

and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection;¹ and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

(Pub. L. 103-236, title VIII, § 842, Apr. 30, 1994, 108 Stat. 523.)

§ 6323. Reporting requirement

(a) Report required

The President shall, in the report required by section 3281(a) of this title, describe—

(1) the steps he has taken to implement sections 6321 and 6322 of this title, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 6321 and 6322 of this title.

(b) Contents of report

Each report under paragraph (1)¹ shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since April 30, 1994, in pursuit of each of the objectives set forth in sections 6321 and 6322 of this title;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 6321 and 6322 of this title;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 6321 and 6322 of this title.

¹ So in original. Probably should be "section;"

¹ So in original. Probably should be "subsection (a) of this section".

(Pub. L. 103-236, title VIII, § 843, Apr. 30, 1994, 108 Stat. 524.)

§ 6324. Definitions

As used in this subchapter—

(1) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U-235;

(2) the term "IAEA" means the International Atomic Energy Agency;

(3) the term "near real time material accountancy" means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term "special fissionable material" has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms "IAEA safeguards", "non-nuclear-weapon state", "nuclear explosive device", and "special nuclear material" have the meanings given those terms in section 6305 of this title.

(Pub. L. 103-236, title VIII, § 844, Apr. 30, 1994, 108 Stat. 524.)

CHAPTER 73—INTERNATIONAL RELIGIOUS FREEDOM

Sec.

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§ 6401. Findings; policy

(a) Findings

Congress makes the following findings:

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

(2) Freedom of religious belief and practice is a universal human right and fundamental

freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that “Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.”. Article 18(1) of the International Covenant on Civil and Political Rights recognizes that “Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching”. Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world’s population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions of “religious police”, severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution is often

particularly widespread, systematic, and heinous under totalitarian governments and in countries with militant, politicized religious majorities.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha’i community.

(b) Policy

It shall be the policy of the United States, as follows:

(1) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.

(2) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], in the International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.

(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

(4) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(5) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.

(Pub. L. 105–292, §2, Oct. 27, 1998, 112 Stat. 2788.)

REFERENCES IN TEXT

House Concurrent Resolution 102, referred to in subsec. (a)(7)(C), is H. Con. Res. 102, June 26, 1996, 110 Stat. 4483, which is not classified to the Code.

The Foreign Assistance Act of 1961, referred to in subsec. (b)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The International Financial Institutions Act of 1977, referred to in subsec. (b)(2), probably means the Inter-

national Financial Institutions Act, Pub. L. 95-118, Oct. 3, 1977, 91 Stat. 1067, as amended, which enacted sections 262c, 262d, 262e to 262g-3, 262m to 262p-7, 262r to 262t, 282i, 284n, 285s, 285t, 286e-1f, and 290g-10 of this title, repealed sections 283y, 284m, and 290g-9 of this title, and enacted provisions set out as notes under sections 262c and 282i of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 261 of this title and Tables.

SHORT TITLE

Pub. L. 105-292, §1(a), Oct. 27, 1998, 112 Stat. 2787, provided that: “This Act [enacting this chapter and section 4028 of this title, amending sections 262d, 2151n, 2304, 2452, 3965, 4013, 4028, and 6202 of this title, sections 1157 and 1182 of Title 8, Aliens and Nationality, and section 402 of Title 50, War and National Defense, and enacting provisions set out as notes under section 2151n of this title and section 1182 of Title 8] may be cited as the ‘International Religious Freedom Act of 1998.’”

§ 6402. Definitions

In this chapter:

(1) Ambassador at Large

The term “Ambassador at Large” means the Ambassador at Large for International Religious Freedom appointed under section 6411(b) of this title.

(2) Annual Report

The term “Annual Report” means the Annual Report on International Religious Freedom described in section 6412(b) of this title.

(3) Appropriate congressional committees

The term “appropriate congressional committees” means—

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

(B) in the case of any determination made with respect to the taking of President¹ action under paragraphs (9) through (15) of section 6445(a) of this title, the term includes the committees described in subparagraph (A) and, where appropriate, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) Commensurate action

The term “commensurate action” means action taken by the President under section 6445(b) of this title.

(5) Commission

The term “Commission” means the United States Commission on International Religious Freedom established in section 6431(a) of this title.

(6) Country Reports on Human Rights Practices

The term “Country Reports on Human Rights Practices” means the annual reports required to be submitted by the Department of State to Congress under sections 2151n(d) and 2304(b) of this title.

(7) Executive Summary

The term “Executive Summary” means the Executive Summary to the Annual Report, as described in section 6412(b)(1)(F) of this title.

(8) Government or foreign government

The term “government” or “foreign government” includes any agency or instrumentality of the government.

(9) Human Rights Reports

The term “Human Rights Reports” means all reports submitted by the Department of State to Congress under sections 2151n and 2304 of this title.

(10) Office

The term “Office” means the Office on International Religious Freedom established in section 6411(a) of this title.

(11) Particularly severe violations of religious freedom

The term “particularly severe violations of religious freedom” means systematic, ongoing, egregious violations of religious freedom, including violations such as—

- (A) torture or cruel, inhuman, or degrading treatment or punishment;
- (B) prolonged detention without charges;
- (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or
- (D) other flagrant denial of the right to life, liberty, or the security of persons.

(12) Special Adviser

The term “Special Adviser” means the Special Adviser to the President on International Religious Freedom described in section 402(i) of title 50.

(13) Violations of religious freedom

The term “violations of religious freedom” means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 6401(a)(2) of this title and as described in section 6401(a)(3) of this title, including violations such as—

- (A) arbitrary prohibitions on, restrictions of, or punishment for—
 - (i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;
 - (ii) speaking freely about one’s religious beliefs;
 - (iii) changing one’s religious beliefs and affiliation;
 - (iv) possession and distribution of religious literature, including Bibles; or
 - (v) raising one’s children in the religious teachings and practices of one’s choice; or
- (B) any of the following acts if committed on account of an individual’s religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

¹ So in original. Probably should be “Presidential”.

(Pub. L. 105-292, § 3, Oct. 27, 1998, 112 Stat. 2790.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 105-292, Oct. 27, 1998, 112 Stat. 2787, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

CHANGE OF NAME

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

SUBCHAPTER I—DEPARTMENT OF STATE
ACTIVITIES

§ 6411. Office on International Religious Freedom; Ambassador at Large for International Religious Freedom

(a) Establishment of Office

There is established within the Department of State an Office on International Religious Freedom that shall be headed by the Ambassador at Large for International Religious Freedom appointed under subsection (b) of this section.

