COMMITTEE ON INTERNATIONAL RELATIONS
COMMITTEE ON FOREIGN RELATIONS

Legislation on Foreign Relations Through 2002

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JULY 2003

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CURRENT LEGISLATION AND
RELATED EXECUTIVE ORDERS

U.S. HOUSE OF REPRESENTATIVES

U.S. SENATE

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FOREWORD

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

Volumes I (A and B), II, III and IV contain legislation and related material and are republished with amendments and additions at the end of each annual session of Congress. Volume V, which contains treaties and related material, will not be revised every year, but only as necessary.

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

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

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

July 31, 2003.

EXPLANATORY NOTE

The body of statutory law set out in this volume was in force, as amended, at the end of 2002.

This volume sets out "session law" as originally enacted by Congress and published by the Archivist of the United States as "slip law" and later in the series *United States Statutes at Large* (as subsequently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

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

All Executive orders and State Department delegations of authority are codified and in force as of June 15, 2003.

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

ABBREVIATIONS

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

CONTENTS

	Page
FOREWORD	III
EXPLANATORY NOTE	V
ABBREVIATIONS	VI
A. FOREIGN ASSISTANCE	1
1. Foreign Assistance and Arms Export Acts	15
2. Foreign Assistance Appropriations	809
APPENDICES	1015
INDEX	1059

A. FOREIGN ASSISTANCE

CONTENTS

Page

1. Foreign Assistance and Arms Export Acts 15
   a. The Foreign Assistance Act of 1961, as Amended (Public Law 87–195) 15
      Part I
         Chapter 1—Policy; Development Assistance Authorizations 19
            Section 101—General Policy 19
            Section 102—Development Assistance Policy 20
            Section 103—Agriculture, Rural Development, and Nutrition 32
            Section 103A—Agricultural Research 34
            Section 104—Population and Health 35
            Section 104A—Assistance to Combat HIV/AIDS 42
            Section 104B—Assistance to Combat Tuberculosis 47
            Section 104C—Assistance to Combat Malaria 49
            Section 105—Education and Human Resources Development 49
            Section 106—Energy, Private Voluntary Organizations, and Selected Development Activities 50
            Section 107—Appropriate Technology 53
            Section 108—Microenterprise Development Credits 54
            Section 109—Transfer of Funds 56
            Section 110—Cost-Sharing and Funding Limits 56
            Section 111—Development and Use of Cooperatives 57
            Section 113—Integrating Women Into National Economies 58
            Section 116—Human Rights 59
            Section 117—Environment and Natural Resources 65
            Section 118—Tropical Forests 66
            Section 119—Endangered Species 69
            Section 120—Sahel Development Program—Planning 71
            Section 122—General Authorities 72
            Section 123—Private and Voluntary Organizations and Cooperatives in Overseas Development 73
            Section 124—Relatively Least Developed Countries 76
            Section 125—Project and Program Evaluation 77
            Section 126—Development and Illicit Narcotics Production 77
            Section 127—Accelerated Loan Repayments 78
            Section 128—Targeted Assistance 78
            Section 129—Program to Provide Technical Assistance to Foreign Governments and Foreign Central Banks of Developing or Transitional Countries 79
            Section 130—Assistance for Victims of Torture 84
            Section 131—Microenterprise Development Grant Assistance 85
            Section 132—United States Microfinance Loan Facility 89
            Section 133—Programs to Encourage Good Governance 91
            Section 134—Assistance to Foreign Countries to Meet Minimum Standards for the Elimination of Trafficking 93
         Chapter 2—Other Programs 94
         Title I—Multilateral and Regional Development Programs 94
            Section 206—Regional Development in Africa 94
            Section 209—Multilateral and Regional Programs 94

Title II—American Schools and Hospitals Abroad; Prototype Desalting Plant 96
Section 214—American Schools and Hospitals Abroad 96
Section 219—Prototype Desalting Plant 97
Title III—Housing and Other Credit Guaranty Programs 98
Section 221—Housing Guaranties 98
Section 222—Authorization 98
Section 222A—Agricultural and Productive Credit and Self-Help Community Development Programs 100
Section 223—General Provisions 102
Section 224—Trade Credit Insurance Program for Central America 105
Section 225—Trade Credit Insurance Program for Poland 106
Section 226—Loan Guarantees to Israel Program 108
Title IV—Overseas Private Investment Corporation 112
Section 231—Creation, Purpose and Policy 112
Section 231A—Additional Requirements 115
Section 232—Capital of the Corporation 116
Section 233—Organization and Management 117
Section 234—Investment Insurance and Other Programs 119
Section 234A—Enhancing Private Political Risk Insurance Industry 125
Section 235—Issuing Authority, Direct Investment Authority and Reserves 127
Section 236—Income and Revenues 130
Section 237—General Provisions Relating to Insurance Guaranty, and Financing Program 130
Section 238—Definitions 134
Section 239—General Provisions and Powers 135
Section 240—Small Business Development 138
Section 240A—Reports to the Congress 139
Section 240B—Prohibition on Noncompetitive Awarding of Insurance Contracts on OPIC Supported Exports 141
Title V—Disadvantaged Children in Asia 142
Section 241—Assistance to Certain Disadvantaged Children in Asia 142
Title IX—Utilization of Democratic Institutions in Development 142
Section 281—Utilization of Democratic Institutions in Development 142
Title XII—Famine Prevention and Freedom From Hunger 143
Section 296—General Provisions 143
Section 297—General Authority 148
Section 298—Board for International Food and Agricultural Development 151
Section 299—Authorization 153
Section 300—Annual Report 154
Chapter 3—International Organizations and Programs 154
Section 301—General Authority 154
Section 302—Authorization 157
Section 303—Indus Basin Development 160
Section 305—Integration of Women 161
Section 306—Reports on International Organizations 161
Section 307—Withholding of United States Proportionate Share for Certain Programs of International Organizations 162
Chapter 5—Contingencies 165
Section 451—Contingencies 165
Chapter 6—Central America Democracy, Peace, and Development Initiative 166
Section 461—Statement of Policy 166
Section 462—Conditions on Furnishing Assistance 167
Section 463—Peace Process in Central America 167
Section 464—Economic Assistance Coordination 167
Section 465—Authorization for Fiscal Years 1988 and 1989 169
Section 466—Definitions 169
Chapter 7—Debt-For-Nature Exchanges 169
Section 461—Definition 169

Section 462—Assistance for Commercial Debt Exchanges 170
Section 463—Eligible Projects 170
Section 464—Eligible Countries 171
Section 465—Terms and Conditions 171
Section 466—Pilot Program for Sub-Saharan Africa 172
Chapter 8—International Narcotics Control 172
Section 481—Policy, General Authorities, Coordination, Foreign Police Actions, Definitions, and Other Provisions 172
Section 482—Authorization 178
Section 483—Prohibition on Use of Foreign Assistance for Reimbursements for Drug Crop Eradications 181
Section 484—Requirements Relating to Aircraft and Other Equipment 182
Section 485—Records of Aircraft Use 183
Section 486—Reallocation of Funds Withheld from Countries Which Fail to Take Adequate Steps to Halt Illicit Drug Production or Trafficking 183
Section 487—Prohibition on Assistance to Drug Traffickers . 184
Section 488—Limitations on Acquisition of Real Property and Construction of Facilities 184
Section 489—Reporting Requirements 185
Section 490—Annual Certification Procedures 189
Chapter 9—International Disaster Assistance 194
Section 491—Policy and General Authority 194
Section 492—Authorization 195
Section 493—Disaster Assistance—Coordination 196
Section 494—Disaster Relief Assistance 196
Section 495—Cyprus Relief and Rehabilitation 197
Section 495B—Italy Relief and Rehabilitation 197
Section 495C—Lebanon Relief and Rehabilitation 198
Section 495D—Romanian Relief and Rehabilitation 198
Section 495E—Turkey Relief, Rehabilitation, and Reconstruction 199
Section 495F—African Rehabilitation and Resettlement 199
Section 495G—Special Caribbean Hurricane Relief Assistance 200
Section 495H—Cambodian Disaster Relief Assistance 200
Section 495I—Assistance for Displaced Persons in Central America 201
Section 495J—Lebanon Emergency Relief, Rehabilitation, and Reconstruction Assistance 202
Section 495K—African Famine Assistance 202
Chapter 10—Development Fund for Africa 203
Section 496—Long-Term Development Assistance for Sub-Saharan Africa 203
Section 497—Authorizations of Appropriations for the Development Fund for Africa 209
Chapter 11—Support for the Economic and Democratic Development of the Independent States of the Former Soviet Union 211
Section 498—Assistance for the Independent States 211
Section 498A—Criteria for Assistance to Governments of the Independent States 214
Section 498B—Authorities Relating to Assistance and Other Provisions 218
Section 498C—Authorization of Appropriations 221
Chapter 12—Support for the Economic and Political Independence of the Countries of the South Caucasus and Central Asia . 224
Section 499—United States Assistance to Promote Reconciliation and Recovery from Regional Conflicts 224
Section 499A—Economic Assistance 224
Section 499B—Development of Infrastructure 225
Section 499C—Border Control Assistance 225
Section 499D—Strengthening Democracy, Tolerance, and the Development of Civil Society 226
Section 499E—Administrative Authorities 226
Section 499F—Definitions 227

Part II
Chapter 1—Policy 227
Section 501—Statement of Policy 227
Section 502—Utilization of Defense Articles and Services 228
Section 502B—Human Rights 229
Chapter 2—Military Assistance 236
Section 503—General Authority 236
Section 504—Authorization 238
Section 505—Conditions of Eligibility 238
Section 506—Special Authority 242
Section 511—Considerations in Furnishing Military Assistance 246
Section 514—Stockpiling of Defense Articles for Foreign Countries 247
Section 515—Overseas Management of Assistance and Sales Programs 250
Section 516—Authority to Transfer Excess Defense Articles . 251
Section 517—Designation of Major Non-NATO Allies 255
Chapter 3—Foreign Military Sales 256
Section 524—Reimbursements 256
Chapter 4—Economic Support Fund 257
Section 531—Authority 258
Section 532—Authorizations of Appropriations 259
Section 533—Emergency Assistance 264
Section 534—Administration of Justice 264
Chapter 5—International Military Education and Training 266
Section 541—General Authority 266
Section 542—Authorization 266
Section 543—Purposes 267
Section 544—Exchange Training 267
Section 545—Training in Maritime Skills 268
Section 546—Prohibition on Grant Assistance for Certain High Income Foreign Countries. 268
Section 547—Consultation Requirement. 269
Section 548—Records Regarding Foreign Participants. 269
Section 549—Human Rights Report. 270
Chapter 6—Peacekeeping Operations 270
Section 551—General Authority 270
Section 552—Authorization of Appropriations 270
Section 553—Administrative Authorities 272
Section 554—Data on Costs Incurred in Support of United Nations Peacekeeping Operations 272
Chapter 7—Air Base Construction in Israel 272
Section 561—General Authority 272
Section 562—Authorization and Utilization of Funds 273
Section 563—Waiver Authorities 273
Chapter 8—Antiterrorism Assistance 273
Section 571—General Authority 273
Section 572—Purposes 274
Section 573—Limitations 274
Section 574—Authorizations of Appropriations 275
Section 575—Administrative Authorities 276
Chapter 9—Nonproliferation and Export Control Assistance 277
Section 581—Purposes 277
Section 582—Authorization of Assistance 277
Section 583—Transit Interdiction 277
Section 584—International Nonproliferation Export Control Training 278
Section 585—Limitations 278
Section 586—Authorization of Appropriations 279
Part III
Chapter 1—General Provisions 279
Section 601—Encouragement of Free Enterprise and Private Participation 279
Section 602—Small Business 282
Section 603—Shipping on United States Vessels 283
Section 604—Procurement 283

Section 605—Retention and Use of Certain Items and Funds 285
Section 606—Patents and Technical Information 286
Section 607—Furnishing of Services and Commodities 286
Section 608—Advance Acquisition of Property 288
Section 610—Transfer Between Accounts 290
Section 611—Completion of Plans and Cost Estimates 291
Section 612—Use of Foreign Currencies 292
Section 613—Accounting, Valuation, Reporting, and Administration of Foreign Currencies 294
Section 614—Special Authorities 294
Section 615—Contract Authority 296
Section 616—Availability of Funds 296
Section 617—Termination of Assistance 296
Section 620—Prohibitions Against Furnishing Assistance 298
Section 620A—Prohibition on Assistance to Governments Supporting International Terrorism 308
Section 620C—United States Policy Regarding the Eastern Mediterranean 311
Section 620D—Prohibition on Assistance to Afghanistan 313
Section 620E—Assistance to Pakistan 314
Section 620F—Nuclear Non-Proliferation Policy in South Asia 318
Section 620G—Prohibition on Assistance to Countries That Aid Terrorist States 319
Section 620G—Depleted Uranium Ammunition 319
Section 620H—Prohibition on Assistance to Countries That Provide Military Equipment to Terrorist States 320
Section 620I—Prohibition on Assistance to Countries That Restrict United States Humanitarian Assistance 320
Chapter 2—Administrative Provisions 322
Section 621—Exercise of Functions 322
Section 621A—Strengthened Management Practices 323
Section 622—Coordination With Foreign Policy 323
Section 623—The Secretary of Defense 324
Section 624—Statutory Officers 324
Section 625—Employment of Personnel 325
Section 626—Experts, Consultants, and Retired Officers 327
Section 627—Detail of Personnel to Foreign Governments 328
Section 628—Detail of Personnel to International Organizations 328
Section 629—Status of Personnel Detailed 329
Section 630—Terms of Detail or Assignment 329
Section 631—Missions and Staffs Abroad 330
Section 632—Allocation and Reimbursement Among Agencies 331
Section 633—Waivers of Certain Laws 333
Section 633A—Furnishing Information 333
Section 634—Annual Report 334
Section 634A—Notification of Program Changes 336
Section 634B—Classification of Reports 337
Section 635—General Authorities 337
Section 636—Provisions on Uses of Funds 341
Section 637—Administrative Expenses 345
Section 638—Exclusions 345
Section 640A—False Claims and Ineligible Commodities 346
Section 640B—Coordination 347
Section 640C—Shipping Differential 349
Chapter 3—Miscellaneous Provisions 349
Section 641—Effective Date and Identification of Programs 349
Section 642—Statutes Repealed 349
Section 643—Saving Provisions 350
Section 644—Definitions 350
Section 645—Unexpended Balances 353
Section 646—Construction 353
Section 647—Dependable Fuel Supply 353

Section 648—Special Authorization for Use of Foreign Currencies 353
Section 650—Use of United States Armed Forces 354
Section 652—Limitation Upon Exercise of Special Authorities 354
Section 653—Change in Allocation of Foreign Assistance 354
Section 654—Presidential Findings and Determinations 355
Section 655—Annual Military Assistance Report 356
Section 656—Annual Foreign Military Training Report 357
Section 660—Prohibiting Police Training 358
Section 661—Trade and Development Agency 361
Section 663—Exchanges of Certain Materials 364
Section 666—Discrimination Against United States Personnel 365
Section 667—Operating Expenses 365
Part IV
Enterprise for the Americas Initiative 367
Section 701—Purpose 367
Section 702—Definitions 367
Section 703—Eligibilty for Benefits 368
Section 704—Reduction of Certain Debt 369
Section 705—Repayment of Principal 370
Section 706—Interest on New Obligations 370
Section 707—Enterprise for the Americas Funds 370
Section 708—Americas Framework Agreements 371
Section 709—Enterprise for the Americas Board 372
Section 710—Annual Reports to the Congress 373
Part V
Debt Reduction for Developing Countries with Tropical Forests ... 373
Section 801—Short Title 373
Section 802—Findings and Purposes 374
Section 803—Definitions 375
Section 804—Establishment of the Facility 376
Section 805—Eligiblity for Benefits 376
Section 806—Reduction of Debt Owed to the United States As a Result of Concessional Loans Under the Foreign Assistance Act of 1961 377
Section 807—Reduction of Debt Owed to the United States As a Result of Credits Extended Under Title I of the Agricultural Trade Development and Assistance Act of 1954 378
Section 808—Authority to Engage in Debt-for-Nature Swaps and Debt Buybacks 379
Section 809—Tropical Forest Agreement 380
Section 810—Tropical Forest Fund 382
Section 811—Board 382
Section 812—Consultations with the Congress 383
Section 813—Annual Reports to the Congress 383
b. Arms Export Control Act (Public Law 90–629) 385
c. Microenterprise Report to Congress (Public Law 108–31) (partial text) . 503
d. United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25) 504
e. Afghanistan Freedom Support Act of 2002 (Public Law 107–327) 536
f. Russian Democracy Act of 2002 (Public Law 107–246) 553
g. Sudan Peace Act (Public Law 107–245) 558
h. Security Assistance Act of 2002 (Public Law 107–228) (partial text) 565
i. Gerald B.H. Solomon Freedom Consolidation Act of 2002 (Public Law 107–187) 596
j. Trafficking Victims Protection Act of 2000 (Public Law 106–386) (partial text) 600
k. Jobs Through Trade Export Act of 1994 (Public Law 103–392) (partial text) 624
l. Jobs Through Export Act of 1992 (Public Law 102–549) 626
m. Overseas Private Investment Corporation Amendments Act of 1988 (Public Law 100–461) (partial text) 635
n. Special Foreign Assistance Act of 1986 (Public Law 99–529) (partial text) 637

o. International Security and Development Cooperation Act of 1985 (Public Law 99–83) (partial text) 643
Section 1—Short Title and Table of Contents 643
Title I—Military Assistance and Sales and Related Programs 643
Section 101—Foreign Military Sales Credits 643
Section 106—Guaranty Reserve Fund 645
Section 129—Conventional Arms Transfers 645
Section 130—Foreign Military Sales for Jordan 646
Section 131—Certification Concerning AWACS Sold to Saudi Arabia 647
Section 132—Cooperative Agreements on Air Defense in Central Europe 648
Title II—Economic Support Fund 650
Section 202—Assistance for the Middle East 650
Section 203—Assistance for Cyprus 651
Section 204—Assistance for Portugal 652
Section 205—Acquisition of Agricultural Commodities Under Commodity Import Programs 652
Section 206—Tied Aid Credit Program 652
Section 207—Restriction on Use of Funds for Nuclear Facilities . 653
Section 208—Fiscal Year 1985 Supplemental Authorization 653
Title III—Development Assistance 653
Section 305—Promotion of Immunization and Oral Rehydration . 653
Section 311—Use of Private and Voluntary Organizations, Cooperatives, and the Private Sector 653
Section 315—Minority Set-Aside 654
Title IV—Other Foreign Assistance Programs 654
Section 402—Voluntary Contributions to International Organizations and Programs 654
Title V—International Terrorism and Foreign Airport Security 654
Part A—International Terrorism Generally
Section 502—Coordination of All United States Terrorism-Related Assistance to Foreign Countries 655
Section 504—Prohibition on Imports From and Exports to Libya 655
Section 505—Ban on Importing Goods and Services from Countries Supporting Terrorism 656
Section 506—International Anti-Terrorism Committee 656
Section 507—International Terrorism Control Treaty 656
Section 508—State Terrorism 657
Part B—Foreign Airport Security
Section 551—Security Standards for Foreign Air Transportation 657
Section 554—Enforcement of International Civil Aviation Organization Standards 657
Section 555—International Civil Aviation Boycott of Countries Supporting International Terrorism 657
Section 557—Research on Airport Security Techniques for Detecting Explosives 658
Section 558—Hijacking of TWA Flight 847 and Other Acts of Terrorism 658
Section 559—Effective Date 658
Title VI—International Narcotics Control 658
Section 607—Procurement of Weapons to Defend Aircraft Involved in Narcotics Control Efforts 658
Section 610—Assistance for Jamaica 659
Section 611—Assistance for Bolivia 659
Section 612—Assistance to Peru 660
Section 613—Reallocation of Funds if Conditions Not Met 661
Section 615—Latin American Regional Narcotics Control Organization 661
Section 616—Greater Effort by United States Armed Forces to Support Narcotics Control Efforts Abroad 661
Section 617—Cuban Drug Trafficking 661
Section 619—Drug Trafficking and the Problem of Total Confidentiality of Certain Foreign Bank Accounts 663
Title VII—Western Hemisphere 663
Section 702—El Salvador 663
Section 703—Assistance for Guatemala 666

