcotics Control Act of 1988 (title IV)
100–685	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989
100–629	U.S.-U.S.S.R. Fishing Agreement
100–576	Bangladesh Disaster Assistance Act of 1988
100–530	International Cooperation to Protect Biological Diversity
100–478	African Elephant Conservation Act (title II)
100–465	Rio Grande Pollution Correction Act of 1987
100–463	Department of Defense Appropriations Act, 1989
100–461	Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference)
100–461	Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference)

100–460	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989
100–456	National Defense Authorization Act, Fiscal Year 1989
100–449	United States-Canada Free Trade Agreement Implementation Act of 1988
100–418	Omnibus Trade and Competitiveness Act of 1988
100–418	Telecommunications Trade Act of 1988 (title I, subtitle C, part 4)
100–418	Export Enhancement Act 1988 (title II)
100–418	Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II)
100–418	American Aid to Poland Act of 1988 (title II, subtitle B, part II)
100–418	Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II)
100–418	Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A)
100–418	International Debt Management Act of 1988 (title III, subtitle B)
100–418	Multilateral Development Banks Procurement Act (title III, subtitle C)
100–418	Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D)
100–418	Primary Dealers Act of 1988 (title III, subtitle F)
100–418	Financial Reports Act of 1988 (title III, subtitle G)
100–418	Agricultural Competitiveness and Trade Act of 1988 (title IV)
100–418	Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G)
100–418	Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I)
100–418	Competitiveness Policy Council Act (title V, part I, subtitle C)
100–418	Small Business International Trade and Competitiveness Act (title VII)
100–418	Foreign Shipping Practices Act of 1988 (title X)
100–393	Dire Emergency Supplemental Appropriations Act, 1988
100–373	International Energy Emergency Authorities: Extension
100–350	German Democratic Republic Fishery Agreement
100–330	South Pacific Tuna Act of 1988
100–300	International Child Abduction Remedies Act
100–276	Central American Peace Assistance
100–220	United States-Japan Fishery Agreement Approval Act of 1987
100–220	Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV)
100–213	Arms Control and Disarmament Amendments Act of 1987
100–204	Foreign Relations Authorization Act, Fiscal Years 1988 and 1989
100–204	United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II)

100–204	Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)
100–204	Anti-Terrorism Act of 1987 (title X)
100–204	Global Climate Protection Act of 1987 (title XI)
100–202	Continuing Appropriations, Fiscal Year 1988
100–202	Cuban Political Prisoners and Immigrants (sec. 101(a), title VII)
100–202	Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII)
100–202	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e))
100–202	Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV)
100–180	National Defense Authorization Act for Fiscal Years 1988 and 1989
100–147	National Aeronautics and Space Administration Authorization Act of 1988
100–113	Federal Triangle Development Act
100–66	United States-Korea Fishery Agreement
99–661	National Defense Authorization Act, Fiscal Year 1987
99–661	Department of Defense Authorization Act, 1987 (Division A)
99–658	Approval of the Compact of Free Association With the Government of Palau
99–630	Humpback Whales Wildlife Sanctuary (West Indies)
99–603	Immigration Reform and Control Act of 1986
99–570	International Narcotics Control Act of 1986 (title II)
99–529	Special Foreign Assistance Act of 1986
99–513	R.M.S. Titanic Maritime Memorial Act of 1986
99–498	Higher Education Amendments of 1986
99–475	Release of USIA Materials to Museums
99–472	Export-Import Bank Act Amendments of 1986
99–415	Anglo-Irish Agreement Support Act of 1986
99–399	Omnibus Diplomatic Security and Antiterrorism Act of 1986
99–399	Diplomatic Security Act (titles I–IV)
99–399	Victims of Terrorism Compensation Act (title VIII)
99–399	International Maritime and Port Security Act (title IX)
99–399	Fascell Fellowship Act (title X)
99–239	Compact of Free Association Act of 1985
99–198	Food Security Act of 1985
99–198	Food for Progress Act of 1985 (sec. 1110)
99–190	Further Continuing Appropriations, 1985
99–190	Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference)
99–180	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986
99–177	Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]
99–162	Sales of Arms to Jordan
99–145	Department of Defense Authorization Act, 1986