(b) Appointment

The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Duties

The Ambassador at Large shall have the following responsibilities:

(1) In general

The primary responsibility of the Ambassador at Large shall be to advance the right to freedom of religion abroad, to denounce the violation of that right, and to recommend appropriate responses by the United States Government when this right is violated.

(2) Advisory role

The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad and, with advice from the Commission on International Religious Freedom, shall make recommendations regarding—

(A) the policies of the United States Government toward governments that violate freedom of religion or that fail to ensure the individual's right to religious belief and practice; and

(B) policies to advance the right to religious freedom abroad.

(3) Diplomatic representation

Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to religious freedom abroad in—

(A) contacts with foreign governments, intergovernmental organizations, and spe-

cialized agencies of the United Nations, the Organization on Security and Cooperation in Europe, and other international organizations of which the United States is a member; and

(B) multilateral conferences and meetings relevant to religious freedom abroad.

(4) Reporting responsibilities

The Ambassador at Large shall have the reporting responsibilities described in section 6412 of this title.

(d) Funding

The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for the hiring of staff for the Office, for the conduct of investigations by the Office, and for necessary travel to carry out the provisions of this section.

(Pub. L. 105-292, title I, § 101, Oct. 27, 1998, 112 Stat. 2791.)

§ 6412. Reports

(a) Portions of annual Human Rights Reports

The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 2151n and 2304 of this title that relate to the right to freedom of religion.

(b) Annual Report on International Religious Freedom

(1) Deadline for submission

On September 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

(A) Status of religious freedom

A description of the status of religious freedom in each foreign country, including—

(i) trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right;

(ii) violations of religious freedom engaged in or tolerated by the government of that country;

(iii) particularly severe violations of religious freedom engaged in or tolerated by the government of that country; and

(iv) wherever applicable, an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur in that country during the preceding year, including—

(I) acts of physical violence against, or harassment of, Jewish people, acts of vi-

olence against, or vandalism of, Jewish community institutions, and instances of propaganda in government and non-government media that incite such acts; and

(II) the actions taken by the government of that country to respond to such violence and attacks or to eliminate such propaganda or incitement, to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people, and to promote anti-bias and tolerance education.

(B) Violations of religious freedom

An assessment and description of the nature and extent of violations of religious freedom in each foreign country, including persecution of one religious group by another religious group, religious persecution by governmental and nongovernmental entities, persecution targeted at individuals or particular denominations or entire religions, the existence of government policies violating religious freedom, including policies that discriminate against particular religious groups or members of such groups, and the existence of government policies concerning—

(i) limitations or prohibitions on, or lack of availability of, openly conducted, organized religious services outside of the premises of foreign diplomatic missions or consular posts; and

(ii) the forced religious conversion of minor United States citizens who have been abducted or illegally removed from the United States, and the refusal to allow such citizens to be returned to the United States.

(C) United States policies

A description of United States actions and policies in support of religious freedom in each foreign country engaging in or tolerating violations of religious freedom, including a description of the measures and policies implemented during the preceding 12 months by the United States under titles I, IV, and V of this Act in opposition to violations of religious freedom and in support of international religious freedom.

(D) International agreements in effect

A description of any binding agreement with a foreign government entered into by the United States under section 6441(b) or 6442(c) of this title.

(E) Training and guidelines of Government personnel

A description of—

(i) the training described in section 6472(a) and (b) of this title and section 6473(b) and (c) of this title on violations of religious freedom provided to immigration judges and consular, refugee, immigration, and asylum officers; and

(ii) the development and implementation of the guidelines described in sections 6472(c) and 6473(a) of this title.

(F) Executive Summary

An Executive Summary to the Annual Report highlighting the status of religious

freedom in certain foreign countries and including the following:

(i) Countries in which the United States is actively promoting religious freedom

An identification of foreign countries in which the United States is actively promoting religious freedom. This section of the report shall include a description of United States actions taken to promote the internationally recognized right to freedom of religion and oppose violations of such right under title IV and title V of this Act during the period covered by the Annual Report. Any country designated as a country of particular concern for religious freedom under section 6442(b)(1) of this title shall be included in this section of the report.

(ii) Countries of significant improvement in religious freedom

An identification of foreign countries the governments of which have demonstrated significant improvement in the protection and promotion of the internationally recognized right to freedom of religion during the period covered by the Annual Report. This section of the report shall include a description of the nature of the improvement and an analysis of the factors contributing to such improvement, including actions taken by the United States under this chapter.

(2) Classified addendum

If the Secretary of State determines that it is in the national security interests of the United States or is necessary for the safety of individuals to be identified in the Annual Report or is necessary to further the purposes of this chapter, any information required by paragraph (1), including measures or actions taken by the United States, may be summarized in the Annual Report or the Executive Summary and submitted in more detail in a classified addendum to the Annual Report or the Executive Summary.

(c) Preparation of reports regarding violations of religious freedom

(1) Standards and investigations

The Secretary of State shall ensure that United States missions abroad maintain a consistent reporting standard and thoroughly investigate reports of violations of the internationally recognized right to freedom of religion.

(2) Contacts with nongovernmental organizations

In compiling data and assessing the respect of the right to religious freedom for the Human Rights Reports, the Annual Report on International Religious Freedom, and the Executive Summary, United States mission personnel shall, as appropriate, seek out and maintain contacts with religious and human rights nongovernmental organizations, with the consent of those organizations, including receiving reports and updates from such organizations and, when appropriate, investigating such reports.

(Pub. L. 105–292, title I, §102, Oct. 27, 1998, 112 Stat. 2792; Pub. L. 107–228, div. A, title VI, §681(a), Sept. 30, 2002, 116 Stat. 1408; Pub. L. 108–332, §6(b), Oct. 16, 2004, 118 Stat. 1285.)

REFERENCES IN TEXT

Titles I, IV, and V of this Act, referred to in subsec. (b)(1)(C), (F)(i), are titles I, IV, and V of Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2791, 2800, 2811. Titles I and IV are classified principally to this subchapter (§6411 et seq.) and subchapter III (§6441 et seq.) of this chapter, respectively. Title V amended sections 2151n, 2452, 3965, 4013, and 6202 of this title and enacted provisions set out as a note under section 2151n of this title. For complete classification of titles I, IV, and V to the Code, see Tables.

This chapter, referred to in subsec. (b)(1)(F)(ii), (2), was in the original “this Act”, meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

CODIFICATION

Section is comprised of section 102 of Pub. L. 105–292. Subsec. (d) of section 102 of Pub. L. 105–292 amended sections 2151n and 2304 of this title.

AMENDMENTS

2004—Subsec. (b)(1)(A)(iv). Pub. L. 108–332 added cl. (iv).