Section 704—Refugees in Honduras 668
Section 705—Promoting the Development of the Haitian People and Providing for Orderly Emigration from Haiti 668
Section 706—Military Assistance for Paraguay 669
Section 707—Assistance for Peru 670
Section 709—Comprehensive Reports on Assistance for Latin America and the Caribbean 670
Section 710—Use of Private and Voluntary Organizations 671
Section 713—Use of Employee Stock Ownership Plans in Development Efforts 671
Section 714—International Advisory Commission for the Caribbean Region 672
Section 716—Rural Electrification 673
Section 717—Facilitating International Commerce Through Mexico 673
Section 718—Condemning Human Rights Violations and the Subversion of Other Governments by the Government of Cuba 674
Section 719—Reports on Foreign Debt in Latin America 674
Section 720—Economic Assistance for Uruguay 675
Section 721—Canadian Exports to the United States 675
Section 722—Nicaragua 676
Title VIII—Africa 685
Section 801—Balance-of-Payments Support for Countries in Africa 685
Section 802—Economic Support Assistance for Southern Africa .. 686
Section 803—Policy Toward South African "Homelands" 687
Section 804—Assistance for Zaire 688
Section 805—Assistance for Tunisia 688
Section 806—Political Settlement in Sudan 689
Section 807—Elections in Liberia 689
Section 808—Western Sahara 689
Section 813—Assistance for the People's Republic of Mozambique 690
Title IX—Asia 691
Section 901—The Philippines 691
Section 903—Disadvantaged Children in Asia 692
Section 904—Assistance for Afghanistan 693
Section 905—Assistance for the Cambodian People 693
Section 906—Prohibition on Certain Assistance for the Khmer Rouge 693
Section 907—Political Settlement in Sri Lanka 693
Section 908—United States Policy Toward the Republic of Korea 694
Title X—Food and Agricultural Assistance 695
Section 1008—Long-Term Agricultural Commodity Agreements with Food Deficit Countries 695
Title XI—Peace Corps 695
Section 1103—Limitation on Length of Peace Corps Employment 695
Section 1104—Peace Corps National Advisory Council 695
Title XII—Miscellaneous Provisions Relating to Foreign Assistance ... 695
Section 1205—Reports on Economic Conditions in Certain Countries 695
Section 1206—Egyptian-Israeli Relations 696
Section 1210—Report on United States Assistance to Coal Exporting Nations 696
Title XIII—Miscellaneous Provisions 696
Section 1301—Effective Date 696
Section 1302—Codification of Policy Prohibiting Negotiations with the Palestine Liberation Organization 696
Section 1303—Commission for the Preservation of America's Heritage Abroad 697
Section 1304—Federal Coal Export Commission 699
p. International Security and Development Assistance Authorization Act of 1983 (Public Law 98–151) (partial text) 701
q. International Security and Development Cooperation Act of 1981 (Public Law 97–113) (partial text) 705

Section 1—Short Title 705
Title I—Military Sales and Related Programs 705
Section 108—Special Defense Acquisition Fund 705
Title II—Economic Support Fund 706
Section 203—Acquisition of Agricultural Commodities and Related Products Under Commodity Import Programs 706
Title III—Development Assistance 706
Section 301—Agriculture, Rural Development, and Nutrition 706
Title IV—Food for Peace Programs 707
Section 403—Self-Help Measures To Increase Agricultural Production; Verification of Self-Help Provisions 707
Title V—Other Assistance Programs 707
Section 502—International Narcotics Control 707
Title VI—Peace Corps 708
Section 601—Establishment as an Independent Agency 708
Section 604—Restoration of Certain Authorities Formerly Contained in the Foreign Service Act 708
Title VII—Miscellaneous Provisions 708
Section 705—Inspector General 708
Section 708—Emergency Humanitarian Help for the People of Poland 708
Section 709—Use of Certain Polish Currencies 709
Section 710—Findings Regarding Global Security 709
Section 711—World Food Security Reserves 709
Section 712—Findings and Declaration of Policy Regarding World Hunger 710
Section 713—Reaffirmation of Support for Human Rights Provisions 710
Section 714—Immigrant Visas for Taiwan 710
Section 715—Lebanon 710
Section 716—Use of Chemical and Toxic Weapons 711
Section 717—Financial Obligations to the United Nations 712
Section 718—Condemnation of Libya for its Support of International Terrorist Movements 712
Section 719—United States Citizens Acting in the Service of International Terrorism 713
Section 720—Nonaligned Countries 713
Section 721—Promoting the Development of the Haitian People and Providing for Orderly Emigration from Haiti 714
Section 722—Comprehensive Analysis of Foreign Assistance 714
Section 723—External Debt Burdens of Egypt, Israel, and Turkey 715
Section 724—Nicaragua 715
Section 726—Repeal of Limitations on Assistance, Sales and Sales Credits for Chile 716
Section 727—Assistance for El Salvador 717
Section 728—Restrictions on Military Assistance and Sales to El Salvador 718
Section 729—Reporting Requirement Relating to El Salvador 720
Section 730—Restrictions on Aid to El Salvador 721
Section 731—El Salvadoran Refugees 721
Section 734—Repeals 721
Section 735—Report on Nuclear Activities 721
Section 737—Prohibitions Relating to Nuclear Transfers and Nuclear Detonations 722
r. International Security and Development Cooperation Act of 1980 (Public Law 96–533) (partial text) 723
Section 1—Short Title 723
Title I—Military and Related Assistance and Sales Programs 723
Section 106—Foreign Military Sales Authorization and Aggregate Ceiling 724
Section 110—Exportation of Uranium Depleted in the Isotope 235 724
Section 119—Prohibition on Military Assistance to Nicaragua 725
Title III—Development Assistance Programs 725
Section 313—Assistance to the Eastern Caribbean 725
Section 314—Assistance for Equatorial Guinea 725

Section 315—Caribbean Development Bank 725
Section 316—World Hunger 725
Section 317—Reduction of Postharvest Losses of Food 726
Title IV—Other Assistance Programs 726
Section 402—International Narcotics Control 726
Section 408—East Timor 727
Title V—African Development Foundation 727
Section 501—Short Title 727
Section 502—Findings 727
Section 503—Establishment 728
Section 504—Purposes 728
Section 505—Functions 728
Section 506—Powers 729
Section 507—Management 730
Section 508—Government Corporation Control Act 731
Section 509—Limitation on Spending Authority 731
Section 510—Authorization of Appropriations 731
Title VII—Miscellaneous Provisions 732
Section 710—Interagency Group on Human Rights and Foreign Assistance 732
Section 711—Peace in the Middle East 732
Section 712—Assistance for Jordan 733
Section 715—Cuban Refugees 733
Section 716—Incarceration and Deportation of Certain Cubans 734
Section 717—Prohibition on Assistance to the Governments of Cuba, Vietnam, and Cambodia 734
Section 718—Cooperation of Other Governments in the Boycott of the 1980 Summer Olympic Games in Moscow 734
Section 719—Elections in Uganda 735
s. International Security Assistance Act of 1979 (Public Law 96–92) (partial text) 736
Section 1—Short Title 736
Section 17—Authorization and Aggregate Ceiling for Foreign Military Sales Credits 736
Section 23—Transfer of War Reserve Material and Other Property to Taiwan 737
Section 24—Ammunition Sold to Thailand 737
Section 26—Shaba Airlift 737
Section 27—Fiscal Year 1979 Supplemental Authorization for Turkey 738
t. International Development Cooperation Act of 1979 (Public Law 96–53) (partial text) 739
Section 1—Short Title 739
Title I—Development Assistance 739
Section 114—International Organizations and Programs 739
Section 125—Assistance to Latin American and Caribbean Countries 740
Section 126—Increased Contributions for Development Assistance 740
Title IV—Institute for Scientific and Technological Cooperation 740
Section 401—Statement of Policy 740
Section 402—Purposes and Establishment of the Institute 741
Section 403—Functions of the Institute 741
Section 404—General Authorities 742
Section 405—Director of the Institute 743
Section 406—Deputy Director and Other Statutory Officers 743
Section 407—Council on International Scientific and Technological Cooperation 744
Section 408—Institute Fellowships 745
Section 409—Conflict of Interest 746
Section 410—Authorization of Appropriations 746
Section 412—Conforming Amendments 746
Section 413—Establishment in International Development Cooperation Agency 747
Section 414—Expiration of Authorities 747
Title V—Miscellaneous Provisions 747

Section 501—Earmarking for Lebanon of Unobligated Balances in the Middle East Special Requirements Fund 747
Section 502—Military Assistance to Sudan 747
Section 507—Nonproliferation of Nuclear Weapons 748
Section 509—Refugee Crisis in Southeast Asia 748
Section 510—Certain Travel Expenses 749
Section 512—Effective Dates 749
u. International Development and Food Assistance Act of 1978 (Public Law 95–424) (partial text) 750
Section 1—Short Title 750
Title I—Development Assistance 750
Section 117—International Organizations and Programs 750
Section 120—Locust Plagues Control in Africa 751
Section 122—African Development Foundation 751
Title III—Coordination and Administration of the Development-Related Programs and Policies of the United States 751
Section 301—Declaration of Objectives 751
Section 302—Implementation of Objectives 752
Title IV—Unified Personnel System 752
Section 401—Establishment of a Unified Personnel System 752
Title VI—Miscellaneous Provisions 753
Section 601—Reduction of Authorization 753
Section 602—Prohibition of Assistance to Vietnam, Cambodia, and Cuba 753
Section 603—Reports to Congress on Debt Relief Agreements 753
Section 604—Miscellaneous Repeals 753
Section 605—Effective Date 753
v. International Security Assistance Act of 1978 (Public Law 95–384) (partial text) 754
Section 1—Short Title 754
Section 13—United States Policy Regarding the Eastern Mediterranean 754
Section 23—Special Security Assistance Program for the Modernization of the Armed Forces of the Republic of Korea 755
Section 26—United States-Republic of China Mutual Defense Treaty 756
Section 28—Negotiations Between Israel and Egypt 757
Section 30—Savings Provision 757
w. International Development and Food Assistance Act of 1977 (Public Law 95–88) (partial text) 758
Section 1—Short Title 758
Title I—International Development Assistance 758
Section 124—Inspector General, Foreign Assistance 758
Section 131—Future United States Development Assistance 759
Section 132—Limitation on Use of Funds; Missing in Action in Vietnam 759
Section 133—Plan for Increased Minority Business Participation in Foreign Assistance Activities 759
Section 215—Effective Date 761
x. International Security Assistance Act of 1977 (Public Law 95–92) (partial text) 762
Section 1—Short Title 762
Section 9—Security Supporting Assistance Program for Egypt 762
Section 21—Fiscal Year Authorizations and Limitations 763
Section 24—Study of Technology Transfers 763
Section 26—Policy Statement on United States Arms Sales to Israel 764
Section 27—Review of Arms Sales Controls on Non-Lethal Items 764
Section 28—Republic of Korea 764
Section 29—Piaster Conversion 764
y. International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329) (partial text) 765
Section 106—International Military Education and Training 765
Section 201—Arms Sales Policy 766
Section 212—Control of Licenses with Respect to Arms Exports and Imports 766

Section 407—Control of Military Forces in the Indian Ocean 767
Section 408—United States Citizens Imprisoned in Mexico 767
Section 409—Emergency Food Needs of Portugal 767
Section 410—Strife in Lebanon 768
Section 412—Korea 768
Section 413—Repeal of Indochina Assistance 768
Section 506—Interim Quarter Authorizations 769
Title VI—Miscellaneous Provision 769
Section 601—Expedited Procedure in the Senate 769
Section 602—Procurements from Small Businesses 771
Section 605—Use of Personnel 771
Section 607—Extortion and Illegal Payments 771
Section 608—Extension of Airport at Pinecreek, Minnesota 772
z. International Development and Food Assistance Act of 1975 (Public Law 94–161) (partial text) 773
Section 320—Limitation on Assistance to Chile 773
Section 321—Settlement of Debt Owed the United States 773
Section 322—Participation by Other Countries in Providing Assistance to Israel or Egypt 774
aa. Foreign Assistance Act of 1974 (Public Law 93–559) (partial text) 775
Section 28—Famine or Disaster Relief 776
Section 47—Gorgas Memorial Institute 776
Section 48—International Commission of Control and Supervision in Vietnam 776
Section 50—Policy on the Independence of Angola, Mozambique, and Guinea-Bissau 777
Section 51—Conventional Arms Trade 778
Section 52—Involvement of Puerto Rico in the Caribbean Development Bank 778
Section 55—Policy With Respect to Countries Most Seriously Affected by Food Shortages 779
Section 56—Repayment of Loans in Default 780
bb. Foreign Assistance Act of 1973 (Public Law 93–189) (partial text) 781
Section 28—Asian Development Bank 781
Section 30—Termination of Indochina War 781
Section 31—Limitation on Use of Funds 781
Section 32—Political Prisoners 782
Section 33—Albert Schweitzer Hospital 782
Section 34—Prisoners of War and Individuals Missing in Action 782
Section 35—Rights in Chile 783
Section 36—Revision of Social Progress Trust Fund Agreement .. 783
Section 39—World Food Shortages 785
Section 40—Use of Local Currencies 785
cc. Foreign Assistance Act of 1971 (Public Law 92–226) (partial text) 787
Section 2—Food for Peace Program 787
Section 403—Position of Under Secretary of State for Coordinating Security Assistance 788
Section 407—Periodic Authorizations for State and USIA 788
Section 410—Limitation on United Nations Assessment of United States 788
dd. Special Foreign Assistance Act of 1971, as Amended (Public Law 91–652) (partial text) 789
Section 2—Authorization of Appropriations 789
Section 3—Transfer of Defense Articles to Korea 789
Section 4—Transfer Limitations 790
Section 6—Foreign Currencies Held in Pakistan 790
Section 7—Limitation on Assistance to Cambodia 790
ee. Foreign Military Sales Act Amendments, 1971 (Public Law 91–672) (partial text) 791
ff. Foreign Assistance Act of 1969, as Amended (Public Law 91–175) (partial text) 794
gg. Foreign Assistance Act of 1968 (Public Law 90–554) (partial text) 801
Part V—Reappraisal of Foreign Assistance Programs 801
hh. Foreign Assistance Act of 1967 (Public Law 90–137) 803
ii. Foreign Assistance Act of 1966 (Public Law 89–583) 804
jj. Foreign Assistance Act of 1965 (Public Law 89–171) 805
kk. Foreign Assistance Act of 1964 (Public Law 88–633) (partial text) 806

Part V—Religious Persecution 806
ll. Foreign Assistance Act of 1963 (Public Law 88–205) 807
mm. Foreign Assistance Act of 1962 (Public Law 87–565) 808
2. Foreign Assistance Appropriations 809
a. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (Public Law 108–7) (partial text) 809
b. Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11) 879
c. Continuing Appropriations for Fiscal Year 2003 (Public Law 107–229) (partial text) 895
d. 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (Public Law 107–206) (partial text) 900
e. Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115) 914
f. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106–429) (partial text) 916
g. Emergency Supplemental Act, 2000 (Public Law 106–246) (partial text) 923
h. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (Public Law 106–113) 932
i. Miscellaneous Appropriations, 2000 (Public Law 106–113) (partial text) 941
j. 1999 Emergency Supplemental Appropriations Act (Public Law 106–31) (partial text) 946
k. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (Public Law 105–277) (partial text) 951
l. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208) (partial text) 959
m. Mexican Debt Disclosure Act of 1995 (Public Law 104–6) (partial text) 966
n. Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994 (Public Law 103–306) (partial text) 970
o. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391) (partial text) 972
p. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) (partial text) 976
q. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) (partial text) 987
r. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100–202) (partial text) 1001
s. Foreign Assistance and Related Programs Appropriations Act, 1984 (Deobligation of funds for Syria) (Public Law 98–151) (partial text) 1006
t. Title 31, United States Code—Valid Obligations 1008

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

1. Foreign Assistance and Arms Export Acts*

a. The Foreign Assistance Act of 1961, as Amended

Public Law 87–195 [S. 1983], 75 Stat. 424, approved September 4, 1961, as amended by Public Law 87–565 [Foreign Assistance Act of 1962, S. 2996], 76 Stat. 255, approved August 1, 1962; Public Law 87–793 [Postal Service and Federal Employees Salary Act of 1962, H.R. 7927], 76 Stat. 832, approved October 11, 1962; Public Law 88–205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963; Public Law 88–426 [Government Employees Salary Reform Act of 1964, H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88–448 [Dual Compensation Act, H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 88–633 [H.R. 11380], 78 Stat. 1009, approved October 7, 1964; Public Law 88–638 [Amendments to Agricultural Trade Development and Assistance Act of 1954, as amended; S. 2687], 78 Stat. 1035, approved October 8, 1964; Public Law 89–171 [H.R. 7750], 79 Stat. 653, approved September 6, 1965; Public Law 89–371 [H.R. 12169], 80 Stat. 74, approved March 18, 1966; Public Law 89–583 [H.R. 15750], 80 Stat. 795, approved September 19, 1966; Public Law 90–137 [S. 1872], 81 Stat. 445, approved November 14, 1967; Public Law 90–554 [H.R. 15263], 82 Stat. 960, approved October 8, 1968; Public Law 90–629 [Foreign Military Sales Act, H.R. 15681], 82 Stat. 1320, approved October 22, 1968; Public Law 91–175 [H.R. 14580], 83 Stat. 805, approved December 30, 1969; Public Law 91–652 [Special Foreign Assistance Act of 1971, H.R. 19911], 84 Stat. 1942, approved January 5, 1971; Public Law 92–226 [S. 2819], 86 Stat. 20, approved February 7, 1972; Public Law 92–352 [Foreign Relations Authorization Act of 1972, H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93–189 [S. 1443], 87 Stat. 714, approved December 17, 1973; Public Law 93–333 [Foreign Disaster Assistance Act of 1974, H.R. 12412], 88 Stat. 290, approved July 8, 1974; Public Law 93–390 [Overseas Private Investment Corporation Amendments Act of 1974, S. 2957], 88 Stat. 763, approved August 27, 1974; Public Law 93–559 [S. 3394], 88 Stat. 1795, approved December 30, 1974; Public Law 94–104 [S. 2230], 89 Stat. 508, approved October 6, 1975; Public Law 94–161 [International Development and Food Assistance Act of 1975, H.R. 9005], 89 Stat. 849, approved December 20, 1975; Public Law 94–273 [Fiscal Year Adjustment Act, S. 2445], 90 Stat. 375, approved April 21, 1976, Public Law 94–276 [Guatemala Relief and Rehabilitation Act of 1976, S. 3056], 90 Stat. 397, approved April 21, 1976; Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95–21 [Romanian Relief and Rehabilitation, H.R. 5717], 91 Stat. 48, approved April 18, 1977; Public Law 95–23 [Supplemental Military Assistance to Portugal for Fiscal Year 1977, S. 489], 91 Stat. 54, approved April 30, 1977; Public Law 95–88 [International Development and Food Assistance Act of 1977, H.R. 6714], 91 Stat. 533, approved August 3, 1977; Public Law 95–92 [International Security Assistance Act of 1977, H.R. 6884], 91 Stat. 614, approved August 4, 1977; Public Law 95–105 [Foreign Relations Authorization Act, Fiscal Year 1978, H.R. 6689], 91 Stat. 844 at 846, approved August 17, 1977; Public Law 95–268 [OPIC Amendments Act of 1978, H.R. 9179], 92 Stat. 213, approved April 24, 1978; Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730, approved September 26, 1978; Public Law 95–424 [International Development and Food Assistance Act of 1978, H.R. 12222], 92 Stat. 937, approved October 6, 1978; Public Law 96–35 [Special International Security Assistance Act of 1979, S. 1007], 93 Stat. 89, approved July 20, 1979; Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359, approved August 14, 1979;