99–93	Foreign Relations Authorization Act, Fiscal Years 1986 and 1987
99–93	United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II)
99–93	Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)
99–93	Iran Claims Settlement (title V)
99–93	United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI)
99–93	Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)
99–88	Supplemental Appropriations Act, 1985
99–88	Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV)
99–85	Authorization for an Improved U.S./Soviet Direct Communications Link
99–83	International Security and Development Cooperation Act of 1985
99–83	International Narcotics Control Act of 1985 (title VI)
99–83	Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI)
99–64	Export Administration Amendments Act of 1985
99–47	United States-Israel Free Trade Area Implementation Act of 1985
99–8	African Famine Relief and Recovery Act of 1985
99–5	Pacific Salmon Treaty Act of 1985
98–623	Governing International Fishery Agreements With Iceland and the European Economic Community (title I)
98–623	Antarctic Marine Living Resources Convention Act of 1984 (title III)
98–618	Intelligence Authorization Act for Fiscal Year 1985
98–573	Trade and Tariff Act of 1984
98–573	International Trade and Investment Act (title III)
98–573	Generalized System of Preferences Renewal Act of 1984 (title V)
98–573	Steel Import Stabilization Act (title VIII)
98–573	Wine Equity and Export Expansion Act of 1984 (title IX)
98–562	Cooperative East-West Ventures in Space
98–533	1984 Act to Combat International Terrorism
98–525	Department of Defense Authorization Act, 1985
98–525	United States Institute for Peace Act (title XVII)
98–473	Continuing Appropriations, 1985
98–473	Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference)
98–473	President's Emergency Food Assistance Act of 1984 (title III)
98–447	United States Government Opposition to the Practice of Torture
98–445	Eastern Pacific Tuna Licensing Act of 1984
98–373	Arctic Research and Policy Act of 1984 (title I)
98–373	National Critical Materials Act of 1984 (title II)

98–266	Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland
98–258	Agricultural Programs Adjustment Act of 1984
98–258	Agricultural Exports (title V)
98–198	Child Health Revolution
98–181	Supplemental Appropriations Act, 1984
98–181	Trade and Development Enhancement Act of 1983 (title VI, part C)
98–181	International Lending Supervision Act of 1983 (title IX)
98–181	Multilateral Development Banks: Sense of Congress (title X)
98–164	Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X)
98–164	United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II)
98–164	Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)
98–164	Asia Foundation Act (title IV)
98–164	National Endowment for Democracy Act (title V)
98–164	Foreign Missions Amendments Act (title VI)
98–164	International Environmental Protection Act of 1983 (title VII)
98–164	Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII)
98–164	United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX)
98–151	Continuing Resolution, 1984
98–151	Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1))
98–151	International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2))
98–119	Multinational Force in Lebanon Resolution
98–111	Radio Broadcasting to Cuba Act
98–94	Department of Defense Authorization Act, 1984
98–67	Caribbean Basin Economic Recovery Act (title II)
98–43	Lebanon Emergency Assistance Act of 1983
97–446	Convention on Cultural Property Implementation Act (title III)
97–425	Nuclear Waste Policy Act of 1982
97–418	Protection of Foreign Missions
97–389	Fisheries Amendments of 1982
97–389	Atlantic Salmon Convention Act of 1982 (title III)
97–389	Governing International Fishery Agreements with Japan and Spain (title IV)
97–325	International Carriage of Perishable Foodstuffs Act
97–290	Export Trading Company Act of 1982 (title I)
97–290	Bank Export Services Act (title II)
97–252	Department of Defense Authorization Act, 1983
97–241	Department of State Authorization Act, Fiscal Years 1982 and 1983
97–241	Foreign Missions Act (title II)

97–241	United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III)
97–241	Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)
97–229	Energy Emergency Preparedness Act of 1982
97–145	Export Administration Amendments Act of 1981
97–132	Multinational Force and Observers Participation Resolution
97–127	Czechoslovakian Claims Settlement Act of 1981
97–113	International Security and Development Cooperation Act of 1981
97–98	Agriculture and Food Act of 1981
97–98	Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)
97–35	African Development Bank Act (title XIII, subtitle B, part 3)
96–599	International Coffee Agreement Act of 1980
96–561	American Fisheries Promotion Act (title II)
96–533	International Security and Development Cooperation Act of 1980
96–533	African Development Foundation Act (title V)
96–494	Agriculture Act of 1980
96–494	Agricultural Trade Suspension Adjustment Act of 1980 (title II)
96–494	Bill Emerson Humanitarian Trust Act (title III)
96–487	Alaska National Interests Lands Conservation Act
96–478	Act to Prevent Pollution from Ships
96–465	Foreign Service Act of 1980
96–449	Hostage Relief Act of 1980
96–422	Refugee Education Assistance Act of 1980
96–389	Bretton Woods Agreements Act Amendments, 1980
96–339	Atlantic Tunas Convention Act of 1975, Appropriation Authorization
96–323	North Atlantic Treaty Organization Mutual Support Act of 1979
96–283	Deep Seabed Hard Mineral Resources Act
96–283	Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV)
96–280	Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation
96–271	International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981
96–259	Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund
96–236	International Sugar Agreement, 1977, Implementation
96–212	Refugee Act of 1980
96–175	Strategic and Critical Materials Transaction Authorization Act of 1979
96–133	Energy Policy and Conservation Act Amendments
96–92	International Security Assistance Act of 1979
96–72	Export Administration Act of 1979
96–70	Panama Canal Act of 1979