2002—Subsec. (b)(1)(B). Pub. L. 107–228 inserted “including policies that discriminate against particular religious groups or members of such groups,” after “the existence of government policies violating religious freedom,”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–332 applicable beginning with the first report under sections 2151n(d), 2304(b), and 6412(b) of this title submitted more than 180 days after Oct. 16, 2004, see section 6(c) of Pub. L. 108–332, set out as a note under section 2151n of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 6413. Establishment of religious freedom Internet site

In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Secretary of State, with the assistance of the Ambassador at Large, shall establish and maintain an Internet site containing major international documents relating to religious freedom, the Annual Report, the Executive Summary, and any other documentation or references to other sites as deemed appropriate or relevant by the Ambassador at Large.

(Pub. L. 105–292, title I, §103, Oct. 27, 1998, 112 Stat. 2795.)

§ 6414. High-level contacts with nongovernmental organizations

United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where ap-

propriate and beneficial. United States chiefs of mission and Foreign Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

(Pub. L. 105–292, title I, §105, Oct. 27, 1998, 112 Stat. 2795.)

§ 6415. Programs and allocations of funds by United States missions abroad

It is the sense of the Congress that—

(1) United States diplomatic missions in countries the governments of which engage in or tolerate violations of the internationally recognized right to freedom of religion should develop, as part of annual program planning, a strategy to promote respect for the internationally recognized right to freedom of religion; and

(2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

(Pub. L. 105–292, title I, §106, Oct. 27, 1998, 112 Stat. 2796.)

§ 6416. Equal access to United States missions abroad for conducting religious activities

(a) In general

Subject to this section, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities unrelated to the conduct of the diplomatic mission, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(b) Timing and location

The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

(1) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);

(2) conflicts with official activities and other nonofficial United States citizen requests;

(3) the availability of openly conducted, organized religious services outside the premises of the mission or post;

(4) availability of space and resources; and

(5) necessary security precautions.

(c) Discretionary access for foreign nationals

The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this section.

(Pub. L. 105–292, title I, §107, Oct. 27, 1998, 112 Stat. 2796.)

§ 6417. Prisoner lists and issue briefs on religious freedom concerns

(a) Sense of Congress

To encourage involvement with religious freedom concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of the Congress that officials of the executive branch of Government should promote increased advocacy on such issues during meetings between foreign dignitaries and executive branch officials or Members of Congress.

(b) Prisoner lists and issue briefs on religious freedom concerns

The Secretary of State, in consultation with the Ambassador at Large, the Assistant Secretary of State for Democracy, Human Rights and Labor, United States chiefs of mission abroad, regional experts, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom. In considering the inclusion of names of prisoners on such lists, the Secretary of State shall exercise appropriate discretion, including concerns regarding the safety, security, and benefit to such prisoners.

(c) Availability of information

The Secretary shall, as appropriate, provide religious freedom issue briefs under subsection (b) of this section to executive branch officials and Members of Congress in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

(Pub. L. 105–292, title I, § 108, Oct. 27, 1998, 112 Stat. 2796.)

SUBCHAPTER II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

§ 6431. Establishment and composition

(a) In general

There is established the United States Commission on International Religious Freedom.

(b) Membership

(1) Appointment

The Commission shall be composed of—

(A) the Ambassador at Large, who shall serve ex officio as a nonvoting member of the Commission; and

(B) Nine¹ other members, who shall be United States citizens who are not being paid as officers or employees of the United States, and who shall be appointed as follows:

(i) Three members of the Commission shall be appointed by the President.

(ii) Three members of the Commission shall be appointed by the President pro tempore of the Senate, of which two of the

members shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the Senate of the other political party.

(iii) Three members of the Commission shall be appointed by the Speaker of the House of Representatives, of which two of the members shall be appointed upon the recommendation of the leader in the House of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the House of the other political party.

(2) Selection

(A) In general

Members of the Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international religious freedom, including foreign affairs, direct experience abroad, human rights, and international law.

(B) Security clearances

Each member of the Commission shall be required to obtain a security clearance.

(3) Time of appointment

The appointments required by paragraph (1) shall be made not later than 120 days after October 27, 1998.

(c) Terms

(1) In general

The term of office of each member of the Commission shall be 2 years. The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission. Members of the Commission shall be eligible for reappointment to a second term.

(2) Establishment of staggered terms

(A) In general

Notwithstanding paragraph (1), members of the Commission appointed to serve on the Commission during the period May 15, 2003, through May 14, 2005, shall be appointed to terms in accordance with the provisions of this paragraph.

(B) Presidential appointments

Of the three members of the Commission appointed by the President under subsection (b)(1)(B)(i) of this section, two shall be ap-

¹ So in original. Probably should not be capitalized.

pointed to a 1-year term and one shall be appointed to a 2-year term.

(C) Appointments by the President pro tempore of the Senate

Of the three members of the Commission appointed by the President pro tempore of the Senate under subsection (b)(1)(B)(ii) of this section, one of the appointments made upon the recommendation of the leader in the Senate of the political party that is not the political party of the President shall be appointed to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

(D) Appointments by the Speaker of the House of Representatives

Of the three members of the Commission appointed by the Speaker of the House of Representatives under subsection (b)(1)(B)(iii) of this section, one of the appointments made upon the recommendation of the leader in the House of the political party that is not the political party of the President shall be to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

(E) Appointments to 1-year terms

The term of each member of the Commission appointed to a 1-year term shall be considered to have begun on May 15, 2003, and shall end on May 14, 2004, regardless of the date of the appointment to the Commission. Each vacancy which occurs upon the expiration of the term of a member appointed to a 1-year term shall be filled by the appointment of a successor to a 2-year term.

(F) Appointments to 2-year terms

Each appointment of a member to a two-year term shall identify the member succeeded thereby, and each such term shall end on May 14 of the year that is at least two years after the expiration of the previous term, regardless of the date of the appointment to the Commission.

(d) Election of Chair

At the first meeting of the Commission after May 30 of each year, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(e) Quorum

Six voting members of the Commission shall constitute a quorum for purposes of transacting business.

(f) Meetings

Each year, within 15 days, or as soon as practicable, after the issuance of the Country Report on Human Rights Practices, the Commission shall convene. The Commission shall otherwise meet at the call of the Chair or, if no Chair has been elected for that calendar year, at the call of six voting members of the Commission.

(g) Vacancies

Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made. A member may serve after the expiration of that

member's term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(h) Administrative support

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 the provisions of this subchapter.

(i) Funding

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 while away from their homes or regular places of business in the performance of services for the Commission.

(Pub. L. 105-292, title II, § 201, Oct. 27, 1998, 112 Stat. 2797; Pub. L. 106-55, §§1(a), 2(b), Aug. 17, 1999, 113 Stat. 401, 406; Pub. L. 107-228, div. A, title VI, §681(b)-(d), Sept. 30, 2002, 116 Stat. 1408, 1409.)