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

Public Law 96–92 [International Security Assistance Act of 1979, H.R. 3173], 93 Stat. 701, approved October 29, 1979; Public Law 96–109 [Caribbean Hurricane Relief Assistance Authorization, H.R. 5218], 93 Stat. 842, approved November 9, 1979; Public Law 96–110 [Cambodian Disaster Relief Assistance Authorization, H.R. 4995], 93 Stat. 843, approved November 13, 1979; Public Law 96–257 [Special Central American Assistance Act of 1979], 94 Stat. 422, approved May 31, 1980; Public Law 96–327 [S. 1916], 94 Stat. 1026, approved August 8, 1980; Public Law 96–450 [Intelligence Authorization Act for Fiscal Year 1981, S. 2597], 94 Stat. 1975 at 1981, approved October 14, 1980; Public Law 96–465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2158; Public Law 96–525 [H.R. 8388], 94 Stat. 3043, approved December 12, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131, approved December 16, 1980; Public Law 97–65 [OPIC Amendments Act of 1981, H.R. 3136], 95 Stat. 1021, approved October 16, 1981; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 97–164 [Federal Courts Improvement Act, H.R. 4482], 96 Stat. 25 at 48, approved April 2, 1982; Public Law 97–208 [Humanitarian Assistance for the People of Lebanon, H.R. 6631], 96 Stat. 138, approved June 30, 1982; Public Law 97–377 [Further Continuing Appropriations Act, 1983; H.J. Res. 631], 96 Stat. 1830 at 1831, approved December 21, 1982; Public Law 97–438 [H.R. 7143], 96 Stat. 2286, approved January 8, 1983; Public Law 98–151 [Further Continuing Appropriations, 1984; H.J. Res. 413], 97 Stat. 964, approved November 14, 1983; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 98–473 [Continuing Appropriations, 1985; H.J. Res. 648], 98 Stat. 1837 at 1884, approved October 12, 1984; Public Law 99–8 [African Famine Relief and Recovery Act of 1985, S. 689], 99 Stat. 21, approved April 2, 1985; Public Law 99–64 [Export Administration Amendments Act of 1985, S. 883], 99 Stat. 156, approved July 12, 1985, Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99–93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 442, approved August 16, 1985; Public Law 99–204 [Overseas Private Investment Corporation Amendments Act of 1985, S. 947], 99 Stat. 1669 approved December 23, 1985; Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99–440 [Comprehensive Anti-Apartheid Act of 1986, H.R. 4868], 100 Stat. 1086, approved October 2, 1986; Public Law 99–529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; Public Law 99–570 [Anti-Drug Abuse Act of 1986, H.R. 5484], 100 Stat. 3207, approved October 27, 1986; Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987, S. 2368], 100 Stat. 3816, approved November 14, 1986; Public Law 100–202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100–204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988; H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 100–461 [Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 100–690 [International Narcotics Control Act of 1988; H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101–165 [Department of Defense Appropriations Act, 1990; H.R. 3072], 103 Stat. 1112, approved November 21, 1989; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101–179 [Support for East European Democracy (SEED) Act of 1989, H.R. 3402], 103 Stat. 1298, approved November 28, 1989; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991, H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101–218 [Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, S. 488], 103 Stat. 1868, approved December 11, 1989; Public Law 101–222 [Anti-Terrorism and Arms Export Amendments Act of 1989, H.R. 91], 103 Stat. 1892, approved December 12, 1989; Public Law 101–231 [International Narcotics Control Act of 1989, H.R. 3611], 103 Stat. 1954, approved December 13, 1989; Public Law 101–

240 [International Development and Finance Act of 1989, H.R. 2494], 103 Stat. 2492, approved December 19, 1989; Public Law 101–302 [Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101–604 [Aviation Security Improvement Act of 1990, H.R. 5732], 104 Stat. 3066, approved November 16, 1990; Public Law 101–623 [International Narcotics Control Act of 1990, H.R. 5567], 104 Stat. 3350, approved November 21, 1990; Public Law 102–88 [Intelligence Authorization Act, Fiscal Year 1991; H.R. 1455], 105 Stat. 429, approved August 14, 1991; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993; H.R. 2100], 105 Stat. 1290, approved December 5, 1991; H.R. 2621 as passed by the House on June 19, 1991 [parts of which were enacted by reference in Public Law 102–145, as amended by Public Law 102–266, 106 Stat. 92, approved April 1, 1992]; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–549 [Jobs Through Exports Act of 1992; H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 102–550 [Housing and Community Development Act of 1992; H.R. 5334], 106 Stat. 3672, approved October 28, 1992; Public Law 102–572 [Federal Courts Administration Act of 1992; S. 1569], 106 Stat. 4506, approved October 29, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103–87 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994; H.R. 2295], 107 Stat. 931, approved September 30, 1993; Public Law 103–149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 103–392 [Jobs Through Trade Expansion Act of 1994; H.R. 4950], 108 Stat. 4098, approved October 22, 1994; Public Law 103–437 [United States Code Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691, approved November 2, 1994; Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in section 301 of H.R. 2880, 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–114 [Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996; H.R. 927], 110 Stat. 785, approved March 12, 1996; Public Law 104–132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104–164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996; Public Law 104–188 [Small Business Job Protection Act of 1996; H.R. 3448], 110 Stat. 1755, approved August 20, 1996; Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104–319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864, approved October 19, 1996; Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law

105–214 [Tropical Forest Conservation Act of 1998; H.R. 2870], 112 Stat. 885, approved July 29, 1998; Public Law 105–277 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999; Foreign Affairs Reform and Restructuring Act of 1998; and Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105–292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October 27, 1998; Public Law 105–320 [Torture Victims Relief Act of 1998; H.R. 4309], 112 Stat. 3016, approved October 30, 1998; Public Law 105–362 [Federal Reports Elimination Act of 1998; S. 1364], 112 Stat. 3280, approved November 10, 1998; Public Law 106–31 [1999 Emergency Supplemental Appropriations Act; H.R. 1141], 113 Stat. 57, approved May 21, 1999; Public Law 106–87 [Torture Victims Relief Reauthorization Act of 1999; H.R. 2367], 113 Stat. 1301, approved November 3, 1999; Public Law 106–113 [Silk Road Strategy Act of 1999; Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3324 enacted by reference in sec. 1000(a)(2) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427 enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Arms Control, Nonproliferation, and Security Assistance Act of 1999; division B of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–158 [Export Enhancement Act of 1999; H.R. 3381], 113 Stat. 1745, approved December 9, 1999; Public Law 106–200 [African Growth and Opportunity Act; title I of H.R. 434], 114 Stat. 252, approved May 18, 2000; Public Law 106–264 [Global AIDS and Tuberculosis Relief Act of 2000; H.R. 3519], 114 Stat. 748, approved August 19, 2000; Public Law 106–280 [Security Assistance Act of 2000; H.R. 4919], 114 Stat. 845, approved October 6, 2000; Public Law 106–309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000; H.R. 1143], 114 Stat. 1078, approved October 17, 2000; Public Law 106–373 [Famine Prevention and Freedom From Hunger Improvement Act of 2000; H.R. 4002], 114 Stat. 1427, approved October 27, 2000; Public Law 106–386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat.1464, approved October 28, 2000; Public Law 106–429 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; H.R. 5526, enacted by reference in H.R. 4811], 114 Stat. 1900A–3, approved November 6, 2000; Public Law 107–26 [H.R. 2131], 115 Stat. 206, approved August 17, 2001; Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; Public Law 107–246 [Russian Democracy Act of 2002; H.R. 2121], 116 Stat. 1511, approved October 23, 2002; Public Law 107–372 [H.R. 4883], 116 Stat. 3078, approved December 19, 2002; Public Law 108–25 [United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003; H.R. 1298], 117 Stat. 711, approved May 27, 2003; and by Public Law 108–31 [H.R. 192], 117 Stat. 775, approved June 17, 2003

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

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

[1] The short title was added by sec. 111 of the FA Appropriation Act, 1962.

PART I

Chapter 1—Policy; Development Assistance Authorizations [2]

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

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

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

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

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

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

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

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

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

(b) [6] Under the policy guidance of the Secretary of State, the agency primarily responsible for administering this part should

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[2] Sec. 101(a) of the FA Act of 1963 struck out the words "SHORT TITLE AND" in the chapter heading, which formerly read "SHORT TITLE AND POLICY". Sec. 2(1) of the FA Act of 1973 added the following words to the chapter heading: "Development Assistance Authorizations".

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

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

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

[6] The responsibilities of the Agency mentioned in this subsection were transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The responsibilities of the Secretary of State, insofar as they relate to policy guidance other than

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have the responsibility for coordinating all United States development-related activities.

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

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

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

The Congress declares that the principal purpose of United States bilateral development assistance is to help the poor majority of people in developing countries to participate in a process of equitable growth through productive work and to influence decisions that shape their lives, with the goal of increasing their incomes and their access to public services which will enable them to satisfy their basic needs and lead lives of decency, dignity, and hope. Activities shall be emphasized that effectively involve the poor in de-

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foreign policy guidance, were also transferred to the Director. Subsequently, the Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

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

"SEC. 1413. STATUS OF AID.

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

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

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

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

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

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

velopment by expanding their access to the economy through services and institutions at the local level, increasing their participation in the making of decisions that affect their lives, increasing labor-intensive production and the use of appropriate technology, expanding productive investment and services out from major cities to small towns and rural areas, and otherwise providing opportunities for the poor to improve their lives through their own efforts. Participation of the United States in multilateral institutions shall also place appropriate emphasis on these principles.

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

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

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

(3) United States bilateral development assistance should give high priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries, while also helping such governments enhance their planning, technical, and administrative capabilities needed to insure the success of such undertakings.

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

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

(B) reduction of infant mortality;

(C) control of population growth;

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

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

(F) increase in literacy; and

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

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

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

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

(8) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, free labor unions, and private and voluntary agencies.

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

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

(11) Assistance efforts of the United States shall be planned and furnished to the maximum extent practicable in coordination and cooperation with assistance efforts of other countries,

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

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

including the planning and implementation of programs and projects on a multilateral and multidonor basis.

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

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

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

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

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

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

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

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

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

NOTE.—Foreign assistance appropriations for fiscal year 2003 are included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of the Consolidated Appropriations Resolution, 2003; Public Law 108–7; 117 Stat. 11), and the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559). Amounts appropriated by that Act to carry out the purposes of provisions contained in the Foreign Assistance Act of 1961, during fiscal year 2003 unless otherwise specified, are included in footnotes.

NOTE.—Prior to fiscal year 1992, Congress appropriated funds for each of the Development Assistance functional accounts authorized in sections 103 through 106 of the Foreign Assistance Act of 1961. For fiscal year 1992 through fiscal year 1995, however, Congress made appropriations in one lump sum for all programs within sections 103 through 106, with the exception of "Population, Development Assistance". In fiscal year 1996, Congress made appropriations in one lump sum for Development Assistance. Since fiscal year 1997, Congress has made appropriations to two development accounts: "Development Assistance" and "Child Survival and Disease Programs Fund". In fiscal year 2003, the latter account is referred to as the "Child Survival and Health Programs Fund".

For fiscal year 2003, to remain available until September 30, 2004, for the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961 (Development Assistance and Development Fund for Africa), Congress appropriated $1,389,000,000. Congress also appropriated $1,836,500,000 in fiscal year 2003, to remain available until September 30, 2005, for child survival, reproductive health/family planning, assistance to combat tropical and other infectious diseases, and related activities. Congress also appropriated $90,000,000 to remain available until September 30, 2004, in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 572).

NOTE.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 179), provided the following:

"OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

"SEC. 501. Except for the appropriations entitled 'International Disaster Assistance' and 'United States Emergency Refugee and Migration Assistance Fund', not more than 15 percent of any appropriation item made available by this Act shall be obligated during the last month of availability.".

NOTE.—Transfers Between Accounts. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 182), provided the following:

"TRANSFERS BETWEEN ACCOUNTS

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

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

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

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

NOTE.—Availability of Funds. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 182), provided the following:

"AVAILABILITY OF FUNDS

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

NOTE.—Notification Requirements. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 184), provided the following:

"NOTIFICATION REQUIREMENTS

"SEC. 515. For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for 'Child Survival and Health Programs Fund', 'Development Assistance', 'International Organizations and Programs', 'Trade and Development Agency', 'International Narcotics Control and Law Enforcement', 'Andean Counterdrug Initiative','Assistance for Eastern Europe and the Baltic States', 'Assistance for the Independent States of the Former Soviet Union', 'Economic Support Fund', 'Peacekeeping Operations', 'Capital Investment Fund', 'Operating Expenses of the United States Agency for International Development', 'Operating Expenses of the United States Agency for International Development Office of Inspector General', 'Nonproliferation, Anti-terrorism, Demining and Related Programs', 'Foreign Military Financing Program', 'International Military Education and Training', 'Peace Corps', and 'Migration and Refugee Assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*,

That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.”.

NOTE.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 193), provided the following:

"SPECIAL AUTHORITIES

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

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

"(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 20 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided*, That not more than 7 of such contractors shall be assigned to any bureau or office: *Provided further*, That such funds appropriated to carry out the Foreign Assistance Act of 1961 may be made available for personal services contractors assigned only to the Office of Procurement; the Bureau for Africa; and the Bureau for Asia and the Near East: *Provided further*, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

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

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

"(e) CONTINGENCIES.—During fiscal year 2003, the President may use up to $45,000,000 under the authority of section 451 of the Foreign Assistance Act, notwithstanding the funding ceiling in section 451(a).

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

"(g) SHIPMENT OF HUMANITARIAN ASSISTANCE.—During fiscal year 2003, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made available to nongovernmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.

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

"(i) REPEAL.—Section 545(d) of Public Law 106–429, and comparable provisions contained in prior Acts making appropriations for foreign operations, export financing, and related programs, are hereby repealed.

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

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

Sec. 3003(d) of that Act, however, exempted certain sections of law from the application of subsec. (a). Among those exempted were several reports required by the Foreign Assistance Act of 1961 in secs. 116, 240A, 306, 489, 502B, and 634. Among those exempted were several reports required by the Arms Export Control Act in secs. 25, 28, and 36. Among those exempted was sec. 502 of the International Security and Development Cooperation Act of 1985. For a complete list of sections of law exempted from the application of sec. 3003(a) of Public Law 104–66, see *Legislation on Foreign Relations Through 2002*, vol. IV.

Sec. 209(e) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), continued the requirement of several reports to which Public Law 104–66 would otherwise have applied, including those required in secs. 118(f), 239(c), and 620C(c) of the Foreign Assistance Act of 1961; sec. 1205 of the International Security and Development Cooperation Act of 1985; secs. 533(b) and 586J(c)(4) of the Foreign Assistance Appropriations Act, 1991. For a complete list of sections of law exempted from the application of sec. 3003(a) of Public Law 104–66 by sec. 209(e) of Public Law 106–113, see *Legislation on Foreign Relations Through 2002*, vol. IV.

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

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

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

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

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

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

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

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

[13] The authorization figures for fiscal years 1986 and 1987 were added by sec. 302 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Authorizations for recent years included: fiscal year 1975—$500,000,000; fiscal year 1976—$618,000,000; fiscal year 1977—$745,000,000; fiscal year 1978—$580,000,000; fiscal year 1979—$665,231,000; fiscal year 1980—$659,000,000; fiscal year 1981—$713,500,000; fiscal year 1982—$700,000,000; fiscal year 1983—$700,000,000; fiscal year 1984—$725,213,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

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

[15] Paragraph 3 was added by sec. 1304 of Public Law 99–399 (100 Stat. 898).

conservation, and improved seed, in ways which assure access to them by small farmers.

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

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

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

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

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

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

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

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

(f)[16] The Congress finds that the efforts of developing countries to enhance their national food security deserves encouragement as a matter of United States development assistance policy. Measures complementary to assistance for expanding food production in developing countries are needed to help assure that food becomes increasingly available on a regular basis to the poor in such countries. Therefore, United States bilateral assistance under this Act and the Agricultural Trade Development and Assistance Act of 1954, and United States participation in multilateral institutions, shall emphasize policies and programs which assist developing countries to increase their national food security by improving their food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing post-harvest food losses, and improving food distribution.

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

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

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

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

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

[19] The word "environmental," was added by sec. 103(d) of the International Development and Food Assistance Act of 1978 (92 Stat. 945).

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

Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least affected by economic progress, as well as the result of a lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services and is often a matter of political and religious sensitivity. While every country has the right to determine its own policies with respect to population growth, voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition.

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

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

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

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

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

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

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

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

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

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

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

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

"(i) primary prevention and education;

"(ii) voluntary testing and counseling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(a) ASSISTANCE.—

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

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

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

"(b) AUTHORIZATION OF APPROPRIATIONS.—

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

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

[23] The paragraph designation "(1)" and a new par. (2) were added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985

of health programs, and other services and suppliers to support health and disease prevention programs.

(2)[23] (A) In carrying out the purposes of this subsection, the President shall promote, encourage, and undertake activities designed to deal directly with the special health needs of children and mothers. Such activities should utilize simple, available technologies which can significantly reduce childhood mortality, such as improved and expanded immunization programs, oral rehydration to combat diarrhoeal diseases, and education programs aimed at improving nutrition and sanitation and at promoting child spacing. In carrying out this paragraph, guidance shall be sought from knowledgeable health professionals from outside the agency primarily responsible for administering this part. In addition to government-to-government programs, activities pursuant to this paragraph should include support for appropriate activities of the types described in this paragraph which are carried out by international organizations (which may include international organizations receiving funds under chapter 3 of this part) and by private and voluntary organizations, and should include encouragement to other donors to support such types of activities.

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

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(Public Law 98–473). This amendment had been included as sec. 303 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 303 of H.R. 5119.

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

Titles II and V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 161, 187), provided the following:

"UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"(including transfer of funds)

"For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,836,500,000, to remain available until September 30, 2005: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for displaced and orphaned children; (5) programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $150,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $324,000,000 for child survival and maternal health; $27,000,000 for vulnerable children; $591,500,000 for HIV/AIDS including not less than $18,000,000 which should be made available to support the development of microbicides as a means for combating HIV/AIDS; $155,500,000 for other infectious diseases; $368,500,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species; and $120,000,000 for UNICEF: *Provided further,* That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That the cumulative amount of United States contributions to the Global Fund may not exceed the total resources provided by other donors and available for use by the Global

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Fund: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, up to $10,500,000 should be made available for the International AIDS Vaccine Initiative, and up to $100,000,000 should be made available for the International Mother and Child HIV Prevention Initiative: *Provided further,* That of the funds appropriated under this heading, up to $60,000,000 may be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the United States Agency for International Development' for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under the preceding provisos: *Provided further,* That notwithstanding any other provision of this Act, funds appropriated under this heading that are available for child survival and health programs shall be apportioned to the United States Agency for International Development, and the authority of sections 632(a) or 632(b) of the Foreign Assistance Act of 1961, or any comparable provision of law, may not be used to transfer or allocate any part of such funds to the Department of Health and Human Services including any office of that agency, except that the authority of those sections may be used to transfer or allocate up to $25,000,000 of such funds to the Centers for Disease Control and Prevention: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries: *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term 'motivate', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That the funds under this heading that are available for the treatment and prevention of HIV/AIDS should also include programs and activities that are designed to maintain and preserve the families of those persons living with HIV/AIDS and to reduce the numbers of orphans created by HIV/AIDS.

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"CHILD SURVIVAL AND HEALTH ACTIVITIES

"SEC. 522. Up to $13,500,000 of the funds made available by this Act for assistance under the heading 'Child Survival and Health Programs Fund', may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided,* That up to $3,500,000 of the funds made available by this Act

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

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

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

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

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for assistance under the heading 'Development Assistance' may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further,* That funds appropriated by this Act that are made available for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law: *Provided further,* That funds appropriated under title II of this Act may be made available pursuant to section 301 of the Foreign Assistance Act of 1961 if a primary purpose of the assistance is for child survival and related programs: *Provided further,* That of the funds appropriated under title II of this Act, not less than $446,500,000 shall be made available for family planning/reproductive health.".

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 572), provided an additional $90,000,000 for "Child Survival and Health Programs Fund" to remain available until September 30, 2004.