96–60	Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I)
96–60	International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II)
96–53	International Development Cooperation Act of 1979
96–39	Trade Agreements Act of 1979
96–35	Special International Security Assistance Act of 1979
96–9	Reaffirming North Atlantic Alliance—United States Commitment
96–8	Taiwan Relations Act
95–630	Financial Institutions Regulatory and Interest Rate Control Act of 1978
95–630	Export-Import Bank Act Amendments of 1978 (title XIX)
95–561	Education Amendments of 1978
95–561	National Academy of Peace and Conflict Resolution (title XV, part B)
95–511	Foreign Intelligence Surveillance Act of 1978
95–501	Agricultural Trade Act of 1978
95–485	Department of Defense Appropriation Authorization Act, 1979
95–452	Inspector General Act of 1978
95–435	Bretton Woods Agreements Act Amendments, 1978
95–426	Foreign Relations Authorization Act, Fiscal Year 1979
95–426	International Communication Agency Authorization for Fiscal Year 1979 (title II)
95–424	International Development and Food Assistance Act of 1978
95–393	Diplomatic Relations Act
95–384	International Security Assistance Act of 1978
95–287	Reaffirming the Unity of the North Atlantic Alliance Commitment
95–242	Nuclear Non-Proliferation Act of 1978
95–238	Department of Energy Act of 1978
95–223	International Emergency Economic Powers Act (title II)
95–213	Foreign Corrupt Practices Act of 1977 (title I)
95–118	International Financial Institutions Act
95–113	Food and Agriculture Act of 1977
95–105	Foreign Relations Authorization Act, Fiscal Year 1978
95–105	United States Information Agency Authorization for Fiscal Year 1978 (title II)
95–92	International Security Assistance Act of 1977
95–88	International Development and Food Assistance Act of 1977
95–6	Fishery Conservation Zone Transition Act
94–583	Foreign Sovereign Immunities Act of 1976
94–472	International Investment and Trade in Services Survey Act
94–412	National Emergencies Act
94–350	Foreign Relations Authorization Act, Fiscal Year 1977
94–350	United States Information Agency Authorization for Fiscal Year 1977 (title II)

94–350	Foreign Service Retirement Amendments of 1976 (title V)
94–329	International Security Assistance and Arms Export Control Act of 1976
94–304	Establishing a Commission on Security and Cooperation in Europe
94–302	African Development Fund Act (title II)
94–265	Magnuson-Stevens Fishery Conservation and Management Act of 1976
94–265	Driftnet Act Amendments of 1990 (sec. 206)
94–163	Energy Policy and Conservation Act
94–161	International Development and Food Assistance Act of 1975
94–141	Foreign Relations Authorization Act, Fiscal Year 1976
94–118	Japan-United States Friendship Act
94–110	Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai
94–70	Atlantic Tunas Convention Act of 1975
94–39	National Aeronautics and Space Administration Authorization Act, 1976
93–627	Deepwater Port Act of 1974
93–618	Trade Act of 1974
93–618	Narcotics Control Trade Act (title VIII)
93–559	Foreign Assistance Act of 1974
93–479	Foreign Investment Study Act of 1974
93–475	State Department/USIA Authorization Act, Fiscal Year 1975
93–366	Antihijacking Act of 1974
93–365	Department of Defense Appropriation Authorization Act, 1975
93–248	Intervention on the High Seas Act
93–205	Endangered Species Act of 1973
93–199	Emergency Security Assistance Act of 1973
93–189	Foreign Assistance Act of 1973
93–188	United Nations Environment Program Participation Act of 1973
93–153	Trans-Alaska Pipeline Authorization Act
93–148	War Powers Resolution
93–129	Board for International Broadcasting Act of 1973
93–126	Department of State Appropriations Authorization Act of 1973
93–110	Par Value Modification Act—Foreign Currency Reports (title II)
92–544	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973
92–522	Marine Mammal Protection Act of 1972
92–499	Act to Extend Diplomatic Privileges to the Commission of the European Communities
92–403	Case Act—Transmittal of International Agreements
92–352	Foreign Relations Authorization Act of 1972
92–268	Par Value Modification Act
92–257	Trust Territory of the Pacific Islands Act
92–226	Foreign Assistance Act of 1971