AMENDMENTS

2002—Subsec. (c)(2). Pub. L. 107-228, §681(b), added par. (2).

Subsec. (d). Pub. L. 107-228, §681(c), substituted “after May 30 of each” for “in each calendar”.

Subsec. (g). Pub. L. 107-228, §681(d), inserted at end “A member may serve after the expiration of that member's term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.”

1999—Pub. L. 106-55, §1(a)(2), which directed amendment of section by inserting after first sentence “The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission.”, was executed by making the insertion after the first sentence of subsec. (c)(1) to reflect the probable intent of Congress.

Subsec. (b)(1)(B)(iii). Pub. L. 106-55, §2(b), substituted “Three” for “three”.

Subsec. (c). Pub. L. 106-55, §1(a)(1), designated existing provisions as par. (1) and inserted par. heading.

Subsec. (h). Pub. L. 106-55, §1(a)(3), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “The Secretary of State shall assist the Commission by providing to the Commission such staff and administrative services of the Office as may be necessary and appropriate for the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service status or privilege.”

§ 6432. Duties of Commission

(a) In general

The Commission shall have as its primary responsibility—

(1) the annual and ongoing review of the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate; and

(2) the making of policy recommendations to the President, the Secretary of State, and Congress with respect to matters involving international religious freedom.

(b) Policy review and recommendations in response to violations

The Commission, in evaluating United States Government policies in response to violations of religious freedom, shall consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom, including particularly severe violations of religious freedom, including diplomatic inquiries, diplomatic protest, official public protest demarche of protest, condemnation within multilateral fora, delay or cancellation of cultural or scientific exchanges, delay or cancellation of working, official, or state visits, reduction of certain assistance funds, termination of certain assistance funds, imposition of targeted trade sanctions, imposition of broad trade sanctions, and withdrawal of the chief of mission.

(c) Policy review and recommendations in response to progress

The Commission, in evaluating the United States Government policies with respect to countries found to be taking deliberate steps and making significant improvement in respect for the right of religious freedom, shall consider and recommend policy options, including private commendation, diplomatic commendation, official public commendation, commendation within multilateral fora, an increase in cultural or scientific exchanges, or both, termination or reduction of existing Presidential actions, an increase in certain assistance funds, and invitations for working, official, or state visits.

(d) Effects on religious communities and individuals

Together with specific policy recommendations provided under subsections (b) and (c) of this section, the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(e) Monitoring

The Commission shall, on an ongoing basis, monitor facts and circumstances of violations of religious freedom, in consultation with independent human rights groups and nongovernmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate officials and offices in the United States Government.

(Pub. L. 105-292, title II, §202, Oct. 27, 1998, 112 Stat. 2798; Pub. L. 106-55, §1(b)(1), Aug. 17, 1999, 113 Stat. 401.)

AMENDMENTS

1999—Subsec. (f). Pub. L. 106-55 struck out heading and text of subsec. (f). Text read as follows: “The Commission may, for the purpose of carrying out its duties under this subchapter, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this chapter.”

§ 6432a. Powers of the Commission

(a) Hearings and sessions

The Commission may, for the purpose of carrying out its duties under this subchapter, hold hearings, sit and act at times and places in the United States, take testimony and receive evidence as the Commission considers advisable to carry out the purposes of this chapter.

(b) Information from Federal agencies

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 Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

(c) Postal services

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.

(d) Administrative procedures

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 subchapter.

(e) Views of the Commission

The Members of the Commission may speak in their capacity as private citizens. Statements on behalf of the Commission shall be issued in writing over the names of the Members. The Commission shall in its written statements clearly describe its statutory authority, distinguishing that authority from that of appointed or elected officials of the United States Government. Oral statements, where practicable, shall include a similar description.

(f) Travel

The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purpose of this subchapter. Each trip must be approved by a majority of the Commission. This provision shall not apply to the Ambassador-at-Large, whose travel shall not require approval by the Commission.

(Pub. L. 105-292, title II, §203, as added Pub. L. 106-55, §1(b)(3), Aug. 17, 1999, 113 Stat. 401.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 105-292, Oct. 27, 1998, 112 Stat. 2787, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

PRIOR PROVISIONS

A prior section 203 of Pub. L. 105-292 was renumbered section 205 and is classified to section 6433 of this title.

§ 6432b. Commission personnel matters**(a) In general**

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 decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine members of the Commission.

(b) Compensation

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 relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) Professional staff

The Commission and the Executive Director shall hire Commission staff on the basis of professional and nonpartisan qualifications. Commissioners may not individually hire staff of the Commission. Staff shall serve the Commission as a whole and may not be assigned to the particular service of a single Commissioner or a specified group of Commissioners. This subsection does not prohibit staff personnel from assisting individual members of the Commission with particular needs related to their duties.

(d) Staff and services of other Federal agencies**(1) Department of State**

The Secretary of State shall assist the Commission by providing on a reimbursable or nonreimbursable basis to the Commission such staff and administrative services as may be necessary and appropriate to perform its functions.

(2) Other Federal agencies

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 subchapter. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) Security clearances

The Executive Director shall be required to obtain a security clearance. The Executive Director may request, on a needs-only basis and in order to perform the duties of the Commission, that other personnel of the Commission be required to obtain a security clearance. The level of clearance shall be the lowest necessary to appropriately perform the duties of the Commission.

(f) Cost

The Commission shall reimburse all appropriate Government agencies for the cost of obtaining clearances for members of the commis-

sion,¹ for the executive¹ director,¹ and for any other personnel.

(Pub. L. 105-292, title II, §204, as added Pub. L. 106-55, §1(b)(3), Aug. 17, 1999, 113 Stat. 402.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

PRIOR PROVISIONS

A prior section 204 of Pub. L. 105-292 was renumbered section 206 and is classified to section 6434 of this title.

§ 6433. Report of Commission**(a) In general**

Not later than May 1 of each year, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under section 6432 of this title.

(b) Classified form of report

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 chapter.

(c) Individual or dissenting views

Each member of the Commission may include the individual or dissenting views of the member.

(Pub. L. 105-292, title II, §205, formerly §203, Oct. 27, 1998, 112 Stat. 2799; renumbered §205, Pub. L. 106-55, §1(b)(2), Aug. 17, 1999, 113 Stat. 401.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 105-292 was renumbered section 207 and is classified to section 6435 of this title.

§ 6434. Applicability of other laws

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(Pub. L. 105-292, title II, §206, formerly §204, Oct. 27, 1998, 112 Stat. 2799; renumbered §206, Pub. L. 106-55, §1(b)(2), Aug. 17, 1999, 113 Stat. 401.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 206 of Pub. L. 105-292 was renumbered section 209 and is classified to section 6436 of this title.