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

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

[26] The last sentence of paragraph (3) was added by sec. 103(a) of Public Law 99–529 (100 Stat. 3010).

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

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

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

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

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

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

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

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

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

(f)[29] PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—(1) None of the funds made available to carry out this part may be used to pay for the performance of abor-

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

[29] Sec. 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 186), made a similar prohibition.

tions as a method of family planning or to motivate[30] or coerce any person to practice abortions.

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

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

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

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

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

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

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[30] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (Public Law 108–7; 117 Stat. 163), under "Child Survival and Health Programs Fund", provided the following:

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

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

[31] Par. (3) of subsec. (f) was added by sec. 302(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1532).

[32] The authorization figures for fiscal years 1986 and 1987 to carry out subsecs. (b) and (c) were added by sec. 303 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Subsequently, sec. 404 of Public Law 99–529 (100 Stat. 3341) replaced the $205,000,000 authorization for subsec. (c) with an authorization of $180,000,000. Authorizations under subsec. (b) in recent years include: fiscal year 1978—$167,000,000; fiscal year 1979—$224,745,000; fiscal year 1980—$201,000,000; fiscal year 1981—$238,000,000; fiscal year 1982—$211,000,000; fiscal year 1983—$211,000,000; fiscal year 1984—$244,600,000; fiscal year 1985—no authorization; fiscal years 1988 through 2002—no authorization.

Authorizations under subsec. (c) in recent years include: fiscal year 1978—$107,700,000; fiscal year 1979—$148,494,000; fiscal year 1980—$141,000,000; fiscal year 1981—$145,300,000; fiscal year 1982—$133,405,000; fiscal year 1983—$133,405,000 (of the 1982 and 1983 subsec. (c) authorizations, not less than 16 percent or $38,000,000 whichever amount is less was made available for United Nations Fund for Population Activities); fiscal year 1984—$133,404,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirement for authorization, and title II of that Act (at 115 Stat. 162) provided the following:

"UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"(INCLUDING TRANSFER OF FUNDS

"* * * *Provided further*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abor-

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

(a) FINDING.—Congress recognizes that the alarming spread of HIV/AIDS in countries in sub-Saharan Africa, the Caribbean, and other developing countries is a major global health, national security, development, and humanitarian crisis.

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

(c) AUTHORIZATION.—

(1) IN GENERAL.—Consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for HIV/AIDS, including to prevent, treat, and monitor HIV/AIDS, and carry out

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tions: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That the funds under this heading that are available for the treatment and prevention of HIV/AIDS should also include programs and activities that are designed to maintain and preserve the families of those persons living with HIV/AIDS and to reduce the numbers of orphans created by HIV/AIDS.".

See also sec. 518 of that Act, relating to the prohibition on funding for abortions and involuntary sterilization, sec. 522, relating to child survival and health activities, and sec. 572, relating to U.S. participation in the United Nations Population Fund.

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

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

related activities, in countries in sub-Saharan Africa, the Caribbean, and other countries and areas.

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

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

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

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

(A) programs and efforts that are designed or intended to impart knowledge with the exclusive purpose of helping individuals avoid behaviors that place them at risk of HIV infection, including integration of such programs into health programs and the inclusion in counseling programs of information on methods of avoiding infection of HIV, including delaying sexual debut, abstinence, fidelity and monogamy, reduction of casual sexual partnering, reducing sexual violence and coercion, including child marriage, widow inheritance, and polygamy, and where appropriate, use of condoms;

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

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

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

(E) assistance for the purpose of preventing mother-to-child transmission of the HIV infection, including medica-

tions to prevent such transmission and access to infant formula and other alternatives for infant feeding;

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

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

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

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

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

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

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

(3) PREVENTATIVE INTERVENTION EDUCATION AND TECHNOLOGIES.—(A) With particular emphasis on specific populations that represent a particularly high risk of contracting or spreading HIV/AIDS, including those exploited through the sex trade, victims of rape and sexual assault, individuals already infected with HIV/AIDS, and in cases of occupational exposure of health care workers, assistance with efforts to reduce the risk of HIV/AIDS infection including post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

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

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

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

(B) appropriate evaluation and surveillance activities;

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

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

(5) PHARMACEUTICALS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) ANNUAL REPORT.—

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

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

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

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

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

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

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

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

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

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

(f) FUNDING LIMITATION.—Of the funds made available to carry out this section in any fiscal year, not more than 7 percent may be

used for the administrative expenses of the United States Agency for International Development in support of activities described in section 104(c), this section, section 104B, and section 104C. Such amount shall be in addition to other amounts otherwise available for such purposes.

(g) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

Sec. 105.[36] Education and Human Resources Development.—(a)[37] In order to reduce illiteracy, to extend basic education, and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $180,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987, which are authorized to remain available until expended.[38]

(b)[37, 39] Assistance provided under this section shall be used primarily to expand and strengthen nonformal education methods, es-

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

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

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

[38] The authorization figures for fiscal years 1986 and 1987 were added by sec. 306 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Authorizations for recent years include fiscal year 1975—$92,000,000; fiscal year 1976—$89,200,000; fiscal year 1977—$101,800,000; fiscal year 1978—$84,900,000; fiscal year 1979—$126,244,000; fiscal year 1980—$105,000,000; fiscal year 1981—$101,000,000; fiscal year 1982—$103,600,000; fiscal year 1983—$103,600,000; fiscal year 1984—$121,477,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

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

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

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

(c)[39, 41] * * * [Repealed—1979]

Sec. 106.[42] **Energy, Private Voluntary Organizations, and Selected Development Activities.**—(a)(1)(A)[43] The Congress finds that energy development and production are vital elements in the development process, that energy shortages in developing countries severely limit the development process in such countries, that two-thirds of the developing countries which import oil depend on it for at least 90 percent of the energy which their economies require, and that the dramatic increase in world oil prices since 1973 has resulted in considerable economic hardship for many developing countries. The Congress is concerned that the value and purpose of much of the assistance provided to developing countries

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

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

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

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

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

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

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

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

See also the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2776), particularly title XII, as it relates to the export of renewable energy technologies, and title XIII, as it relates to the export of clean coal technology. See *Legislation on Foreign Relations Through 2002*, vol. IV, sec. L.

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

under sections 103, 104, and 105 are undermined by the inability of many developing countries to satisfy their energy requirements. Unless the energy deficit of the developing countries can be narrowed by more fully exploiting indigenous sources of energy such as oil, natural gas, and coal, scarce foreign exchange will increasingly have to be diverted to oil imports, primarily to the detriment of long-term development and economic growth.

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

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

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

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

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

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

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

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

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

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

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

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

(2)[46] programs of research into, and evaluation of, the process of economic development in less developed countries and areas, into the factors affecting the relative success and costs

[44] Sec. 304(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3146) redesignated pars. (1) and (2) of subsec. (b) as subpars. (A) and (B), respectively, and added a new par. (2). Subsequently, designation of subpar. (A) was struck out and subpar. (B) was repealed by sec. 1211(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279). Subpar. (B) previously read as follows: "Of the funds made available to carry out this section, up to $7,000,000 for the fiscal year 1981 shall be used for purposes of paragraph (A) to facilitate geological and geophysical survey work to locate potential oil, natural gas, and coal reserves and to encourage exploration for potential oil, natural gas, and coal reserves in developing countries which are not members of the Organization of Petroleum Exporting Countries".

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

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

of development activities, and into the means, techniques, and such other aspects of development assistance as the President may determine in order to render such assistance of increasing value and benefit;

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

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

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

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

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

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

Sec. 107.[50] **Appropriate Technology.**—(a) In carrying out activities under this chapter, the President shall place special emphasis on the use of relatively smaller, cost-saving, labor-using tech-

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

[48] The authorization figures for fiscal years 1986 and 1987 were added by sec. 309(b) of the International Security and Development Act of 1985 (Public Law 99–83; 99 Stat. 190). Authorizations for recent years included the following: fiscal year 1976—$99,550,000; fiscal year 1977—$104,500,000; fiscal year 1978—$105,000,000; fiscal year 1979—$126,244,000; fiscal year 1980—$125,000,000; fiscal year 1981—$140,000,000; fiscal year 1982—$147,200,000; fiscal year 1983—$147,200,000; fiscal year 1984—$160,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

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

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

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

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

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

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

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

nologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor.

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

Sec. 108.[51] **Application of Existing Provision.** * * * [Repealed—1978]

SEC. 108.[52] **MICROENTERPRISE DEVELOPMENT CREDITS.**

(a) FINDINGS AND POLICY.—Congress finds and declares that—

(1) the development of micro- and small enterprises is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system; and

(2) it is, therefore, in the best interests of the United States to assist the access to financial services and the development of microenterprises[53] in developing countries and to engage the United States private sector in that process.

(b)[54] PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises to improve their quality of life.

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[51] Sec. 108, as added by the FA Act of 1973, was repealed by sec. 102(g)(2)(K)(i) of the International Development and Food Assistance Act of 1978 (92 Stat. 943).

[52] 22 U.S.C. 2151f. Formerly titled "**Private Sector Revolving Fund**"; amended and restated by sec. 106 of the Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1085) to read "MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS". Subsequently amended by sec. 2(f) of Public Law 108–31 (117 Stat. 775) to read "MICROENTERPRISE DEVELOPMENT CREDITS". Earlier versions of the section were added by the International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972), and by sec. 2211 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 102 Stat. 1335). Previously, the section authorized up to $18,000,000 in each of fiscal year 1986 and fiscal year 1987 to be deposited in the Private Sector Revolving Fund.

[53] Sec. 2(a) of Public Law 108–31 (117 Stat. 775) struck out "the development of the enterprises of the poor" and inserted in lieu thereof "the access to financial services and the development of microenterprises".

[54] Sec. 2(b) of Public Law 108–31 (117 Stat. 775) amended and restated subsec. (b). It formerly read as follows:

"PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of credit to micro- and small enterprises lacking full access to credit, including through—

"(1) loans and guarantees to credit institutions for the purpose of expanding the availability of credit to micro- and small enterprises;

"(2) training programs for lenders in order to enable them to better meet the credit needs of microentrepreneurs; and

"(3) training programs for microentrepreneurs in order to enable them to make better use of credit and to better manage their enterprises.".

(c) ELIGIBILITY CRITERIA.—The Administrator of the agency primarily responsible for administering this part shall establish criteria for determining which microfinance institutions[55] described in subsection (b)(1) are eligible to carry out activities, with respect to microenterprise households,[56] assisted under this section. Such criteria may include the following:

(1) The extent to which the recipients of financial services[57] from the entity do not have access to the local formal financial sector.

(2) The extent to which the recipients of financial services[57] from the entity are among the poorest people in the country.

(3) The extent to which the entity is oriented toward working directly with poor women.

(4) The extent to which the entity recovers its cost of lending.

(5) The extent to which the entity implements a plan to become financially sustainable.

(d) ADDITIONAL REQUIREMENT.—Assistance provided under this section may only be used to support programs for microenterprise households[58] and may not be used to support programs not directly related to the purposes described in subsection (b).

(e) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a).

(f) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Of the amounts authorized to be available to carry out section 131, there are authorized to be available $1,500,000 for each of fiscal years 2001 through 2004[59] to carry out this section.[60]

(2) COVERAGE OF SUBSIDY COSTS.—Amounts authorized to be available under paragraph (1) shall be made available to cover

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[55] Sec. 2(c)(1)(A) of Public Law 108–31 (117 Stat. 775) struck out "credit institutions" and inserted in lieu thereof "microfinance institutions".

[56] Sec. 2(c)(1)(B) of Public Law 108–31 (117 Stat. 775) struck out "micro- and small enterprises" and inserted in lieu thereof "microenterprise households".

[57] Sec. 2(c)(2) of Public Law 108–31 (117 Stat. 775) struck out "credit" and inserted in lieu thereof "financial services".

[58] Sec. 2(d) of Public Law 108–31 (117 Stat. 775) struck out "micro- and small enterprise programs" and inserted in lieu thereof "programs for microenterprise households".

[59] Sec. 2(e) of Public Law 108–31 (117 Stat. 775) struck out "for each of fiscal years 2001 and 2002" and inserted in lieu thereof "for each of fiscal years 2001 through 2004".

[60] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 164), provided the following:

"DEVELOPMENT CREDIT AUTHORITY

"(INCLUDING TRANSFER OF FUNDS)

"For the cost of direct loans and loan guarantees, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided,* That such funds when added to the funds transferred pursuant to the authority contained under this heading in Public Law 107–115, shall not exceed $24,500,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading. In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $7,591,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided further,* That funds made available under this heading shall remain available until September 30, 2007.".

the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, for activities under this section.

Sec. 109.[61] **Transfer of Funds.**—Whenever[62] the President determines it to be necessary for the purposes of this chapter, not to exceed 15 per centum of the funds made available for any provision of this chapter may be transferred to, and consolidated with, the funds made available for any other provision of this chapter, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision. The authority of sections 610(a) and 614(a) of this Act may not be used to transfer funds made available under this chapter for use for purposes of any other provision of this Act except that the authority of such sections may be used to transfer for the purposes of section 667 not to exceed five per centum of the amount of funds made available for section 667(a)(1).[63]

Sec. 110.[64] **Cost-Sharing and Funding Limits.**—No assistance shall be furnished by the United States Government to a country under sections 103 through 106 of this Act until the coun-

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[61] 22 U.S.C. 2151g. Sec. 109 was added by sec. 2(3) of the FA Act of 1973.

Sec. 509 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 182), provided the following:

"TRANSFERS BETWEEN ACCOUNTS

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

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

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

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

[62] The words "Notwithstanding sec. 108 of this Act," that had previously appeared before "whenever," were struck by sec. 102(g)(2)(K)(ii) of the International Development and Food Assistance Act of 1978 (92 Stat. 943).

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

[64] 22 U.S.C. 2151h. Sec. 110 was added by sec. 2(3) of the FA Act of 1973. Sec. 1211(a)(3) of the International Security and Development Cooperation Act of 1985 deleted par. (b) and removed the "(a)" designation from the preceding paragraph. Par. (b) previously read as follows:

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

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

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

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

try provides assurances to the President, and the President is satisfied, that such country provide at least 25 per centum of the costs of the entire program, project, or activity with respect to which such assistance is to be furnished, except that such costs borne by such country may be provided on an "in-kind" basis.[65]

Sec. 111.[66] **Development and Use of Cooperatives.**—In order to strengthen the participation of the rural and urban poor in their country's development, high priority shall be given to increasing the use of funds made available under this Act for technical and capital assistance in the development and use[67] of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.[68] In meeting the requirement of the preceding sentence, specific priority shall be given to the following:[69]

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

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

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

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

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

[66] 22 U.S.C. 2151i. Sec. 111, as added by sec. 2(3) of the FA Act of 1973, was amended by sec. 308 of Public Law 94–161 (89 Stat. 849). It formerly read as follows: "In order to strengthen the participation of the urban and rural poor in their country's development, not less than $20,000,000 of the funds made available for the purposes of this chapter shall be available during the fiscal years 1974 and 1975 only for assistance in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.".

[67] The words "technical and capital assistance in the development and use" were inserted in lieu of "assistance in the development" by sec. 107(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 535).

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

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

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

Sec. 112.[70] **Prohibiting Police Training.** * * * [Repealed—1974]

Sec. 113.[71] **Integrating Women Into National Economies.**—(a) In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, this part shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort.

(b)[71] (1) Up to $10,000,000 of the funds made available each fiscal year under this chapter and chapter 10 of this part[72] shall be used, in addition to funds otherwise available for such purposes, for assistance on such terms and conditions as the President may determine to encourage and promote the participation and integration of women as equal partners in the development process in the developing countries. These funds shall be used primarily to support activities which will increase the economic productivity and income earning capacity of women.

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

(c)[71] Not less than $500,000 of the funds made available under this chapter for fiscal year 1982 shall be expended on international programs which support the original goals of the United Nations Decade for Women.

Sec. 114.[73] **Limiting Use of Funds for Abortions or Involuntary Sterilization.** * * * [Repealed—1978]

Sec. 115.[74] **Prohibiting Use of Funds for Certain Countries.** * * * [Repealed—1978]

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

[71] 22 U.S.C. 2151k. Sec. 113, as added by sec. 2(3) of the FA Act of 1973, was amended and restated by sec. 108 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 536). Sec. 113 formerly read as follows:

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

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

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

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

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

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

Sec. 116.[75] **Human Rights.**—(a) No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons,[76] or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

(b) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[77] of the House of Representatives may require the Administrator primarily responsible for administering part I of this Act to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 617 of this Act.

(b)[78] No assistance may be provided to any government failing to take appropriate and adequate measures, within their means, to protect children from exploitation, abuse or forced conscription into military or paramilitary services.

(c)[79] In determining whether or not a government falls within the provisions of subsection (a) and in formulating development assistance programs under this part, the Administrator shall consider, in consultation with the Assistant Secretary of State for De-

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[75] 22 U.S.C. 2151n. Sec. 116 was added by sec. 310 of Public Law 94–161 (89 Stat. 849). See also in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002: sec. 534, relating to special authorities; and sec. 537, relating to eligibility for assistance.

[76] This phrase beginning with "causing the disappearance of * * *" was added by sec. 701(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156).

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

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

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

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

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

mocracy, Human Rights, and Labor[80] and in consultation with the Ambassador at Large for International Religious Freedom—[81]

(1) the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States;[82]

(2) specific actions which have been taken by the President or the Congress relating to multilateral or security assistance to a less developed country because of the human rights practices or policies of such country; and[82]

(3)[82] whether the government—

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

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

(d)[79] The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25[83] of each year, a full and complete report regarding—

(1)[84] the status of internationally recognized human rights, within the meaning of subsection (a)—

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

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

(2)[85] wherever applicable, practices regarding coercion in population control, including coerced abortion and involuntary sterilization;

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

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

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

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

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

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

(3)[86] the status of child labor practices in each country, including—

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

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

(4)[85, 86] the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year;

(5)[85] the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement;[87]

(6)[85, 87] the steps the Administrator has taken to alter United States programs under this part in any country because of human rights considerations;

(7)[86, 87] wherever applicable, violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998);

(8)[87] wherever applicable, consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987);

(9)[88] for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent

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out "and" at the end of para. (2), redesignated para. (3) as para. (5), and added new paras. (3) and (4). See also footnote 86.

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

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

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

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

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

to which the United States has taken or will take action to encourage an end to such practices in the country; and

(10)[89] (A) wherever applicable, a description of the nature and extent)—

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

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

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

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

(e)[79, 90] The President is authorized and encouraged to use not less than $3,000,000 of the funds made available under this chapter, chapter 10 of this part,[91] and chapter 4 of part II for each fiscal year for studies to identify, and for openly carrying out, programs and activities which will encourage or promote increased adherence to civil and political rights, including the right to free reli-

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[89] Sec. 683(a) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1410) struck out "and" at the end of para. (8); replaced a period at the end of para (9) with "; and "; and added a new para. (10).

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

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

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

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

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

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

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

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

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

gious belief and practice,[92] as set forth in the Universal Declaration of Human Rights, in countries eligible for assistance under this chapter or under chapter 10 of this part, except that funds made available under chapter 10 of this part may only be used under this subsection with respect to countries in sub-Saharan Africa. None of these funds may be used, directly or indirectly, to influence the outcome of any election in any country.

(f)[93] (1) The report required by subsection (d) shall include the following:

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

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

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

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

"SEC. 501. ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(3) For purposes of this subsection—

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 117.[94] **Assistance for Disadvantaged South Africans.** * * * [Repealed—1993]

[94] Formerly at 22 U.S.C. 2151o. Sec. 117 was repealed by sec. 4(a)(3)(B) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505). It had been added originally by sec. 201(b) of Public Law 99–440 (100 Stat. 1094). Sec. 117 provided assistance for disadvantaged South Africans through South African nongovernmental organizations, such as the Educational Opportunities Council, the South African Institute of Race Relations, READ, professional teachers' unions, the Outreach Program of the University of the Western Cape, the Funda Center in Soweto, SACHED, UPP Trust, TOPS, the Wilgespruit Fellowship

Sec. 117.[95] **Environment and Natural Resources.**—(a) The Congress finds that if current trends in the degradation of natural resources in developing countries continue, they will severely undermine the best efforts to meet basic human needs, to achieve sustained economic growth, and to prevent international tension and conflict. The Congress also finds that the world faces enormous, urgent, and complex problems, with respect to natural resources, which require new forms of cooperation between the United States and developing countries to prevent such problems from becoming unmanageable. It is, therefore, in the economic and security interests of the United States to provide leadership both in thoroughly reassessing policies relating to natural resources and the environment, and in cooperating extensively with developing countries in order to achieve environmentally sound development.