92–39	Micronesian Claims Act of 1971
91–672	Foreign Military Sales Act Amendments, 1971
91–652	Special Foreign Assistance Act of 1971
91–441	Armed Forces Appropriation Authorization, 1971
91–269	United States Recognition and Participation in International Expositions
91–175	Foreign Assistance Act of 1969, as amended
90–629	Arms Export Control Act
90–554	Foreign Assistance Act of 1968
90–553	International Center Act
90–390	Export Loans—Assistance
90–349	Special Drawing Rights Act
90–137	Foreign Assistance Act of 1967
89–732	Cuban Refugee Adjustment Act
89–673	Foreign Gifts and Decorations Act of 1966
89–583	Foreign Assistance Act of 1966
89–532	Convention on the Settlement of Investment Disputes Act of 1966
89–486	Foreign Agents Registration Act Amendments
89–369	Asian Development Bank Act
89–296	Ryukyu Islands Claims Settlement Act
89–259	Cultural Objects—Importation for Temporary Display
89–171	Foreign Assistance Act of 1965
89–134	Peace Corps Act Amendments
88–633	Foreign Assistance Act of 1964
88–408	Tonkin Gulf Resolution
88–205	Foreign Assistance Act of 1963
87–826	Collection and Publication of Foreign Commerce and Trade Statistics
87–794	Trade Expansion Act of 1962
87–733	Cuban Resolution
87–565	Foreign Assistance Act of 1962
87–510	Migration and Refugee Assistance Act of 1962
87–297	Arms Control and Disarmament Act
87–293	Peace Corps Act
87–256	Mutual Educational and Cultural Exchange Act of 1961
87–195	Foreign Assistance Act of 1961
87–195	Tropical Forest Conservation Act of 1998 (part V)
87–125	General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962
86–735	Latin American Development Act
86–628	Legislative Branch Appropriation Act, 1961
86–565	International Development Association Act
86–472	Mutual Security Act of 1960
86–472	Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII)
86–420	Mexico-United States Interparliamentary Group
86–147	Inter-American Development Bank Act
86–108	Mutual Security Act of 1959
86–42	Canada-United States Interparliamentary Group
85–931	Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment

85–846	EURATOM Cooperation Act of 1958
85–568	National Aeronautics and Space Act of 1958
85–474	Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959
85–177	International Atomic Energy Agency Participation Act of 1957
85–7	Resolution To Promote Peace and Stability in the Middle East
84–885	State Department Basic Authorities Act of 1956
84–689	United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution
84–350	International Finance Corporation Act
83–703	Atomic Energy Act of 1954
83–680	Fisherman's Protective Act of 1967
83–665	Mutual Security Act of 1954
83–480	Agricultural Trade Development and Assistance Act of 1954
83–451	Civil Government for the Trust Territory of the Pacific Islands
82–486	Extending Certain Privileges to Representatives of Organization of American States
82–414	Immigration and Nationality Act
81–764	Tuna Conventions Act of 1950
81–676	Whaling Convention Act of 1949
81–507	National Science Foundation Act of 1950
81–455	International Claims Settlement Act of 1949
81–439	Agricultural Act of 1949
80–772	Act of June 25, 1948
80–772	Logan Act—Private Correspondence With Foreign Governments
80–772	Johnson Act—Financial Transactions With Foreign Governments
80–402	United States Information and Educational Exchange Act of 1948
80–357	United Nations Headquarters Agreement Act
80–253	National Security Council
79–547	Act of July 25, 1946
79–291	International Organizations Immunities Act
79–264	United Nations Participation Act of 1945
79–173	Export-Import Bank Act of 1945
79–171	Bretton Woods Agreements Act
76–54	Neutrality Act of 1939
75–583	Foreign Agents Registration Act of 1938
75–543	Act of May 25, 1938
71–361	Tariff Act of 1930
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65–91	Trading With the Enemy Act

Appendix II

NOTE.—Appendix II lists Public Laws included in *Legislation on Foreign Relations Through 2004*, either as free-standing law or in amendments, arranged alphabetically by short title or popular name with corresponding Public Law number.

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