§ 6435. Authorization of appropriations**(a) In general**

There are authorized to be appropriated to the Commission \$3,000,000 for the fiscal year 2003 to carry out the provisions of this subchapter.

(b) Availability of funds

Amounts authorized to be appropriated under subparagraph (a) of this section are authorized

¹ So in original. Probably should be capitalized.

to remain available until expended but not later than the date of termination of the Commission. (Pub. L. 105-292, title II, § 207, formerly § 205, Oct. 27, 1998, 112 Stat. 2800; renumbered § 207 and amended Pub. L. 106-55, § 1(b)(2), (4), Aug. 17, 1999, 113 Stat. 401, 403; Pub. L. 107-228, div. A, title VI, § 681(e), Sept. 30, 2002, 116 Stat. 1409.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-228 inserted “for the fiscal year 2003” after “\$3,000,000”.

1999—Subsec. (a). Pub. L. 106-55, § 1(b)(4), substituted “to carry out the provisions of this subchapter” for “for each of the fiscal years 1999 and 2000 to carry out the provisions of this subchapter.”

§ 6435a. Standards of conduct and disclosure

(a) Cooperation with nongovernmental organizations, the Department of State, and Congress

The Commission shall seek to effectively and freely cooperate with all entities engaged in the promotion of religious freedom abroad, governmental and nongovernmental, in the performance of the Commission’s duties under this subchapter.

(b) Conflict of interest and antinepotism

(1) Member affiliations

Except as provided in paragraph (3), in order to ensure the independence and integrity of the Commission, the Commission may not compensate any nongovernmental agency, project, or person related to or affiliated with any member of the Commission, whether in that member’s direct employ or not. Staff employed by the Commission may not serve in the employ of any nongovernmental agency, project, or person related to or affiliated with any member of the Commission while employed by the Commission.

(2) Staff compensation

Staff of the Commission may not receive compensation from any other source for work performed in carrying out the duties of the Commission while employed by the Commission.

(3) Exception

(A) In general

Subject to subparagraph (B), paragraph (1) shall not apply to payments made for items such as conference fees or the purchase of periodicals or other similar expenses, if such payments would not cause the aggregate value paid to any agency, project, or person for a fiscal year to exceed \$250.

(B) Limitation

Notwithstanding subparagraph (A), the Commission shall not give special preference to any agency, project, or person related to or affiliated with any member of the Commission.

(4) Definitions

In this subsection, the term “affiliated” means the relationship between a member of the Commission and—

(A) an individual who holds the position of officer, trustee, partner, director, or employee of an agency, project, or person of

which that member, or relative of that member,¹ the Commission is an officer, trustee, partner, director, or employee; or

(B) a nongovernmental agency or project of which that member, or a relative of that member, of the Commission is an officer, trustee, partner, director, or employee.

(c) Contract authority

(1) In general

Subject to the availability of appropriations, the Commission may contract with and compensate Government agencies or persons for the conduct of activities necessary to the discharge of its functions under this subchapter. Any such person shall be hired without interruption or loss of civil service or Foreign Service status or privilege. The Commission may procure temporary and intermittent services under the authority of section 3109(b) of title 5, except that the Commission may not expend more than \$100,000 in any fiscal year to procure such services.

(2) Expert study

In the case of a study requested under section 6474 of this title, the Commission may, subject to the availability of appropriations, contract with experts and shall provide the funds for such a study. The Commission shall not be required to provide the funds for that part of the study conducted by the Comptroller General of the United States.

(d) Gifts

(1) In general

In order to preserve its independence, the Commission may not accept, use, or dispose of gifts or donations of services or property. An individual Commissioner or employee of the Commission may not, in his or her capacity as a Commissioner or employee, knowingly accept, use or dispose of gifts or donations of services or property, unless he or she in good faith believes such gifts or donations to have a value of less than \$50 and a cumulative value during a calendar year of less than \$100.

(2) Exceptions

This subsection shall not apply to the following:

(A) Gifts provided on the basis of a personal friendship with a Commissioner or employee, unless the Commissioner or employee has reason to believe that the gift was provided because of the Commissioner’s position and not because of the personal friendship.

(B) Gifts provided on the basis of a family relationship.

(C) The acceptance of training, invitations to attend or participate in conferences or such other events as are related to the conduct of the duties of the Commission, or food or refreshment associated with such activities.

(D) Items of nominal value or gifts of estimated value of \$10 or less.

(E) De minimis gifts provided by a foreign leader or state, not exceeding a value of \$260.

¹ So in original. The comma probably should follow “member”.

Gifts believed by Commissioners to be in excess of \$260, but which would create offense or embarrassment to the United States Government if refused, shall be accepted and turned over to the United States Government in accordance with the Foreign Gifts and Decorations Act of 1966 and the rules and regulations governing such gifts provided to Members of Congress.

(F) Informational materials such as documents, books, videotapes, periodicals, or other forms of communications.

(G) Goods or services provided by any agency or component of the Government of the United States, including any commission established under the authority of such Government.

(e) Annual financial report

In addition to providing the reports required under section 6432 of this title, the Commission shall provide, each year no later than January 1, to the Committees on International Relations and Appropriations of the House of Representatives, and to the Committees on Foreign Relations and Appropriations of the Senate, a financial report detailing and identifying its expenditures for the preceding fiscal year.

(Pub. L. 105–292, title II, § 208, as added Pub. L. 106–55, § 1(b)(5), Aug. 17, 1999, 113 Stat. 403; amended Pub. L. 107–228, div. A, title VI, § 681(f), Sept. 30, 2002, 116 Stat. 1409.)

REFERENCES IN TEXT

The Foreign Gifts and Decorations Act of 1966, referred to in subsec. (d)(2)(E), is Pub. L. 89–673, Oct. 15, 1966, 80 Stat. 952, as amended, which was classified principally to chapter 37 (§ 2621 et seq.) of this title. The Act was substantially repealed, except for provisions which are classified to section 2625 of this title, and with limited applicability, to section 2621 of this title, and was restated in section 7342 of Title 5, Government Organization and Employees, by Pub. L. 90–83, § 10(b), Sept. 11, 1967, 91 Stat. 224. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–228 substituted “The Commission may procure temporary and intermittent services under the authority of section 3109(b) of title 5, except that the Commission may not expend more than \$100,000 in any fiscal year to procure such services.” for “The Commission may not procure temporary and intermittent services under section 3109(b) of title 5 or under other contracting authority other than that allowed under this subchapter.”

§ 6436. Termination

The Commission shall terminate on September 30, 2011.