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

(c)(1) The President, in implementing programs and projects under this chapter and chapter 10 of this part,[96] shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for programs or projects under this chapter—

Center (WFC), and civic and other organizations working at the community level which did not receive funds from the Government of South Africa.

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

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

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

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

See also sec. 517(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 185), relating to assistance to the new independent states of the former Soviet Union.

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

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

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

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

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

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

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

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

Sec. 118.[97] Tropical Forests.

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

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

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

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

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

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

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

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

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

[97] 22 U.S.C. 2151p–1. Sec. 118 was added by sec. 301(3) of Public Law 99–529 (100 Stat. 3014). See also footnote 95.

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

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

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

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

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

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

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

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

(6) To the fullest extent feasible, help conserve forests which have not yet been degraded, by helping to increase production on lands already cleared or degraded through support of reforestation, fuelwood, and other sustainable forestry projects and practices, making sure that local people are involved at all stages of project design and implementation.

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) Deny assistance under this chapter for—

(A) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest destruction and that the proposed activity will produce positive economic benefits and sustainable forest management systems; and

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

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

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

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

(C) The colonization of forest lands.

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

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

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

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

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

(f)[98] ANNUAL REPORT.—Each annual report required by section 634(a) of this Act shall include a report on the implementation of this section.

Sec. 119.[99] **Renewable and Unconventional Energy Technologies.** * * * [Repealed—1980]

Sec. 119.[100] **Endangered Species.**—(a) The Congress finds the survival of many animal and plant species is endangered by overhunting, by the presence of toxic chemicals in water, air and soil, and by the destruction of habitats. The Congress further finds that the extinction of animal and plant species is an irreparable loss with potentially serious environmental and economic consequences for developing and developed countries alike. Accordingly, the preservation of animal and plant species through the regulation of the hunting and trade in endangered species, through limitations on the pollution of natural ecosystems, and through the protection of wildlife habitats should be an important objective of the United States development assistance.

(b)[100] In order to preserve biological diversity, the President is authorized to furnish assistance under this part, notwithstanding section 660,[101] to assist countries in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs. Special efforts should be made to establish and maintain wildlife sanctuaries, reserves, and parks; to

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

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

[100] 22 U.S.C. 2151q. Sec. 119, pars. (a) and (b) were added by sec. 702 of the International Environment Protection Act of 1983 (title VII of the Department of State Authorization Act, Fiscal Years 1984 and 1985, Public Law 98–164; 97 Stat. 1045).

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

enact and enforce anti-poaching measures; and to identify, study, and catalog animal and plant species, especially in tropical environments.

(c)[102] FUNDING LEVEL.—For fiscal year 1987, not less than $2,500,000 of the funds available to carry out this part (excluding funds made available to carry out section 104(c)(2), relating to the Child Survival Fund) shall be allocated for assistance pursuant to subsection (b) for activities which were not funded prior to fiscal year 1987. In addition, the Agency for International Development shall, to the fullest extent possible, continue and increase assistance pursuant to subsection (b) for activities for which assistance was provided in fiscal years prior to fiscal year 1987.

(d)[102] COUNTRY ANALYSIS REQUIREMENTS.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

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

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

(e)[102] LOCAL INVOLVEMENT.—To the fullest extent possible, projects supported under this section shall include close consultation with and involvement of local people at all stages of design and implementation.

(f)[102] PVOs AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Whenever feasible, the objectives of this section shall be accomplished through projects managed by appropriate private and voluntary organizations, or international, regional, or national nongovernmental organizations, which are active in the region or country where the project is located.

(g)[102] ACTIONS BY AID.—The Administrator of the Agency for International Development shall—

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

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

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

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

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

[102] Pars. (c) through (h) were added by sec. 302 of Public Law 99–529 (100 Stat. 3017).

essary appropriations, additional assistance necessary for the establishment and maintenance of such protected areas;

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

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

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

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

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

(h)[102] ANNUAL REPORTS.—Each annual report required by section 634(a) of this Act shall include, in a separate volume, a report on the implementation of this section.

Sec. 120.[103] **Sahel Development Program—Planning.**—(a) The Congress reaffirms its support of[104] the initiative of the United States Government in undertaking consultations and planning with the countries concerned, and with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program.

(b)[105] The President is authorized to develop a long-term comprehensive development program for the Sahel and other drought-stricken nations in Africa.

(c)[105] In developing this long-term program, the President shall—

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

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[103] 22 U.S.C. 2151r. Sec. 120, originally added as sec. 639B of this Act by sec. 20 of the FA Act of 1973 and later redesignated as sec. 494B by sec. 101(5) of Public Law 94–161 (89 Stat. 849), was again redesignated as sec. 120 by sec. 115(1) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 539).

The title caption "Sahel Development Program—Planning" was inserted in lieu of "African Development Program" by sec. 115(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 539).

[104] The words in the first sentence of subsec. (a), "reaffirms its support of", were substituted in lieu of "supports" by sec. 101(7)(C) of Public Law 94–161 (89 Stat. 849).

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

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

(3) begin such planning immediately.

(d)[105] * * * [Repealed—1978]

Sec. 121.[106] **Sahel Development Program—Implementation.** * * * [Repealed—1990]

Sec. 122.[107] **General Authorities.**—(a) In order to carry out the purposes of this chapter, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to countries and areas through programs of grant and loan assistance, bilaterally or through regional, multilateral, or private entities.

(b)[107] The President is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine, in order to promote the economic development of countries and areas, with emphasis upon assisting long range plans and programs designed to develop economic resources and increase productive capacities. The President shall determine the interest payable on any loan. In making loans under this chapter, the President shall consider the economic circumstances of the borrower and other relevant factors, including

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

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

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

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

"(d) Funds available to carry out this section (including foreign currencies acquired with funds appropriated to carry out this section) may not be made available to any foreign government for disbursement unless the Administrator of the Agency for International Development determines that the foreign government will maintain a system of accounts with respect to those funds which will provide adequate identification of and control over the receipt and expenditure of those funds.

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

[107] 22 U.S.C. 2151t. Subsec. (a) of sec. 122 was added by sec. 102(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 940). Sec. 102(b) of that same Act substantially amended subsecs. (b), (c), and (d) of sec. 201 of this Act, consolidating them into one subsec. (b), and then moving it to become subsec. (b) of sec. 122.

the capacity of the recipient country to repay the loan at a reasonable rate of interest, except that loans may not be made at a rate of interest of less than 3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum, nor higher than the applicable legal rate of interest of the country in which the loan is made.

(c)[108] Dollar receipts paid during any fiscal year from loans made under this part or from loans made under predecessor foreign assistance legislation shall be deposited in the Treasury as miscellaneous receipts.

(d)[108] Not to exceed $10,000,000 of the funds made available each fiscal year for the purposes of this chapter may be used for assistance on such terms and conditions as the President may determine, to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

(e)[109] The President shall establish an interagency Development Loan Committee, consisting of such officers from such agencies of the United States Government as he may determine, which shall, under the direction of the President, establish standards and criteria for lending operations under this chapter in accordance with the foreign and financial policies of the United States. Except in the case of officers serving in positions to which they were appointed by the President by and with the advice and consent of the Senate, officers assigned to the Committee shall be so assigned by the President by and with the advice and consent of the Senate.

Sec. 123.[110] **Private and Voluntary Organizations and Cooperatives in Overseas Development.**—(a) The Congress finds that the participation of rural and urban poor people in their countries' development can be assisted and accelerated in an effective manner through an increase in activities planned and carried out by private and voluntary organizations and cooperatives. Such or-

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[108] Subsecs. (c) and (d) were added by sec. 102(c)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941).

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

[110] 22 U.S.C. 2151u. Sec. 123 was added by sec. 102(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941).

Sec. 502 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 180; 22 U.S.C. 2151u note), provided the following:

"PRIVATE AND VOLUNTARY ORGANIZATIONS

"SEC. 502. (a) None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the Administrator of the United States Agency for International Development, after informing the Committees on Appropriations, may, on a case-by-case basis, waive the restriction contained in this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency.

"(b) Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is at least equivalent to the level provided in fiscal year 1995.".

ganizations and cooperatives, embodying the American spirit of self-help and assistance to others to improve their lives and incomes, constitute an important means of mobilizing private American financial and human resources to benefit poor people in developing countries. The Congress declares that it is in the interest of the United States that such organizations and cooperatives expand their overseas development efforts without compromising their private and independent nature. The Congress further declares that the financial resources of such organizations and cooperatives should be supplemented by the contribution of public funds for the purpose of undertaking development activities in accordance with the principles set forth in section 102 and, if necessary and determined on a case-by-case basis, for the purpose of sharing the cost of developing programs related to such activities.[111] The Congress urges the Administrator of the agency primarily responsible for administering this part, in implementing programs authorized under this part, to draw on the resources of private and voluntary organizations and cooperatives to plan and carry out development activities and to establish simplified procedures for the development and approval of programs to be carried out by such private and voluntary organizations and cooperatives as have demonstrated a capacity to undertake effective development activities.[112]

(b) In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation of friendly peoples, the President is authorized to use funds made available for the purposes of this chapter and chapter 10 of this part[113] to pay transportation charges on shipments by the American National Red Cross and by United States voluntary agencies registered with the Agency for International Development.[114]

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

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

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

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

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

[114] This reference to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366).

(e)[115] Prohibitions on assistance to countries contained in this or any other Act shall not be construed to prohibit assistance by the agency primarily responsible for administering this part in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date such prohibition becomes applicable. The President shall take into consideration, in any case in which statutory prohibitions on assistance would be applicable but for this subsection, whether continuation of support for such programs is in the national interest of the United States. If the President continues such support after such date, he shall prepare and transmit, not later than one year[116] after such date, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth the reasons for such continuation.

(f)[117] For each of the fiscal years 1986 through 1989[118] funds in an amount not less than thirteen and one-half percent of the aggregate amount appropriated for that fiscal year to carry out sections 103(a), 104(b), 104(c), 105, 106, 121, and 491 of this Act shall be made available for the activities of private and voluntary organizations, and the President shall seek to channel funds in an amount not less than sixteen percent of such aggregate amount for the activities of private and voluntary organizations. Funds made available under chapter 4 of part II of this Act for the activities of private and voluntary organizations may be considered in determining compliance with the requirements of this subsection.[118]

(g)[117] * * * [Repealed—1998]

(h)[119] The Congress recognizes that, in addition to their role in social and economic development, cooperatives provide an opportunity for people to participate directly in democratic decisionmaking. Therefore, assistance under this chapter shall be provided to rural and urban cooperatives which offer large numbers of low- and middle-income people in developing countries an opportunity to participate directly in democratic decisionmaking. Such assistance shall be designed to encourage the adoption of self-help, private

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[115] Subsec. (e) was added by sec. 307(3) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3147).

See a similar authority in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 195), in section 537.

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

[117] Subsecs. (f) and (g) were added by sec. 309 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535). Subsec. (g) was repealed by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681). Subsec. (g), as amended, had read as follows:

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

[118] Sec. 309(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190), amended sec. 123(f) by striking out "1982, 1983 and 1984" and substituting "1986 through 1989"; by striking out "twelve" and by inserting in lieu thereof "thirteen and one half", and by adding the current last sentence.

[119] Subsec. (h) was added by sec. 310 of Public Law 99–83 (99 Stat. 190).

sector cooperative techniques and practices which have been successful in the United States.

Sec. 124.[120] **Relatively Least Developed Countries.**—(a) Relatively least developed countries (as determined on the basis of criteria comparable to those used for the United Nations General Assembly list of "least developed countries") are characterized by extreme poverty, very limited infrastructure, and limited administrative capacity to implement basic human needs growth strategies. In such countries special measures may be necessary to insure the full effectiveness of assistance furnished under this part.

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

(c)[121] (1) The Congress recognizes that the relatively least developed countries have virtually no access to private international capital markets. Insofar as possible, prior assistance terms should be consistent with present grant assistance terms for relatively least developed countries. Therefore, notwithstanding section 620(r) of this Act and section 321 of the International Development and Food Assistance Act of 1975 but subject to paragraph (2) of this subsection, the President on a case-by-case basis, taking into account the needs of the country for financial resources and the commitment of the country to the development objectives set forth in sections 101 and 102—

(A) may permit a relatively least developed country to place amounts, which would otherwise be paid to the United States as payments on principal or interest on liability incurred by that country under this part (or any predecessor legislation) into local currency accounts (in equivalent amounts of local currencies as determined by the official exchange rate for United States dollars) for use by the relatively least developed country, with the concurrence of the Administrator of the agency primarily responsible for administering this part, for activities which are consistent with section 102; and

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

(2) The aggregate amount of interest waived and interest and principal paid into local currency accounts under this subsection in any fiscal year may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this chapter for that fiscal year, which amount may not exceed the amount authorized to be so approved by the annual authorizing legislation for development assistance programs. Amounts due and payable during

[120] 22 U.S.C. 2151v. Sec. 124 was added by sec. 112(a)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 948).

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

fiscal year 1981 to the United States from relatively least developed countries on loans made under this part (or any predecessor legislation) are authorized to be approved for use, in accordance with the provisions of paragraph (1) of this subsection, in an amount not to exceed $10,845,000.[122]

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

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

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

Sec. 125.[123] **Project and Program Evaluation.**—(a) The Administrator of the agency primarily responsible for administering this part is directed to improve the assessment and evaluation of the programs and projects carried out by that agency under this chapter. The Administrator shall consult with the appropriate committees of the Congress in establishing standards for such evaluations.

(b)[124] * * * [Repealed—1981]

Sec. 126.[125] **Development and Illicit Narcotics Production.**—(a) The Congress recognizes that illicit narcotics cultivation is related to overall development problems and that the vast majority of all individuals employed in the cultivation of illicit narcotics reside in the developing countries and are among the poorest of the poor in those countries and that therefore the ultimate success of any effort to eliminate illicit narcotics production depends upon the availability of alternative economic opportunities for those individuals, upon other factors which assistance under this chapter could address, as well as upon direct narcotics control efforts.

(b)(1)[126] In planning programs of assistance under this chapter, and chapter 10 of this part,[126] and under chapter 4 of part II[126] for countries in which there is illicit narcotics cultivation, the agency primarily responsible for administering this part should give pri-

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

[123] 22 U.S.C. 2151w. Sec. 125 was added by sec. 113 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950). The responsibility of the Administrator mentioned in this section was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

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

[125] 22 U.S.C. 2151x. Sec. 126 was added by sec. 110 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 363).

[126] Sec. 603 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190), amended subsec. (b) by inserting the words: "and under chapter 4 of Part II" and by inserting the paragraph designation "(1)", and by adding a new paragraph (2).

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

ority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities.

(2)[126] The agency primarily responsible for administering this part may utilize resources for activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

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

Sec. 127.[127] **Accelerated Loan Repayments.**—The Administrator of the agency primarily responsible for administering this part shall conduct an annual review of bilateral concessional loan balances and shall determine and identify those countries whose financial resources make possible accelerated loan repayments. In particular, European countries that were recipients of concessional loans by predecessor agencies to the agency primarily responsible for administering this part shall be contacted to negotiate accelerated repayments. The criteria used by the Administrator in making these determinations shall be established in conjunction with the Committee on Foreign Affairs[128] of the House of Representatives and the Committee on Foreign Relations of the Senate.

Sec. 128.[129] **Targeted Assistance.**—(a) The President shall use poverty measurement standards, such as those developed by the International Bank for Reconstruction and Development, and other appropriate measurements in determining target populations for United States development assistance, and shall strengthen United States efforts to assure that a substantial percentage of development assistance under this chapter directly improves the lives of

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

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

[129] 22 U.S.C. 2151z. Sec. 128 was added by sec. 101(b)(2) of Public Law 97–377 (96 Stat. 1832). Sec. 121(b)(2) of such Act also required a report to Congress within six months from the Administrator of AID on the implementation of this provision, the types of projects determined to meet these requirements, and the effect on the overall U.S. foreign assistance program.

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

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

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

the poor majority, with special emphasis on those individuals living in absolute poverty.

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

SEC. 129.[130] PROGRAM TO PROVIDE TECHNICAL ASSISTANCE TO FOREIGN GOVERNMENTS AND FOREIGN CENTRAL BANKS OF DEVELOPING OR TRANSITIONAL COUNTRIES.

(a) ESTABLISHMENT OF PROGRAM.—

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

(2) ROLE OF SECRETARY OF STATE.—The Secretary of State shall provide foreign policy guidance to the Secretary to ensure that the program established under this subsection is effectively integrated into the foreign policy of the United States.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In carrying out the program established under subsection (a), the Secretary shall provide economic and financial technical assistance to foreign governments and foreign central banks of developing and transitional countries by providing advisers with appropriate expertise to advance the

[130] 22 U.S.C. 2151aa. Added by sec. 589(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681).

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 172, 175), provided the following:

"DEPARTMENT OF STATE

"INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $197,000,000, to remain available until expended: *Provided*, That during fiscal year 2003, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading, not less than $5,000,000 shall be apportioned directly to the Department of the Treasury, International Affairs Technical Assistance, to be used for financial crimes and law enforcement technical assistance programs: *Provided further,* That of the funds appropriated under this heading, $10,000,000 should be made available for the demand reduction program: *Provided further,* That of the funds appropriated under this heading, $10,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: *Provided further,* That of the funds appropriated under this heading, not more than $24,180,000 may be available for administrative expenses.

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"DEPARTMENT OF THE TREASURY

"INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

"For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961 (relating to international affairs technical assistance activities), $10,800,000, to remain available until expended, which shall be available notwithstanding any other provision of law.".

enactment of laws and establishment of administrative procedures and institutions in such countries to promote macroeconomic and fiscal stability, efficient resource allocation, transparent and market-oriented processes and sustainable private sector growth.

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

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

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

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

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

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

(3)[131] EMPHASIS ON ANTI-CORRUPTION.—Such technical assistance shall include elements designed to combat anti-competitive, unethical, and corrupt activities, including protection against actions that may distort or inhibit transparency in market mechanisms and, to the extent applicable, privatization procedures.

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

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

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

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

(4) shall ensure that the program is consistent with the International Affairs Strategic Plan and Mission Performance Plan of the United States Agency for International Development;

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

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

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

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

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

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

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

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

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

(i) for use in foreign countries; and

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

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

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

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

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

(E) expenses of preparing and transporting to their former homes or places of burial the remains of foreign participants or members of the family of foreign participants, who may die while such participants are away from

their homes participating in activities carried out with funds covered by this section;

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

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

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

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

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

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

(g) TERMINATION OF ASSISTANCE.—The Secretary shall conclude assistance activities for a recipient foreign government or foreign central bank under the program established under subsection (a) if the Secretary, after consultation with the appropriate officers of the United States, determines that such assistance has resulted in the enactment of laws or the establishment of institutions in that country that promote fiscal stability and administrative procedures, effi-

cient resource allocation, transparent and market-oriented processes and private sector growth in a sustainable manner.

(h) REPORT.—

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

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

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

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

(i) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

(5) FOREIGN PARTICIPANT.—The term "foreign participant" means the national of a developing or transitional country that is receiving assistance under the program established under

subsection (a) who has been designated to participate in activities under such program.

(j) AUTHORIZATION OF APPROPRIATIONS.—

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

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

SEC. 130.[132] ASSISTANCE FOR VICTIMS OF TORTURE.

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

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

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

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

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

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[132] 22 U.S.C. 2152. Added by sec. 4(a) of the Torture Victims Relief Act of 1998 (Public Law 105–320; 112 Stat. 3016), as sec. 129, effective October 1, 1998. See also sec. 4(b) of that Act (p. 425), which authorized $5,000,000 for fiscal year 1999 and $7,500,000 for fiscal year 2000 to carry out this section. Sec. 6(a) of Public Law 106–87 (113 Stat. 1302) redesignated as sec. 130.

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

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

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

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

See also legislation relating to torture victims relief in *Legislation on Foreign Relations Through 2002*, vol. I–B.

SEC. 131.[133] **MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.**

(a)[134] FINDINGS AND POLICY.—Congress finds and declares that—

(1) access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

(2) it is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries;

(3) access to financial services and the development of microenterprises can be supported by programs providing credit,

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[133] 22 U.S.C. 2152a. Added by sec. 105 of the Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1082). Sec. 108 of that Act (114 Stat. 1087) provided the following:

"SEC. 108. REPORT RELATING TO FUTURE DEVELOPMENT OF MICROENTERPRISE INSTITUTIONS.

"(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on the most cost-effective methods and measurements for increasing the access of poor people overseas to credit, other financial services, and related training.

"(b) CONTENTS.—The report described in subsection (a)—

"(1) shall include how the President, in consultation with the Administrator of the United States Agency for International Development, the Secretary of State, and the Secretary of the Treasury, will develop a comprehensive strategy for advancing the global microenterprise sector in a way that maintains market principles while ensuring that the very poor overseas, particularly women, obtain access to financial services overseas;

"(2) shall provide guidelines and recommendations for—

"(A) instruments to assist microenterprise networks to develop multi-country and regional microlending programs;

"(B) technical assistance to foreign governments, foreign central banks, and regulatory entities to improve the policy environment for microfinance institutions, and to strengthen the capacity of supervisory bodies to supervise microfinance institutions;

"(C) the potential for Federal chartering of United States-based international microfinance network institutions, including proposed legislation;

"(D) instruments to increase investor confidence in microfinance institutions which would strengthen the long-term financial position of the microfinance institutions and attract capital from private sector entities and individuals, such as a rating system for microfinance institutions and local credit bureaus;

"(E) an agenda for integrating microfinance into United States foreign policy initiatives seeking to develop and strengthen the global finance sector; and

"(F) innovative instruments to attract funds from the capital markets, such as instruments for leveraging funds from the local commercial banking sector, and the securitization of microloan portfolios; and

"(3) shall include a section that assesses the need for a microenterprise accelerated growth fund and that includes—

"(A) a description of the benefits of such a fund;

"(B) an identification of which microenterprise institutions might become eligible for assistance from such fund;

"(C) a description of how such a fund could be administered;

"(D) a recommendation on which agency or agencies of the United States Government should administer the fund and within which such agency the fund should be located; and

"(E) a recommendation on how soon it might be necessary to establish such a fund in order to provide the support necessary for microenterprise institutions involved in microenterprise development.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.".

[134] Sec. 3(a) of Public Law 108–31 (117 Stat. 775) amended and restated subsec. (a). It formerly read as follows:

"(a) FINDINGS AND POLICY.—Congress finds and declares that—

"(1) the development of microenterprise is a vital factor in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

"(2) it is therefore in the best interest of the United States to assist the development of microenterprises in developing countries; and

"(3) the support of microenterprise can be served by programs providing credit, savings, training, technical assistance, and business development services.".

savings, training, technical assistance, business development services, and other financial and non-financial services; and

(4) given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.

(b) AUTHORIZATION.—

(1) IN GENERAL.—In carrying out this part, the President is authorized to provide grant assistance for programs to increase the availability of credit and other services to microenterprises lacking full access to capital training, technical assistance, and business development services, through—

(A) grants to microfinance institutions for the purpose of expanding the availability of credit, savings, and other financial services to microentrepreneurs;

(B) grants to microenterprise institutions for the purpose of training, technical assistance, and business development services for microenterprises to enable them to make better use of credit, to better manage their enterprises, and to increase their income and build their assets;

(C) capacity-building for microenterprise institutions in order to enable them to better meet the credit and training needs of microentrepreneurs; and

(D) policy and regulatory programs at the country level that improve the environment for microentrepreneurs and microenterprise institutions that serve the poor and very poor.

(2) IMPLEMENTATION.—Assistance authorized under paragraph (1)(A) and (B) shall be provided through organizations that have a capacity to develop and implement microenterprise programs, including particularly—

(A) United States and indigenous private and voluntary organizations;

(B) United States and indigenous credit unions and cooperative organizations; or

(C) other indigenous governmental and nongovernmental organizations.

(3) TARGETED ASSISTANCE.—In carrying out sustainable poverty-focused programs under paragraph (1), 50 percent of all microenterprise resources shall be targeted to very poor entrepreneurs, defined as those living in the bottom 50 percent below the poverty line as established by the national government of the country. Specifically, such resources shall be used for—

(A) direct support of programs under this subsection through practitioner institutions that—

(i) provide credit and other financial services to clients[135] who are very poor, with loans in 1995 United States dollars of—

[135] Sec. 3(b)(1) of Public Law 108–31 (117 Stat. 775) struck out "entrepreneurs" and inserted in lieu thereof "clients".

(I) $1,000 or less in the Europe and Eurasia region;

(II) $400 or less in the Latin America region; and

(III) $300 or less in the rest of the world; and

(ii) can cover their costs in a reasonable time period; or

(B) demand-driven business development programs that achieve reasonable cost recovery that are provided to clients holding poverty loans (as defined by the regional poverty loan limitations in subparagraph (A)(i)), whether they are provided by microfinance institutions or by specialized business development services providers.

(4) SUPPORT FOR CENTRAL MECHANISMS.—The President should continue support for central mechanisms and missions, as appropriate, that—

(A) provide technical support for field missions;

(B) strengthen the institutional development of the intermediary organizations described in paragraph (2);

(C) share information relating to the provision of assistance authorized under paragraph (1) between such field missions and intermediary organizations; and

(D) support the development of nonprofit global microfinance networks, including credit union systems, that—

(i) are able to deliver financial services to poor entrepreneurs [136] through a significant grassroots infrastructure based on market principles; and

(ii) act as wholesale intermediaries providing a range of services to microenterprise [137] retail institutions, including financing, technical assistance, capacity-building, and safety and soundness accreditation.

(5) LIMITATION.—Assistance provided under this subsection may only be used to support microenterprise programs and may not be used to support programs not directly related to the purposes described in paragraph (1).

(c) MONITORING SYSTEM.—In order to maximize the sustainable development impact of the assistance authorized under subsection (b)(1), the Administrator of the agency primarily responsible for administering this part shall establish a monitoring system that—

(1) establishes performance goals for such assistance and expresses such goals in an objective and quantifiable form, to the extent feasible;

(2) establishes performance indicators to be used in measuring or assessing the achievement of the goals and objectives of such assistance;

(3) provides a basis for recommendations for adjustments to such assistance to enhance the sustainable development impact of such assistance, particularly the impact of such assistance on the very poor, particularly poor women; and

[136] Sec. 3(b)(2)(A) of Public Law 108–31 (117 Stat. 775) struck out "very small loans" and inserted in lieu thereof "financial services to poor entrepreneurs".

[137] Sec. 3(b)(2)(B) of Public Law 108–31 (117 Stat. 775) struck out "microfinance" and inserted in lieu thereof "microenterprise".

(4)[138] adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive needed microenterprise loans, savings, and assistance.

(d)[139] DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.—

(1) DEVELOPMENT AND CERTIFICATION.—(A) The Administrator of the United States Agency for International Development, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for partner institutions to use to assess the poverty levels of their current or prospective clients. The United States Agency for International Development shall develop poverty indicators that correlate with the circumstances of the very poor.

(B) The Administrator shall field-test the methods developed under subparagraph (A). As part of the testing, institutions and programs may use the methods on a voluntary basis to demonstrate their ability to reach the very poor.

(C) Not later than October 1, 2004, the Administrator shall, from among the low-cost poverty measurement methods developed under subparagraph (A), certify no fewer than two such methods as approved methods for measuring the poverty levels of current or prospective clients of microenterprise institutions for purposes of assistance under this section.

(2) APPLICATION.—The Administrator shall require that, with reasonable exceptions, all organizations applying for microenterprise assistance under this Act use one of the certified methods, beginning no later than October 1, 2005, to determine and report the poverty levels of current or prospective clients.

(e)[139] LEVEL OF ASSISTANCE.—Of the funds made available under this part, the FREEDOM Support Act, and the Support for East European Democracy (SEED) Act of 1989, including local currencies derived from such funds, there are authorized to be available $155,000,000 for each of the fiscal years 2001 and 2002 and $175,000,000 for fiscal year 2003 and $200,000,000 for fiscal year 2004,[140] to carry out this section.

(f)[139] DEFINITIONS.—In this section:

(1) BUSINESS DEVELOPMENT SERVICES.—The term "business development services" means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other services.

(2) MICROENTERPRISE INSTITUTION.—The term "microenterprise institution" means an institution that provides services,

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[138] Sec. 3(c) of Public Law 108–31 (117 Stat. 775) amended and restated para. (4), which formerly read as follows:

"(4) provides a basis for recommendations for adjustments to measures for reaching the poorest of the poor, including proposed legislation containing amendments to enhance the sustainable development impact of such assistance, as described in paragraph (3).".

[139] Sec. 3(d) of Public Law 108–31 (117 Stat. 775) redesignated subsecs. (d) and (e) as subsecs. (e) and (f), respectively, and added a new subsec. (d).

[140] Sec. 3(e) of Public Law 108–31 (117 Stat. 775) added "and $175,000,000 for fiscal year 2003 and $200,000,000 for fiscal year 2004".

including microfinance, training, or business development services, for microentrepreneurs.

(3) MICROFINANCE INSTITUTION.—The term "microfinance institution" means an institution that directly provides, or works to expand, the availability of credit, savings, and other financial services to microentrepreneurs.

(4) PRACTITIONER INSTITUTION.—The term "practitioner institution" means any institution that provides services, including microfinance, training, or business development services, for microentrepreneurs, or provides assistance to microenterprise institutions.

(5)[141] VERY POOR.—The term "very poor" means those individuals—

(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

(B) living on less than the equivalent of $1 per day.

SEC. 132.[142] UNITED STATES MICROFINANCE LOAN FACILITY.

(a) ESTABLISHMENT.—The Administrator is authorized to establish a United States Microfinance Loan Facility (in this section referred to as the "Facility") to pool and manage the risk from natural disasters, war or civil conflict, national financial crisis, or short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

(b) DISBURSEMENTS.—

(1) IN GENERAL.—The Administrator shall make disbursements from the Facility to United States-supported microfinance institutions to prevent the bankruptcy of such institutions caused by—

(A) natural disasters;

(B) national wars or civil conflict; or

(C) national financial crisis or other short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

(2) FORM OF ASSISTANCE.—Assistance under this section shall be in the form of loans or loan guarantees for micro-

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[141] Sec. 3(f) of Public Law 108–31 (117 Stat. 775) added para. (5). Sec. 4 of that Act required the following:

"SEC. 4. REPORT TO CONGRESS.

"(a) IN GENERAL.—Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.

"(b) REPORTS FOR FISCAL YEAR 2006 AND BEYOND.—Beginning with fiscal year 2006, the Administrator of the United States Agency for International Development shall annually submit to Congress on a timely basis a report that addresses the United States Agency for International Development's compliance with the Microenterprise for Self-Reliance Act of 2000 by documenting—

"(1) the percentage of its resources that were allocated to the very poor (as defined in paragraph (5) of section 131(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(f)(5))) based on the data collected from its partners using the certified methods; and

"(2) the absolute number of the very poor reached.".

[142] 22 U.S.C. 2152b. Added by sec. 107(a) of the Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1086). Sec. 107(b) of that Act provided the following:

"(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the United States Agency for International Development shall submit to the Committee on Foreign Relations of the Senate and the committee on International Relations of the House of Representatives a report on the policies, rules, and regulations of the United States Microfinance Loan Facility, established under section 132 of the Foreign Assistance Act of 1961, as added by subsection (a).".

finance institutions that demonstrate the capacity to resume self-sustained operations within a reasonable time period.

(3) CONGRESSIONAL NOTIFICATION PROCEDURES.—During each of the fiscal years 2001 and 2002, funds may not be made available from the Facility until 15 days after notification of the proposed availability of the funds has been provided to the congressional committees specified in section 634A in accordance with the procedures applicable to reprogramming notifications under that section.

(c) GENERAL PROVISIONS.—

(1) POLICY PROVISIONS.—In providing the credit assistance authorized by this section, the Administrator should apply, as appropriate, the policy provisions in this part that are applicable to development assistance activities.

(2) DEFAULT AND PROCUREMENT PROVISIONS.—

(A) DEFAULT PROVISION.—The provisions of section 620(q), or any comparable provision of law, shall not be construed to prohibit assistance to a country in the event that a private sector recipient of assistance furnished under this section is in default in its payment to the United States for the period specified in such section.

(B) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a).

(3) TERMS AND CONDITIONS OF CREDIT ASSISTANCE.—

(A) IN GENERAL.—Credit assistance provided under this section shall be offered on such terms and conditions, including fees charged, as the Administrator may determine.

(B) LIMITATION ON PRINCIPAL AMOUNT OF FINANCING.—The principal amount of loans made or guaranteed under this section in any fiscal year, with respect to any single event, may not exceed $30,000,000.

(C) EXCEPTION.—No payment may be made under any guarantee issued under this section for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(4) FULL FAITH AND CREDIT.—All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations to the extent of the guarantee.

(d) FUNDING.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available to carry out this part for the fiscal year 2001, up to $5,000,000 may be made available for—

(A) the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, to carry out this section; and

(B) the administrative costs to carry out this section.

(2) RELATION TO OTHER FUNDING.—Amounts made available under paragraph (1) are in addition to amounts available under any other provision of law to carry out this section.

(e) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the agency primarily responsible for administering this part.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) UNITED STATES-SUPPORTED MICROFINANCE INSTITUTION.—The term "United States-supported microfinance institution" means a financial intermediary that has received funds made available under part I of this Act for fiscal year 1980 or any subsequent fiscal year.

SEC. 133.[143] PROGRAMS TO ENCOURAGE GOOD GOVERNANCE.

(a) ESTABLISHMENT OF PROGRAMS.—

(1) IN GENERAL.—The President is authorized to establish programs that combat corruption, improve transparency and accountability, and promote other forms of good governance in countries described in paragraph (2).

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

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

(4) RELATION TO OTHER LAWS.—

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

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

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

[143] 22 U.S.C. 2152c. Added by sec. 205(a) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1092).

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

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

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

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

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

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

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

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

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

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

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

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

(d)[144] BIENNIAL REPORTS.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Commerce and the Administrator of the

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

"(b) TRANSITION.—The first biennial report under section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)), as amended by subsection (a), is required to be submitted not later than two years after the date of submission of the last annual report required under such section 133 (as in effect before the date of enactment of this Act).".

Previously, sec. 205(b) of the International Anti-Corruption and Good Governance Act of 2000 (title II of Public Law 106–309; 114 Stat. 1092) required the following:

"(b) DEADLINE FOR INITIAL REPORT.—The initial annual report required by section 133(d)(1) of the Foreign Assistance Act of 1961, as added by subsection (a), shall be transmitted not later than 180 days after the date of the enactment of this Act.".

United States Agency for International Development, shall prepare and transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a biennial report[145] on—

(A) projects and activities carried out under programs established under subsection (a) for the preceding two-year period[146] in priority countries identified pursuant to subsection (a)(3); and

(B) projects and activities carried out under programs to combat corruption, improve transparency and accountability, and promote other forms of good governance established under other provisions of law for the preceding two-year period[147] in such countries.

(2) REQUIRED CONTENTS.—The report required by paragraph (1) shall contain the following information with respect to each country described in paragraph (1):

(A) A description of all United States Government-funded programs and initiatives to combat corruption and improve transparency and accountability in the country.

(B) A description of United States diplomatic efforts to combat corruption and improve transparency and accountability in the country.

(C) An analysis of major actions taken by the government of the country to combat corruption and improve transparency and accountability in the country.

(e) FUNDING.—Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section.

SEC. 134.[148] ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) AUTHORIZATION.—The President is authorized to provide assistance to foreign countries directly, or through nongovernmental

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[145] Sec. 672(a)(2)(A) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1408) struck out "an annual report" and inserted in lieu thereof "a biennial report".

[146] Sec. 672(a)(2)(B) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1408) struck out "prior year" and inserted in lieu thereof "preceding two-year period".

[147] Sec. 672(a)(2)(C) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1408) struck out "prior year" and inserted in lieu thereof "preceding two-year period".

[148] 22 U.S.C. 2152d. Added by sec. 109 of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1481). For full text of the Trafficking Victims Protection Act of 2000, see vol. II. Sec. 107(a) of that Act (22 U.S.C. 7105(a)) provided the following:

"SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

"(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—

"(1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

"(2) ADDITIONAL REQUIREMENT.—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of traffick-

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and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking (as defined in section 103 of the Trafficking Victims Protection Act of 2000), including—

(1) the drafting of laws to prohibit and punish acts of trafficking;

(2) the investigation and prosecution of traffickers;

(3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and

(4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

(b) FUNDING.—Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section.

Chapter 2—Other Programs [149]

Sec. 201.[150] **General Authority.** * * * [Repealed—1978]

Sec. 202.[150] **Authorization.** * * * [Repealed—1978]

Sec. 203.[150] **Fiscal Provisions.** * * * [Repealed—1978]

Sec. 204.[150] **Development Loan Committee.** * * * [Repealed—1978]

Sec. 205.[151] **Relating to Transfers to International Financial Institutions.** * * * [Repealed—1972]

Title I—Multilateral and Regional Development Programs [152]

Sec. 206.[153] **Regional Development in Africa.**—The President is requested to seek and to take appropriate action, in cooperation and consultation with African and other interested nations and with international development organizations, to further and assist in the advancement of African regional development institutions, including the African Development Bank, with the view toward promoting African economic development.

Sec. 207.[150] **Purposes of Development Assistance.** * * * [Repealed—1978]

Sec. 208.[150] **Self-Help Criteria.** * * * [Repealed—1978]

Sec. 209.[154] **Multilateral and Regional Programs.**—(a) The Congress recognizes that the planning and administration of devel-

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ing, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.".

[149] The chapter heading "Other Programs" was inserted in lieu of "Development Assistance" by sec. 102(g)(1)(B) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[150] Secs. 201, 202, 203, 204, 207, and 208 were repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942). The text of sec. 204 was subsequently reinserted as subsec. (e) of sec. 122 of this Act.

[151] Sec. 205 was repealed by sec. 101(d) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21).

[152] Sec. 102(g)(1)(C) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) added this new title heading.

[153] 22 U.S.C. 2166. Sec. 206 was added by sec. 102(b) of the FA Act of 1965.

[154] 22 U.S.C. 2169. Sec. 209 was added by sec. 102(e) of the FA Act of 1967. Sec. 101(c)(1) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21) amended subsection (a), which formerly read as follows:

"(a) Multilateral Programs.—The Congress recognizes that planning and administration of development assistance by, or under the sponsorship of, multilateral lending institutions and other international organizations may, in some instances, contribute to the efficiency and effectiveness

opment assistance by, or under the sponsorship of the United Nations, multilateral lending institutions, and other multilateral organizations may contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance.

(b)[155] It is further the sense of the Congress (1) that where problems or opportunities are common to two or more countries in a region, in such fields as agriculture, education, transportation, communications, power, watershed development, disease control, and establishment of development banks, these countries often can more effectively resolve such problems and exploit such opportunities by joining together in regional organizations or working together on regional programs, (2) that assistance often can be utilized more efficiently in regional programs than in separate country programs, and (3) that to the maximum extent practicable consistent with the purposes of this Act assistance under this Act should be furnished so as to encourage less developed countries to cooperate with each other in regional development programs.

(c)[156] It is the sense of the Congress that the President should increase, to the extent practicable, the funds provided by the United States to multilateral lending institutions and multilateral organizations in which the United States participates for use by such institutions and organizations in making loans to foreign countries.