(Pub. L. 105–292, title II, § 209, formerly § 206, Oct. 27, 1998, 112 Stat. 2800; renumbered § 209 and amended Pub. L. 106–55, § 1(b)(2), (c), Aug. 17, 1999, 113 Stat. 401, 405; Pub. L. 107–228, div. A, title VI, § 681(g), Sept. 30, 2002, 116 Stat. 1409.)

AMENDMENTS

2002—Pub. L. 107–228 substituted “September 30, 2011” for “May 14, 2003”.

1999—Pub. L. 106–55, § 1(c), which directed substitution of “on May 14, 2003” for “4 years after the initial appointment of all the Commissioners”, was executed by making the substitution for “4 years after the initial

appointment of all of the Commissioners”, to reflect the probable intent of Congress.

SUBCHAPTER III—PRESIDENTIAL ACTIONS

PART A—TARGETED RESPONSES TO VIOLATIONS OF RELIGIOUS FREEDOM ABROAD

§ 6441. Presidential actions in response to violations of religious freedom

(a) Response to violations of religious freedom

(1) In general

(A) United States policy

It shall be the policy of the United States—

(i) to oppose violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(ii) to promote the right to freedom of religion in those countries through the actions described in subsection (b) of this section.

(B) Requirement of Presidential action

For each foreign country the government of which engages in or tolerates violations of religious freedom, the President shall oppose such violations and promote the right to freedom of religion in that country through the actions described in subsection (b) of this section.

(2) Basis of actions

Each action taken under paragraph (1)(B) shall be based upon information regarding violations of religious freedom, as described in the latest Country Reports on Human Rights Practices, the Annual Report and Executive Summary, and on any other evidence available, and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(b) Presidential actions

(1) In general

Subject to paragraphs (2) and (3), the President, in consultation with the Secretary of State, the Ambassador at Large, the Special Adviser, and the Commission, shall, as expeditiously as practicable in response to the violations described in subsection (a) of this section by the government of a foreign country—

(A) take one or more of the actions described in paragraphs (1) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to such country; or

(B) negotiate and enter into a binding agreement with the government of such country, as described in section 6445(c) of this title.

(2) Deadline for actions

Not later than September 1 of each year, the President shall take action under any of paragraphs (1) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom at

any time since September 1 of the preceding year, except that in the case of action under any of paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto)—

(A) the action may only be taken after the requirements of sections 6443 and 6444 of this title have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) Authority for delay of Presidential actions

The President may delay action under paragraph (2) described in any of paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 6442(c)(3) of this title.

(c) Implementation

(1) In general

In carrying out subsection (b) of this section, the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation of such violations in countries with which the United States has diplomatic relations.

(2) Guidelines for Presidential actions

In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

(Pub. L. 105–292, title IV, § 401, Oct. 27, 1998, 112 Stat. 2800.)

DELEGATION OF RESPONSIBILITIES UNDER THE
INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998

Memorandum of President of the United States, Aug. 17, 1999, 64 F.R. 47345, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions and authorities vested in the President by title IV, subtitle I (sections 401–409) of the International Religious Freedom Act of 1998 [22 U.S.C. 6441 et seq.] (Public Law 105–292) (the “Act”).

Any reference in this memorandum to any act shall be deemed to be a reference to such act as amended from time to time.

The functions delegated by this memorandum may be delegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 6442. Presidential actions in response to particularly severe violations of religious freedom

(a) Response to particularly severe violations of religious freedom

(1) United States policy

It shall be the policy of the United States—

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c) of this section.

(2) Requirement of Presidential action

Whenever the President determines that the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c) of this section.

(b) Designations of countries of particular concern for religious freedom

(1) Annual review

(A) In general

Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

(B) Basis of review

Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) Implementation

Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time prior to September 1 of the respective year.

(2) Determinations of responsible parties

For the government of each country designated as a country of particular concern for

religious freedom under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) Congressional notification

Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

(A) the designation of the country, signed by the President; and

(B) the identification, if any, of responsible parties determined under paragraph (2).

(c) Presidential actions with respect to countries of particular concern for religious freedom

(1) In general

Subject to paragraphs (2), (3), (4), and (5) with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A) of this section, the President shall, after the requirements of sections 6443 and 6444 of this title have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) Presidential actions

One or more of the Presidential actions described in paragraphs (9) through (15) of section 6445(a) of this title, as determined by the President.

(B) Commensurate actions

Commensurate action in substitution to any action described in subparagraph (A).

(2) Substitution of binding agreements

(A) In general

In lieu of carrying out action under paragraph (1), the President may conclude a binding agreement with the respective foreign government as described in section 6445(c) of this title. The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this subchapter.

(B) Statutory construction

Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) Authority for delay of Presidential actions

If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period,

then the President shall not be required to take action until the expiration of that period of time.

(4) Exception for ongoing Presidential action under this chapter

The President shall not be required to take action pursuant to this subsection in the case of a country of particular concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this chapter in a preceding year;

(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section; and

(C) the President reports to Congress the information described in section 6444(a)(1), (2), (3), and (4) of this title regarding the actions in effect with respect to the country.

(5) Exception for ongoing, multiple, broad-based sanctions in response to human rights violations

At the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 6444(a)(1), (2), (3), and (4) of this title, and, as applicable, to section 6448 of this title, the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection. The sanctions so designated shall remain in effect subject to section 6449 of this title.

(d) Statutory construction

A determination under this chapter, or any amendment made by this chapter, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 2151n or 2304 of this title.

(Pub. L. 105-292, title IV, §402, Oct. 27, 1998, 112 Stat. 2802; Pub. L. 106-55, §2(a), Aug. 17, 1999, 113 Stat. 405.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(2)(A), was in the original "this title", meaning title IV of Pub. L.

105–292, Oct. 27, 1998, 112 Stat. 2800, which is classified principally to this subchapter. For complete classification of title IV to the Code, see Tables.

This chapter, referred to in subsecs. (c)(4) and (d), was in the original “this Act”, meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

AMENDMENTS

1999—Subsec. (c)(1). Pub. L. 106–55, §2(a)(1), substituted “(4), and (5)” for “and (4)” in introductory provisions.

Subsec. (c)(4). Pub. L. 106–55, §2(a)(2)(A), inserted “under this chapter” after “Exception for ongoing Presidential action” in heading.

Subsec. (c)(4)(B) to (D), (5). Pub. L. 106–55, §2(a)(2)(B)–(D), inserted “and” at end of subpar. (B), substituted period for “; and” at end of subpar. (C), redesignated subpar. (D) as par. (5), inserted par. heading, and substituted “At the time” for “at the time”.