(d)[157] * * * [Repealed—2000]

Sec. 211.[158] **General Authority.** * * * [Repealed—1978]

Sec. 212.[158] **Authorization.** * * * [Repealed—1978]

Sec. 213.[159] **Atoms for Peace.** * * * [Repealed—1962]

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of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance.".

[155] The words "Regional Programs.—," which appeared at this point, were struck out by sec. 101(c)(3) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21).

[156] Subsec. (c), which was added by sec. 101(c)(2) of the FA Act of 1971 (Public Law 92–226; 86 Stat. 21), was amended by sec. 311 of Public Law 94–161 (89 Stat. 849). It formerly read as follows: "Notwithstanding any other provision of law, the President should reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of reducing the total amount of bilateral loans made under this Act so that, by not later than June 30, 1975, such total amount shall not exceed $100,000,000.".

[157] Subsection (d), added by sec. 101(c)(2) of the FA Act of 1971, was struck out by sec. 804 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–67). It had read as follows:

"(d) In furtherance of the provisions of subsection (a) of this section, any funds appropriated under this part I may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries.".

[158] Secs. 211, 212, 215, 216, 217, 218, 220, and 220A were repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[159] Sec. 213 was repealed by sec. 103(c) of the FA Act of 1962 (76 Stat. 256).

Title II—American Schools and Hospitals Abroad; Prototype Desalting Plant [160]

Sec. 214.[161] **American Schools and Hospitals Abroad.**—(a) The President is authorized to furnish [162] assistance, on such terms and conditions as he may specify, to schools and libraries outside the United States founded or sponsored by United States citizens and serving as study and demonstration centers for ideas and practices of the United States.

(b) The President is authorized,[163] notwithstanding the provisions of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.) [164] to furnish [165] assistance, on such terms and conditions as he may specify, to institutions referred to in subsection (a) of this section, and to hospital centers for medical education and research outside the United States, founded or sponsored by United States citizens.[166]

(c) [167] (1) To carry out the purposes of this section, there are authorized to be appropriated to the President $35,000,000 for fiscal year 1986 and $35,000,000 for fiscal year 1987.

(2) Amounts appropriated under paragraph (1) are authorized to remain available until expended.[168]

(d) [169] Notwithstanding the provisions of subsection (b), funds appropriated under this section may be used for assistance to centers for pediatric plastic and reconstructive surgery established by Children's Medical Relief International, except that assistance may not be furnished for the domestic operations of any such center located in the United States, its territories or possessions.

Sec. 215.[168] **Loans to Small Farmers.** * * * [Repealed—1978]

Sec. 216.[168] **Voluntary Agencies.** * * * [Repealed—1978]

Sec. 217.[168] **Used Equipment.** * * * [Repealed—1978]

Sec. 218.[168] **Fish and Other Protein Concentrates.** * * * [Repealed—1978]

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[160] This new title heading was added by sec. 102(g)(1)(D) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[161] 22 U.S.C. 2174.

[162] Sec. 103(b)(1) of the FA Act of 1963 substituted the word "furnish" for the words "use, in addition to other funds available for such purposes, funds made available for the purposes of sec. 211 for".

[163] Sec. 103(b)(2) of the FA Act of 1963 struck out the words "to use" which appeared at this point.

[164] Superseded by the Export Administration Act of 1979.

[165] Sec. 103(b)(2) of the FA Act of 1963 substituted the words "to furnish" for the words "foreign currencies accruing to the United States Government under any Act, for purposes of subsection (2) of this section, and for".

[166] Sec. 103(c)(1) of the FA Act of 1966 substituted the words to this point, beginning with "to institutions referred to" in lieu of "to hospitals outside the United States founded or sponsored by United States citizens and serving as centers for medical education and research".

[167] Sec. 4(2) of the FA Act of 1973 amended and restated subsec. (c).

[168] The authorization figures for fiscal years 1986 and 1987 were added by sec. 401 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Authorizations under sec. 214 for recent years included the following: fiscal year 1975—$19,000,000; fiscal year 1976—$25,000,000; fiscal year 1977—$25,000,000; fiscal year 1978—$25,000,000; fiscal year 1979—$25,000,000; fiscal year 1980—$25,000,000; fiscal year 1981—$30,000,000; fiscal year 1982—$20,000,000; fiscal year 1983—$20,000,000; fiscal year 1984—$30,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

[169] Sec. 114(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950) repealed subsecs. (d) and (e) (which had been added by the FA Act of 1973), and redesignated subsec. (f) (which had been added by Public Law 95–88; 91 Stat. 539) as subsec. (d).

Sec. 219.[170] **Prototype Desalting Plant.**—(a) In furtherance of purposes of this part and for the purpose of improving existing, and developing and advancing new technology and experience in the design, construction, and operation of large-scale desalting plants of advanced concepts which will contribute materially to low-cost desalination in all countries, including the United States, the President, if he determines it to be feasible, is authorized to participate in the development of a large-scale water treatment and desalting prototype plant and necessary appurtenances to be constructed in Israel as an integral part of a dual-purpose power generating and desalting project. Such participation shall include financial, technical, and such other assistance as the President deems appropriate to provide for the study, design, construction, and, for a limited demonstration period of not to exceed five years, operation and maintenance of the water treatment and desalting facilities of the dual-purpose project.

(b) Any agreement entered into under subsection (a) of this section shall include such terms and conditions as the President deems appropriate to insure, among other things, that all information, products, uses, processes, patents, and other developments obtained or utilized in the development of this prototype plant will be available without further cost to the United States for the use and benefit of the United States throughout the world, and to insure that the United States, its officers and employees have a permanent right to review data and have access to such plant for the purpose of observing its operations and improving science and technology in the field of desalination.

(c) In carrying out the provisions of this section, the President may enter into contracts with public or private agencies and with any person without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529 and 41 U.S.C. 5).

(d) Nothing in this section shall be construed as intending to deprive the owner of any background patent or any right which such owner may have under that patent.

(e) In carrying out the provisions of this section, the President may utilize the personnel, services, and facilities of any Federal agency.

(f) The United States costs, other than its administrative costs, for the study, design, construction, and operation of a prototype plant under this section shall not exceed either 50 per centum of the total capital costs of the facilities associated with the production of water, and 50 per centum of the operation and maintenance costs for the demonstration period, or $20,000,000, whichever is less. There are authorized to be appropriated, subject to the limitations of this subsection, such sums as may be necessary to carry out the provisions of this section, including administrative costs thereof. Such sums are authorized to remain available until expended.

(g) No funds appropriated for the Office of Saline Water pursuant to the appropriation authorized by the Act of July 11, 1969 (83

[170] 22 U.S.C. 2179. Sec. 219 was added by sec. 104 of the FA Act of 1969 (Public Law 91–175; 83 Stat. 806).

Stat. 45, Public Law 91–43), or prior authorization Acts, shall be used to carry out the purposes of this section.

Sec. 220.[168] **Programs for Peaceful Communication.** * * * [Repealed—1978]

Sec. 220A.[168] **Suez Canal.** * * * [Repealed—1978]

Title III—Housing and Other Credit Guaranty Programs[171]

Sec. 221.[172] **Housing Guaranties.**—The Congress recognizes that shelter, including essential urban development services, is[173] among the most fundamental of human needs. Shelter for most people in the developing countries consists largely of domestic materials assembled by local labor. While recognizing that most financing for such shelter[174] must come from domestic resources, the Congress finds that carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved shelter[174] and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing low-cost shelter[174] can be financially viable. The Congress reaffirms, therefore, that the United States should continue to assist developing countries in marshalling resources for low-cost shelter.[174] Particular attention should be given to programs which will support pilot projects for low-cost shelter or which will have a maximum demonstration impact on local institutions and national policy. The Congress declares that the long run goal of all such programs should be to develop domestic construction capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective low-cost shelter programs and policies.

Sec. 222.[175] **Authorization.**—(a) To carry out the policy of section 221, the President is authorized to issue guaranties to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for projects meeting the criteria set forth in section 221. The total principal amount of guaranties issued under this title or heretofore issued under prior housing guaranty authorities, which are outstanding at any one time, shall not exceed $2,558,000,000.[176] The authority of this section shall

[171] Title III was added by sec. 105 of the FA Act of 1969. Sec. 8(a)(1) of the FA Act of 1974 substituted the title heading "Housing and Other Credit Guaranty Programs" in lieu of "Housing Guaranties".

[172] 22 U.S.C. 2181. Sec. 221, which was added by the FA Act of 1969, was amended and restated by sec. 115(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950).

[173] The words "including essential urban development services, is" were inserted in lieu of the words "requirements are" by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 311(a)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[174] The word "shelter" was inserted in lieu of the word "housing" by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 311(a)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[175] 22 U.S.C. 2182. Sec. 222, which was added by the FA Act of 1969 and had concerned housing projects in Latin American countries, was amended and restated by sec. 115(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 950).

[176] This figure was increased from $2,158,000,000 by title II, chapter III, of the Dire Emergency Supplemental Appropriations for 1990 (Public Law 101–302; 104 Stat. 224). This figure was previously increased from $1,958,000,000 by sec. 313(a) of the International Security and

continue through September 30, 1992.[177] The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

(b) Activities carried out under this section shall emphasize—

(1) projects which provide improved home sites to poor families on which to build shelter, and related services;

(2) projects comprised of expandable core shelter units on serviced sites;

(3) slum upgrading projects designed to conserve and improve existing shelter;

Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190); and from $1,718,000,000 by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 311(b)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119. Previously, the amount was raised from $1,555,000,000 to $1,718,000,000 by sec. 310(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535) and from $1,180,000,000 to $1,155,000,000 by sec. 112(a)(1) of Public Law 96–53 (93 Stat. 363).

Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization and title II of that Act (at 117 Stat. 164) provided the following:

"DEVELOPMENT CREDIT PROGRAM ACCOUNT

"(INCLUDING TRANSFER OF FUNDS)

"For the cost of direct loans and loan guarantees, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided,* That such funds when added to the funds transferred pursuant to the authority contained under this heading in Public Law 107–115, shall not exceed $24,500,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading. In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $7,591,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided further,* That funds made available under this heading shall remain available until September 30, 2007.".

See notes at paragraph on Development Credit Program Account in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, this volume, for text of sec. 306 of H.R. 1486.

[177] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, as introduced on November 17, 1999, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), under the heading "Urban and Environmental Credit Program Account", waived the second and third sentences of this subsec. for fiscal year 2000, which in effect lifted the ceiling on the outstanding principal amount of guaranties, and continued the authority contained in the section.

Previously, the authority of this section was extended to September 30, 1992, from Sept. 30, 1991, by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1989). Previously the authority was extended from Sept. 30, 1990, by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1205); from Sept. 30, 1989, by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329); from Sept. 30, 1986, by sec. 313(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190).

The authority of this section was previously extended from Sept. 30, 1984, by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 311(b)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119. This authority had been extended previously from Sept. 30, 1982, by sec. 310(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535); and from Sept. 30, 1980, by sec. 112(a)(2) of Public Law 96–53 (93 Stat. 364).

(4) shelter projects for low income people designed for demonstration or institution building purposes; and

(5) community facilities and services in support of projects authorized under this section to improve the shelter occupied by the poor.

(c) In issuing guaranties under this section with respect to projects in a country which require the use or conservation of energy, the President shall give consideration to the use of solar energy technologies, where such technologies are economically and technically feasible. Technologies which may be used include solar hot water systems, solar heating and cooling, passive solar heating, biomass conversion, photovoltaic and wind applications, and community-scale solar thermal applications.

(k)[178] The total principal amount of guaranties issued under this section for each of the fiscal years 1986 and 1987 shall be comparable to the total principal amount of such guaranties issued for fiscal year 1984, subject to the dollar limitations on the issuance of guaranties under this section which are contained in subsection (a) and in appropriation Acts.

Sec. 222A.[179] **Agricultural and Productive Credit and Self-Help Community Development Programs.**—(a) It is the sense of the Congress that in order to stimulate the participation of the private sector in the economic development of less-developed countries,[180] the authority conferred by this section should be used to establish pilot programs[181] to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development, nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.

(b) To carry out the purposes of subsection (a), the agency primarily responsible for administering part I is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations[182] assuring against loss of not to exceed

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[178] Sec. 313(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat 190) added subsec. (k). This subsection should probably be labeled "(d)" instead of "(k)".

[179] 22 U.S.C. 2182a. Sec. 222A was added by sec. 8(a)(2) of the FA Act of 1974.

[180] The words "in not more than six Latin American countries" and the words "in Latin America" were deleted by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 312(a)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119.

[181] Previously such programs were limited to not more than six Latin American countries (Public Law 99–53; 99 Stat. 364).

[182] The words "in not more than five Latin American countries", that previously appeared at this point, were struck out by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985,

50 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.

(c) The total face amount of guaranties issued under this section outstanding at any one time shall not exceed $20,000,000.[183] Not more than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d)[184] The Inter-American Foundation shall be consulted in developing criteria for making loans eligible for guaranty coverage in Latin America under this section.

(e) Not to exceed $3,000,000 of the guaranty reserve established under section 223(b) shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section or any guaranties previously issued under section 240 of this Act.

(f) Funds held by the Overseas Private Investment Corporation pursuant to section 236 may be available for meeting necessary administrative and operating expenses for carrying out the provisions of this section through June 30, 1976.

(g) The Overseas Private Investment Corporation shall, upon enactment of this subsection, transfer to the agency primarily responsible for administering part I all obligations, assets, and related rights and responsibilities arising out of, or related to the predecessor program provided for in section 240 of this Act.

(h) The authority of this section shall continue through September 30, 1988.[185]

(i) Notwithstanding the limitations in subsection (c) of this section, foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the

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as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 312(a)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119.

[183] This figure was increased from $15,000,000 by sec. 112(b)(2) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364).

[184] Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(h)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike subsec. (d).

[185] This authority was extended from Sept. 30, 1986, to Sept. 30, 1988, by sec. 313 (d) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). This authority was previously extended from Sept. 30, 1983 to Sept. 30, 1986, by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 (Public Law 98–473). This amendment had been included as sec. 312(b) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119. Such authority had previously been extended from Dec. 31, 1977 to Sept. 30, 1978, by Public Law 95–88 (91 Stat. 540), from Sept. 30, 1978 to Sept. 30, 1979, by Public Law 95–424 (92 Stat. 951), from Sept. 30, 1979 to Sept. 30, 1982, by Public Law 96–53 (93 Stat. 364), and from Sept. 30, 1982 to Sept. 30, 1983, by Public Law 97–438 (96 Stat. 2286).

United States may be utilized to carry out the purposes of this section, including the discharge of liabilities under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.[186]

Sec. 223.[187] **General Provisions.**—(a) A fee shall be charged for each guaranty issued under section 222 or 222A[188] in an amount to be determined by the President. In the event the fee to be charged for such type guaranty is reduced, fees to be paid under existing contracts for the same type of guaranty may be similarly reduced.

(b) The amount of $50,000,000 of fees accumulated under prior investment guaranty provisions repealed by the Foreign Assistance Act of 1969, together with all fees collected in connection with guaranties issued under section 222[189] or under prior housing guaranty authorities,[190] shall be available for meeting necessary administrative and operating expenses of carrying out the provisions of section 222 and administering housing guaranties heretofore authorized under this title and under[191] prior housing guaranty provisions repealed by the Foreign Assistance Act of 1969 (including, but not limited to expenses pertaining to personnel, supplies, and printing), subject to such limitations as may be imposed in annual appropriation Acts; for meeting management and custodial costs incurred with respect to currencies or other assets acquired under guaranties made pursuant to section 222[189] or heretofore pursuant to this title or[192] prior Latin American and other housing guaranty authorities repealed by the Foreign Assistance Act of 1969; and to pay the cost of investigating and adjusting (including cost of arbitration) claims under such guaranties; and shall be available for expenditure in discharge of liabilities under such guaranties until such time as all such property has been disposed of and all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with the provisions of this subsection. Fees collected in connection with guaranties issued under section 222A shall likewise be available to meet similar expenses, costs, or liabilities incurred in connection with the programs authorized by that section.[193] All of the foregoing fees referred to in this section together with earnings thereon and other

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[186] Subsec. (j), which previously appeared at this point and concerned a one-time reporting requirement, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[187] 22 U.S.C. 2183. Sec. 223 was added by sec. 105 of the FA Act of 1969.

[188] Sec. 8(a)(3) of the FA Act of 1974 inserted "section 221, 222, or 222A" in lieu of "section 221 or section 222". Subsequently, the reference to sec. 221 was struck by sec. 115 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951).

[189] Sec. 8(a)(3) of the Foreign Assistance Act of 1974 (Public Law 93–559)struck out "this title" and inserted in lieu thereof "section 221 or section 222". Sec. 115(d) of International Development and Food Assistance Act (Public Law 95–424; 92 Stat. 945) struck out reference to section 221.

[190] Sec. 117(b)(2)(A) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 540) struck out the word "hereunder" and inserted the words "under section 221 or 222 or under prior housing guaranty authorities".

[191] The words to this point beginning with "222 and administering * * *" were substituted in lieu of "221 and section 222 of" by sec. 115(d)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951).

[192] The words "this title or" were added by sec. 115(d)(4) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951).

[193] This sentence was added by sec. 117(b)(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 540).

income arising from guaranty operations under this title shall be held in a revolving fund account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes cited in this section.[194]

(c) Any payments made to discharge liabilities under guaranties issued under this title or[195] section 222 or heretofore under prior Latin American or other housing guaranty authorities repealed by the Foreign Assistance Act of 1969, shall be paid first out of fees referred to in subsection (b) (excluding amounts required for purposes other than the discharge of liabilities under guaranties) as long as such fees are available, and thereafter shall be paid out of funds, if any, realized from the sale of currencies or other assets acquired in connection with any payment made to discharge liabilities under such guaranties as long as funds are available, and finally out of funds hereafter made available pursuant to subsection (e).

(d) All guaranties issued under section 222 or 222A or previously under section 240 of this Act[196] or heretofore under this title or[197] under prior Latin American or other housing guaranty authority repealed by the Foreign Assistance Act of 1969 shall constitute obligations, in accordance with the terms of such guaranties of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(e)(1)[198] There is hereby authorized to be appropriated to the President such amounts, to remain available until expended, as may be necessary from time to time to carry out the purposes of this title.

(2)[198] (A) In order to meet obligations incurred for the payment of claims pursuant to loan guaranties described in subsection (d), the Administrator of the agency primarily responsible for administering part I may, to the extent that reserves are not sufficient, borrow from time to time from the Treasury except that—

(i) the Administrator may exercise the authority to borrow under this paragraph only to such extent or in such amounts as are provided in advance in appropriation Acts; and

(ii) the amount borrowed under this paragraph which is outstanding at any one time may not exceed $100,000,000.[199]

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[194] The final three sentences of subsec. (b) were added by sec. 310(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1535).

[195] The words "under this title or" were inserted in lieu of "section 221 or" by sec. 115(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951).

[196] Sec. 8(a)(5) of the FA Act of 1974 substituted "section 221, 222, 222A, or previously under section 240 of this Act" in lieu of "section 221 or section 222." Subsequently, sec. 115(f) of Public Law 95–424 struck out the reference to sec. 221.

[197] The words "under this title or" were added by sec. 115(f)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951).

[198] The para. designation "(1)" and a new para. (2) were added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 311(c) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[199] $100,000,000 was substituted in lieu of $40,000,000 by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329).

(B) Any such borrowing shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury shall make loans under this paragraph and for such purpose may borrow on the credit of the United States in accordance with subchapter I of chapter 31 of title 31 of the United States Code.

(f) In the case of any loan investment guaranteed under section 222,[199] the agency primarily responsible for administering part I shall prescribe the maximum rate of interest allowable to the eligible investor, which maximum rate shall not exceed by more than 1 per centum the then current rate of interest applicable to housing mortgages insured by the Department of Housing and Urban Development.[200] The maximum allowable rate of interest under this subsection shall be prescribed by the agency as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the agency may amend such rate at its discretion, consistent with the provisions of subsection (f).