§ 6443. Consultations

(a) In general

As soon as practicable after the President decides to take action under section 6441 of this title in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 6442 of this title, as the case may be, the President shall carry out the consultations required in this section.

(b) Duty to consult with foreign governments prior to taking Presidential actions

(1) In general

The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 6441 of this title; and

(B) if agreed to, enter into such consultations, privately or publicly.

(2) Use of multilateral fora

If the President determines it to be appropriate, such consultations may be sought and may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a) of this section, prior to implementing any such action.

(3) Election of nondisclosure of negotiations to public

If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be,

the President may refrain from disclosing such negotiations and such agreement to the public, except that the President shall inform the appropriate congressional committees of the nature and extent of such negotiations and any agreement reached.

(c) Duty to consult with humanitarian organizations

The President should consult with appropriate humanitarian and religious organizations concerning the potential impact of United States policies to promote freedom of religion in countries described in subsection (a) of this section.

(d) Duty to consult with United States interested parties

The President shall, as appropriate, consult with United States interested parties as to the potential impact of intended Presidential action or actions in countries described in subsection (a) of this section on economic or other interests of the United States.

(Pub. L. 105–292, title IV, §403, Oct. 27, 1998, 112 Stat. 2804.)

§ 6444. Report to Congress

(a) In general

Subject to subsection (b) of this section, not later than 90 days after the President decides to take action under section 6441 of this title in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 6442 of this title, as the case may be, the President shall submit a report to Congress containing the following:

(1) Identification of Presidential actions

An identification of the Presidential action or actions described in paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) to be taken with respect to the foreign country.

(2) Description of violations

A description of the violations giving rise to the Presidential action or actions to be taken.

(3) Purpose of Presidential actions

A description of the purpose of the Presidential action or actions.

(4) Evaluation

(A) Description

An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the Commission, the Special Adviser, the parties described in section 6443(c) and (d) of this title, and whoever else the President deems appropriate, of—

- (i) the impact upon the foreign government;
- (ii) the impact upon the population of the country; and
- (iii) the impact upon the United States economy and other interested parties.

(B) Authority to withhold disclosure

The President may withhold part or all of such evaluation from the public but shall provide the entire evaluation to Congress.

(5) Statement of policy options

A statement that noneconomic policy options designed to bring about cessation of the particularly severe violations of religious freedom have reasonably been exhausted, including the consultations required in section 6443 of this title.

(6) Description of multilateral negotiations

A description of multilateral negotiations sought or carried out, if appropriate and applicable.

(b) Delay in transmittal of report

If, on or before the date that the President is required (but for this subsection) to submit a report under subsection (a) of this section to Congress, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary pursuant to section 6441(b)(3) or 6442(c)(3) of this title, then the President shall not be required to submit the report to Congress until the expiration of that period of time.

(Pub. L. 105-292, title IV, §404, Oct. 27, 1998, 112 Stat. 2805.)

§ 6445. Description of Presidential actions**(a) Description of Presidential actions**

Except as provided in subsection (d) of this section, the Presidential actions referred to in this subsection are the following:

- (1) A private demarche.
- (2) An official public demarche.
- (3) A public condemnation.
- (4) A public condemnation within one or more multilateral fora.
- (5) The delay or cancellation of one or more scientific exchanges.
- (6) The delay or cancellation of one or more cultural exchanges.
- (7) The denial of one or more working, official, or state visits.
- (8) The delay or cancellation of one or more working, official, or state visits.
- (9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 2151n of this title.
- (10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.
- (11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 2304 of this title.

(12) Consistent with section 262d of this title, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily bene-

fitting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title, under—

(A) the Export Administration Act of 1979 [50 App. U.S.C. 2401 et seq.];

(B) the Arms Export Control Act [22 U.S.C. 2751 et seq.];

(C) the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(b) Commensurate action

Except as provided in subsection (d) of this section, the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) of this section if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 6401(b) of this title. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) Binding agreements

The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) Exceptions

Any action taken pursuant to subsection (a) or (b) of this section may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance. (Pub. L. 105–292, title IV, §405, Oct. 27, 1998, 112 Stat. 2806.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(13)(A), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(13)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (a)(13)(C), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

§ 6446. Effects on existing contracts

The President shall not be required to apply or maintain any Presidential action under this part—

(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 in writing and so reports to Congress that the person or other entity to which the Presidential action 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

(C) if the President determines in writing and so reports to Congress that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

(Pub. L. 105–292, title IV, §406, Oct. 27, 1998, 112 Stat. 2808.)

§ 6447. Presidential waiver**(a) In general**

Subject to subsection (b) of this section, the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this chapter; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) Congressional notification

Not later than the date of the exercise of a waiver under subsection (a) of this section, the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

(Pub. L. 105–292, title IV, §407, Oct. 27, 1998, 112 Stat. 2808.)

§ 6448. Publication in Federal Register**(a) In general**

Subject to subsection (b) of this section, the President shall cause to be published in the Federal Register the following:

(1) Determinations of governments, officials, and entities of particular concern

Any designation of a country of particular concern for religious freedom under section 6442(b)(1) of this title, together with, when applicable and to the extent practicable, the identities of the officials or entities determined to be responsible for the violations under section 6442(b)(2) of this title.

(2) Presidential actions

A description of any Presidential action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) and the effective date of the Presidential action.

(3) Delays in transmittal of Presidential action reports

Any delay in transmittal of a Presidential action report, as described in section 6444(b) of this title.

(4) Waivers

Any waiver under section 6447 of this title.

(b) Limited disclosure of information

The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 2414(c) of this title, if the President determines that the publication of information under this section—

(1) would be harmful to the national security of the United States; or

(2) would not further the purposes of this chapter.

(Pub. L. 105–292, title IV, §408, Oct. 27, 1998, 112 Stat. 2808.)

§ 6449. Termination of Presidential actions

Any Presidential action taken under this chapter with respect to a foreign country shall terminate on the earlier of the following dates:

(1) Termination date

Within 2 years of the effective date of the Presidential action unless expressly reauthorized by law.

(2) Foreign government actions

Upon the determination by the President, in consultation with the Commission, and certification to Congress that the foreign government has ceased or taken substantial and verifiable steps to cease the particularly severe violations of religious freedom.

(Pub. L. 105-292, title IV, § 409, Oct. 27, 1998, 112 Stat. 2809.)

§ 6450. Preclusion of judicial review

No court shall have jurisdiction to review any Presidential determination or agency action under this chapter or any amendment made by this chapter.

(Pub. L. 105-292, title IV, § 410, Oct. 27, 1998, 112 Stat. 2809.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 105-292, Oct. 27, 1998, 112 Stat. 2787, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

PART B—STRENGTHENING EXISTING LAW

§ 6461. Exports of certain items used in particularly severe violations of religious freedom**(a) Mandatory licensing**

Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, shall include on the list of crime control and detection instruments or equipment controlled for export and reexport under section 2405(n) of title 50, Appendix, or under any other provision of law, items being exported or reexported to countries of particular concern for religious freedom that the Secretary of Commerce, with the concurrence of the Secretary of State, and in consultation with appropriate officials including the Assistant Secretary of State for Democracy, Human Rights and Labor and the Ambassador at Large, determines are being used or are intended for use directly and in significant measure to carry out particularly severe violations of religious freedom.

(b) Licensing ban

The prohibition on the issuance of a license for export of crime control and detection instruments or equipment under section 2304(a)(2) of this title shall apply to the export and reexport of any item included pursuant to subsection (a) of this section on the list of crime control instruments.

(Pub. L. 105-292, title IV, § 423, Oct. 27, 1998, 112 Stat. 2810.)

SUBCHAPTER IV—REFUGEE, ASYLUM, AND CONSULAR MATTERS

§ 6471. Use of Annual Report

The Annual Report, together with other relevant documentation, shall serve as a resource for immigration judges and consular, refugee, and asylum officers in cases involving claims of

persecution on the grounds of religion. Absence of reference by the Annual Report to conditions described by the alien shall not constitute the sole grounds for a denial of the alien’s claim.

(Pub. L. 105-292, title VI, § 601, Oct. 27, 1998, 112 Stat. 2812.)

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 6472. Reform of refugee policy**(a), (b) Omitted****(c) Guidelines for refugee-processing posts****(1) Guidelines for addressing hostile biases**

The Attorney General and the Secretary of State shall develop and implement guidelines that address potential biases in personnel of the Immigration and Naturalization Service and of the Department of State that are hired abroad and involved with duties which could constitute an effective barrier to a refugee claim if such personnel carries a bias against the claimant on the grounds of religion, race, nationality, membership in a particular social group, or political opinion. The subject matter of this training should be culturally sensitive and tailored to provide a nonbiased, nonadversarial atmosphere for the purpose of refugee adjudications.

(2) Guidelines for refugee-processing posts in establishing agreements with United States Government-designated refugee processing entities

The Attorney General and the Secretary of State shall develop and implement guidelines to ensure uniform procedures for establishing agreements with United States Government-designated refugee processing entities and personnel, and uniform procedures for such entities and personnel responsible for preparing refugee case files for use by the Immigration and Naturalization Service during refugee adjudications. These procedures should ensure, to the extent practicable, that case files prepared by such entities accurately reflect information provided by the refugee applicants and that genuine refugee applicants are not disadvantaged or denied refugee status due to faulty case file preparation.

(3) Guidelines for preventing persons with potential biases from participating in determinations

Not later than 120 days after November 29, 1999, the Secretary of State (after consultation with the Attorney General) shall issue guidelines to ensure that persons with potential biases against any refugee applicant, including persons employed by, or otherwise subject to influence by, governments known to be involved in persecution on account of religion, race, nationality, membership in a particular social group, or political opinion, shall not in any way be used in processing determinations of refugee status, including interpretation of

conversations or examination of documents presented by such applicants.

(d) Annual consultation

The President shall include in each annual report on proposed refugee admissions under section 1157(d) of title 8 information about religious persecution of refugee populations eligible for consideration for admission to the United States. The Secretary of State shall include information on religious persecution of refugee populations in the formal testimony presented to the Committees on the Judiciary of the House of Representatives and the Senate during the consultation process under section 1157(e) of title 8.

(Pub. L. 105–292, title VI, § 602, Oct. 27, 1998, 112 Stat. 2812; Pub. L. 106–113, div. B, § 1000(a)(7) [div. A, title II, § 253], Nov. 29, 1999, 113 Stat. 1536, 1501A–432.)

CODIFICATION

Section is comprised of section 602 of Pub. L. 105–292. Subsec. (a) of section 602 of Pub. L. 105–292 amended section 1157 of Title 8, Aliens and Nationality. Subsec. (b) of section 602 of Pub. L. 105–292 amended section 4028 of this title.

AMENDMENTS

1999—Subsec. (c)(1). Pub. L. 106–113, § 1000(a)(7) [div. A, title II, § 253(a)], inserted “and of the Department of State” after “Service”.

Subsec. (c)(3). Pub. L. 106–113, § 1000(a)(7) [div. A, title II, § 253(b)], added par. (3).

ABOLITION OF IMMIGRATION AND NATURALIZATION
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 6473. Reform of asylum policy

(a) Guidelines

The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

(b) Training for asylum and immigration officers

The Attorney General, in consultation with the Secretary of State, the Ambassador at Large, and other relevant officials such as the Director of the George P. Shultz National Foreign Affairs Training Center, shall provide training to all officers adjudicating asylum cases, and to immigration officers performing duties under section 1225(b) of title 8, on the nature of religious persecution abroad, including country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country in the

treatment of various religious practices and believers.

(c) Training for immigration judges

The Executive Office of Immigration Review of the Department of Justice shall incorporate into its initial and ongoing training of immigration judges training on the extent and nature of religious persecution internationally, including country-specific conditions, and including use of the Annual Report. Such training shall include governmental and nongovernmental methods of persecution employed, and differences in the treatment of religious groups by such persecuting entities.

(Pub. L. 105–292, title VI, § 603, Oct. 27, 1998, 112 Stat. 2813; Pub. L. 107–132, § 1(b), Jan. 16, 2002, 115 Stat. 2412.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–132 substituted “George P. Shultz National Foreign Affairs Training Center” for “National Foreign Affairs Training Center”.

ABOLITION OF IMMIGRATION AND NATURALIZATION
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 6474. Studies on effect of expedited removal provisions on asylum claims

(a) Studies

(1) Commission request for participation by experts on refugee and asylum issues

If the Commission so requests, the Attorney General shall invite experts designated by the Commission, who are recognized for their expertise and knowledge of refugee and asylum issues, to conduct a study, in cooperation with the Comptroller General of the United States, to determine whether immigration officers described in paragraph (2) are engaging in any of the conduct described in such paragraph.

(2) Duties of Comptroller General

The Comptroller General of the United States shall conduct a study alone or, upon request by the Commission, in cooperation with experts designated by the Commission, to determine whether immigration officers performing duties under section 1225(b) of title 8 with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(A) Improperly encouraging such aliens to withdraw their applications for admission.

(B) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 1225(b)(1)(B)(v) of title 8).

(C) Incorrectly removing such aliens to a country where they may be persecuted.

(D) Detaining such aliens improperly or in inappropriate conditions.

(b) Reports

(1) Participation by experts

In the case of a Commission request under subsection (a) of this section, the experts des-