(g) Housing guaranties committed, authorized, or outstanding heretofore under this title or[201] under prior housing guaranty authorities repealed by the Foreign Assistance Act of 1969 shall continue subject to provisions of law originally applicable thereto and fees collected hereafter with respect to such guaranties shall be available for the purposes specified in subsection (b).

(h) No payment may be made under any guaranty issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(i)[202] * * * [Repealed—1978]

(j)[203] Guaranties shall be issued under section 222[189] only for housing projects which are coordinated with and complementary to any development assistance being furnished under chapter 1 of this part and which[204] are specifically designed to demonstrate the feasibility and suitability of particular kinds of housing or of financial or other institutional arrangements. Of the aggregate face value of housing guaranties hereafter issued under this title, not less than 90 per centum shall be issued for housing suitable for families with income below the median income (below the median urban income for housing in urban areas) in the country in which the housing is located.[205]

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[200] Language which specified that the maximum rate of interest should not be less than one-half of 1 per centum above the then current rate of interest applicable to housing mortgages insured by HUD, was struck out by sec. 112(c) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364).

[201] The words "heretofore under this title or" were added by sec. 115(h) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 951).

[202] Subsec. (i), which had authorized sections 221 and 222 to continue in force until Sept. 30, 1979, was repealed by sec. 115(i) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 952).

[203] Sec. 311(5)(B) of Public Law 94–161 (89 Stat. 849) added subsection (j).

[204] The words to this point beginning with "are coordinated with and" were substituted by sec. 112(d)(1) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364) in lieu of the following: "(1) except for regional projects are in countries which are receiving, or which in the previous two fiscal years have received, development assistance under chapter 1 of part I of this Act, (2) are coordinated with and complementary to such assistance, and (3)".

[205] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681) struck out the third and fourth sentences of subsec. (j). The fourth sentence had previously been amended and re-

Sec. 224.[206] **Trade Credit Insurance Program for Central America.**—(a) In order to enable the Export-Import Bank of the United States (hereafter in this section referred to as the "Bank") to determine that there exists reasonable assurance of repayment as required under section 2(b)(1)(B) of the Export-Import Bank Act of 1945,[207] the agency primarily responsible for administering part I of this Act (hereafter in this section referred to as the "Agency") is authorized to provide guarantees to the Bank for liabilities to be incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Central American countries.

(b)(1) Guarantees provided by the Agency pursuant to the authority of subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance. Guarantees or insurance extended by the Bank and guaranteed by the Agency pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Agency and the Bank. Such agreement shall also provide for the establishment of a reserve fund by the Agency, with such funds made available to the reserve as the Agency deems necessary to discharge liabilities under guarantees provided by the Agency pursuant to subsection (a).

(2) The administrator of such agency shall transmit a copy of such agreement to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(c) The Agency shall not enter into any commitments to guarantee under subsection (a) after September 30, 1991.[208]

(d) Of the funds authorized to be appropriated for chapter 4 of part II of this Act, there are authorized to be made available such sums as may be deemed necessary by the Agency to discharge liabilities under guarantees entered into under subsection (a).

(e) Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in appropriations Acts, except that the aggregate amount of outstanding commitments under subsection (a) may not exceed $300,000,000 of con-

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stated by sec. 112(d)(2) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364). The two stricken sentences, as amended, had read as follows:

"The face value of guaranties issued with respect to housing in any country shall not exceed $25,000,000 in any fiscal year, and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000. Of the total amount of housing guaranties authorized to be issued under section 222 through September 30, 1982, not less than a face amount of $25,000,000 shall be issued for projects in Israel and not less than a face amount of $25,000,000 shall be issued for projects in Egypt.".

[206] 22 U.S.C. 2184. Sec. 224 was added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473; 98 Stat. 1903). This amendment had been included as sec. 1011 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 1011 of H.R. 5119. Reference in the section title to Central America was added by the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 103 Stat. 1313).

[207] For text, see *Legislation on Foreign Relations Through 2000*, vol. III.

[208] Title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2001), struck out "September 30, 1990" and inserted in lieu thereof "September 30, 1991".

tingent liability for loan principal during fiscal year 1986 and may not exceed $400,000,000 of contingent liability for loan principal during fiscal year 1987.[209]

(f) To the extent that any of the funds made available pursuant to subsection (d) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund referred to in subsection (b), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Agency to the Bank for guarantees under subsection (a).

(g) Beginning on a date six months after the date of enactment of this section, and at intervals of six months thereafter, the administrator of the agency primarily responsible for administering part I of this Act and the President of the Export-Import Bank of the United States shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of credits during the preceding six-month period.

(h) The Export-Import Bank shall provide without reimbursement such administrative and technical assistance to the Agency as the Bank and the Agency deem appropriate to assist the Agency in carrying out this section.

Sec. 225.[210] Trade Credit Insurance Program for Poland.

(a) GENERAL AUTHORITY.—

(1) ASSURANCE TO EXPORT-IMPORT BANK OF REPAYMENT.—The President is authorized to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) that the Bank have reasonable assurance of repayment.

(2) LIABILITIES WHICH MAY BE GUARANTEED.—The liabilities that may be guaranteed under paragraph (1) are liabilities incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Poland.

(b) GUARANTEES AVAILABLE ONLY FOR SHORT-TERM GUARANTEES AND INSURANCE.—Guarantees provided under subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance.

(c) AGREEMENT ON CRITERIA AND PROCEDURES.—Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

(d) RESERVE FUND.—The agreement referred to in subsection (c) shall also provide for the establishment of a reserve fund by the

[209] Sec. 314 of the International Security and Development Cooperation Act of 1985 substituted the text following the word "Acts," in lieu of the words "not to exceed $300,000,000 in the fiscal year 1985.".

[210] 22 U.S.C. 2185. Section 304 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 103 Stat. 1312) added sec. 225.

administering agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided under subsection (a).

(e) DISCHARGE OF LIABILITIES.—

(1) FUNDS WHICH MAY BE USED.—Such amounts of the funds made available to carry out chapter 4 of part II of this Act (relating to the economic support fund) as the President determines are necessary may be made available to discharge liabilities under guarantees entered into under subsection (a).

(2) CREDITING OF SUBSEQUENT PAYMENTS.—To the extent that any of the funds made available pursuant to paragraph (1) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to subsection (d), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Administrator to the Bank for guarantees under subsection (a).

(f) APPROPRIATIONS ACTION REQUIRED.—Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in advance in appropriations Acts.

(g) LIMITATION ON OUTSTANDING COMMITMENTS.—The aggregate amount of outstanding commitments under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal during any fiscal year.

(h) BIANNUAL REPORTS TO CONGRESS.—Every 6 months, the Administrator and the President of the Bank shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of guarantees and insurance provided by the Bank and guaranteed under this section during the preceding 6-month period.

(i) ADMINISTRATIVE AND TECHNICAL ASSISTANCE.—The Bank shall provide, without reimbursement, such administrative and technical assistance to the administering agency as the Bank and the Administrator determine appropriate to assist the administering agency in carrying out this section.

(j) FEES AND PREMIUMS.—The Bank is authorized to charge fees and premiums, in connection with guarantees or insurance guaranteed by the administering agency under subsection (a), that are commensurate (in the judgment of the Bank) with the Bank's administrative costs and the risks covered by the agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance—

(1) shall be credited to the reserve fund established pursuant to subsection (d),

(2) shall be merged with the funds in such reserve, and

(3) shall be available for the purpose of payments by the administering agency to the Bank for guarantees under subsection (a).

(k) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland shall not apply with respect to the funds made available to carry out this section.

(l) EXPIRATION OF AUTHORITY.—The President may not enter into any commitments to guarantee under subsection (a) after September 30, 1992.

(m) DEFINITIONS.—For purposes of this section—

(1) the term "administering agency" means the Agency for International Development;

(2) the term "Administrator" means the Administrator of the Agency for International Development; and

(3) the term "Bank" means the Export-Import Bank of the United States.

SEC. 226.[211] **LOAN GUARANTEES TO ISRAEL PROGRAM.**

(a) IN GENERAL.—Subject to the terms and conditions of this section, during the period beginning October 1, 1992, and ending September 30, 1997, the President is authorized to issue guarantees against losses incurred in connection with loans to Israel made as a result of Israel's extraordinary humanitarian effort to resettle and absorb immigrants into Israel from the republics of the former Soviet Union, Ethiopia and other countries. In the event that less than the full amount authorized to be issued under subsection (b) of this section is issued in such period, the authority to issue the balance of such guarantees shall be available in the fiscal year ending on September 30, 1998.

(b)[212] FISCAL YEAR LEVELS.—The President is authorized to issue guarantees in furtherance of the purposes of this section. Subject to subsection (d), the total principal amount of guarantees which may be issued by the President under this section shall be up to $10,000,000,000 which may be issued as follows:

(1) in fiscal year 1993, up to $2,000,000,000 may be issued on October 1, 1992 or thereafter;

(2) subject to subsection (d), in fiscal years 1994 through 1997, up to $2,000,000,000 in each fiscal year may be issued on October 1 or thereafter.

(3) If less than the full amount of guarantees authorized to be made available in a fiscal year pursuant to paragraphs (1) and (2) of this subsection is issued to Israel during that fiscal year, the authority to issue the balance of such guarantees shall extend to any subsequent fiscal year ending on or before September 30, 1998.

(4)(A) Not later than September 1 of each year during the period in which the President is authorized to issue loan guarantees under subsection (a), beginning in fiscal year 1993, the President shall notify the appropriate congressional committees in writing of his intentions regarding the exercise of that authority for the fiscal year beginning on October 1 of that year, including a statement of the total principal amount of guarantees, if any, that the President proposes to issue for that fiscal year.

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[211] 22 U.S.C. 2186. Added by sec. 601 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1699).

[212] In past years, the President has determined, pursuant to sec. 226(d), that amounts authorized under this section for loan guarantees be reduced. See Presidential Determination No. 93–44 of September 30, 1993 (58 F.R. 52209); Presidential Determination No. 94–57 of September 30, 1994 (59 F.R. 52057); Presidential Determination No. 95–46 of September 29, 1995 (60 F.R. 53087).

(B) For purposes of this paragraph, the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[213] of the House of Representatives.

(c) USE OF GUARANTEES.—Guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967.

(d)[212] LIMITATION ON GUARANTEE AMOUNT.—The amount of authorized but unissued guarantees that the President is authorized to issue as specified in subsection (b) shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the previous year for activities which the President determines are inconsistent with the objectives of this section or understandings reached between the United States Government and the Government of Israel regarding the implementation of the loan program. The President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under this subsection and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year.

(e) FEES.—

(1) Fees charged for the loan guarantee program under this section each year shall be an aggregate annual origination fee equal to the estimated subsidy cost of the guarantees issued under this section for that year, calculated by the Office of Management and Budget for the Federal Credit Reform Act of 1990. This shall also include an amount for the administrative expenses of the Agency for International Development in administering the program under this section. All such fees shall be paid by the Government of Israel to the Government of the United States. Funds made available for Israel under chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government. No further appropriations of subsidy cost are needed for the loan guarantee authorized hereunder for fiscal year 1993 and the four succeeding fiscal years.

(2) The origination fee shall be payable to the United States Government on a pro rata basis as each guarantee for each loan or increment is issued.

(f) AUTHORITY TO SUSPEND.—Except as provided in subsections (l) and (m) of this section, the President shall determine the terms and conditions for issuing guarantees. If the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the additional loan guarantees not yet issued under this section. Upon making such a determination to suspend or terminate the provision of loan guarantees, the President shall submit to the Speaker of

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

the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

(g) PROCEDURES FOR SUSPENSION OR TERMINATION.—Any suspension or termination pursuant to subsection (f) shall be in accordance with the following procedures:

(1) Upon making a determination to suspend or terminate the provision of loan guarantees, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

(2) Such a suspension or termination shall cease to be effective if Congress enacts, within 30 days of submission, a joint resolution authorizing the assistance notwithstanding the suspension.

(3) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(4) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(5) In the event that the President suspends the provision of additional loan guarantees under subsection (f) and Congress does not enact a joint resolution pursuant to this subsection, the provision of additional loan guarantees under the program established by this section may be resumed only if the President determines and so reports to Congress that the reasons for the suspension have been resolved or that the resumption is otherwise in the national interest.

(h) ECONOMIC CONTEXT.—The effective absorption of immigrants into Israel from the republics of the former Soviet Union and Ethiopia within the private sector requires large investment and economic restructuring to promote market efficiency and thereby contribute to productive employment and sustainable growth. Congress recognizes that the Government of Israel is developing an economic strategy designed to achieve these goals, and that the Government of Israel intends to adopt a comprehensive, multi-year economic strategy based on prudent macroeconomic policies and structural reforms. Congress also recognizes that these policies are being designed to reduce direct involvement of the government in the economic system and to promote private enterprise, important prerequisites for economic stability and sustainable growth.

(i) CONSULTATIONS.—It is the sense of the Congress that, as agreed between the two Governments and in order to further the policies specified in subsection (h), Israel and the United States should continue to engage in consultations concerning economic and financial measures, including structural and other reforms, that Israel should undertake during the pendency of this program to enable its economy to absorb and resettle immigrants and to accommodate the increased debt burden that will result from loans guaranteed pursuant to this section. It is the sense of the Congress

that these consultations on economic measures should address progress and plans in the areas of budget policies, privatization, trade liberalization, financial and capital markets, labor markets, competition policy, and deregulation.

(j) GOODS AND SERVICES.—During the pendency of the loan program authorized under this section, it is anticipated that, in the context of the economic reforms undertaken pursuant to subsections (h) and (i) of this section, Israel's increased population due to its absorption of immigrants, and the liberalization by the Government of Israel of its trade policy with the United States, the amount of United States investment goods and services purchased for use in or with respect to the country of Israel will substantially increase.

(k) REPORTS.—The President shall report to Congress by December 31 of each fiscal year until December 31, 1999, regarding the implementation of this section.

(l) APPLICABILITY OF FOREIGN ASSISTANCE ACT AUTHORITIES.—Section 223 of the Foreign Assistance Act shall apply to guarantees issued under subsection (a) in the same manner as such section applies to guarantees issued under section 222, except that subsections (a), (e)(1), (g), and (j) of section 223 shall not apply to such guarantees and except that, to the extent section 223 is inconsistent with the Federal Credit Reform Act of 1990, that Act shall apply. Loans shall be guaranteed under this section without regard to sections 221, 222, and 238(c). Notwithstanding section 223(f), the interest rate for loans guaranteed under this section may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this section in the event the borrower elects not to finance such costs or fees out of loan principal. Guarantees once issued hereunder shall be unconditional and fully and freely transferable.

(m) TERMS AND CONDITIONS.—

(1) Each loan guarantee issued under this section shall guarantee 100 percent of the principal and interest payable on such loans.

(2) The standard terms of any loan or increment guaranteed under this section shall be 30 years with semiannual payments of interest only over the first 10 years, and with semiannual payments of principal and interest on a level payment basis, over the last 20 years thereof, except that the guaranteed loan or any increments issued in a single transaction may include obligations having different maturities, interest rates, and payment terms if the aggregate scheduled debt service for all obligations issued in a single transaction equals the debt service for a single loan or increment of like amount having the standard terms described in this sentence. The guarantor shall not have the right to accelerate any guaranteed loan or increment or to pay any amounts in respect of the guarantees issued other than in accordance with the original payment terms of the loan. For purposes of determining the maximum principal amount of any loan or increment to be guaranteed under this section, the principal amount of each such loan or increment shall be—

(A) in the case of any loan issued on a discount basis, the original issue price (excluding any transaction costs) thereof; or

(B) in the case of any loan issue on an interest-bearing basis, the stated principal amount thereof.

Title IV—Overseas Private Investment Corporation[214]

Sec. 231.[215] **Creation, Purpose and Policy.**—To mobilize and facilitate the participation of United States private capital and skills in the economic and social development[216] of less developed countries and areas, and countries in transition from nonmarket to market economies,[217] thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

The[218] Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors;

(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $984 or less in 1986 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic

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[214] A new title IV was added by sec. 105 of the FA Act of 1969. Prior to this, title IV had been titled "Surveys of Investment Opportunities." For Executive Order concerning OPIC, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

Title IV was amended extensively by title I of S. 2757 and title I of H.R. 5263, both enacted by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268):

"SEC. 555. * * * *Provided further,* That title I of H.R. 5263 as passed by the House of Representatives on September 20, 1988, is hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That notwithstanding any other provision of this Act, titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: * * *.".

Except in two instances, title I, S. 2757 and title I, H.R. 5263 are identical. Sec. 106 in each title amended sec. 235(a)(2) of the FA Act of 1961. Sec. 235(a)(2) was previously amended by Public Law 100–418, sec. 2203(b)(1)(A); H.R. 5263 took this into account. Public Law 100–418, sec. 2203(b)(1)(B) redesignated sec. 235(a)(5) of the FA Act of 1961 as sec. 235(a)(6). Sec. 107 in S. 2757 and H.R. 5263 amended this section, but H.R. 5263 took into account the redesignation by Public Law 100–418. Title III of S. 2757, which addresses the implementation of certain USIA Exchange Visitor Programs, is in *Legislation on Foreign Relations Through 2002*, vol. II, sec. E.

[215] 22 U.S.C. 2191. Sec. 231 was added by sec. 105 of the FA Act of 1969.

[216] Sec. 2(1)(A) of the OPIC Amendments Act of 1974 (Public Law 93–390; 83 Stat. 809) substituted "development" in lieu of "progress".

[217] Sec. 101 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) struck out "friendly countries and areas," and inserted in lieu thereof "countries and areas, and countries in transition from nonmarket to market economies,".

[218] This paragraph was added by sec. 2(1) of Public Law 95–268 (92 Stat. 213).

Recovery Act (19 U.S.C. 2702), Ireland, and Northern Ireland); and[219]

(3)[220] ensures that the project is consistent with the provisions of section 117[220] (as so redesignated by the Special Foreign Assistance Act of 1986), section 118, and section 119 of this Act relating to the environment and natural resources of, and tropical forests and endangered species[220] in, developing countries, and consistent with the intent of regulations issued pursuant to sections 118 and 119 of this Act.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a)[221] to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;

(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(d) to conduct its insurance operations with due regard to principles of risk management including[222] efforts to share its insurance risks and reinsurance[223] risks;

(e)[224] to the maximum degree possible consistent with its purposes—

(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

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[219] The per capita income levels were increased from $896 and $3,887 in 1983 U.S. dollars by sec. 102 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268). Sec. 102 also added "(other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702))". Previously the per capita income levels were increased from $680 and $2,950 in 1979 U.S. dollars to $896 and $3,887 in 1983 U.S. dollars by sec. 3 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1669), and from $520 and $1,000 in 1975 U.S. dollars to $680 and $2,950 in 1979 U.S. dollars, respectively, by sec. 2(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021).

Sec. 105 of the Jobs Through Trade Expansion Act of 1994 (Public Law 103–392; 108 Stat. 4099) inserted ", Ireland, and Northern Ireland" in the parentheses.

[220] Par. (3) was added by sec. 4(a)(1)(C) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1669). The OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), made a correction to include section 117. S. 2757 also struck out "biological diversity" and inserted in lieu thereof "tropical forests and endangered species".

[221] Subsec. (a) was amended by sec. 2(1)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390; 83 Stat. 809). It formerly read as follows: "(a) to conduct financial soundness of projects and the availability of financing from other sources on appropriate terms;".

[222] Sec. 2(1)(C) of the OPIC Amendments Act of 1974 (Public Law 93–390) struck the words, "when appropriate," which appeared at this point.

[223] Sec. 2(1)(C) of the OPIC Amendments Act of 1974 (Public Law 93–390) added the words "and reinsurance".

[224] Subsec. (e), as amended by Public Law 93–390, was amended and restated by sec. 2(2) of Public Law 95–268 (92 Stat. 213). It formerly read as follows:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than $2,500,000 net worth or with not more than $7,500,000 in total assets;".

(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;

(f)[225] to consider in the conduct of its operations the extent to which less developed country governments are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(g)[225] to foster private initiative and competition and discourage monopolistic practices;

(h)[225] to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment[226] objectives of the United States;

(i)[225] to conduct its activities in consonance with the activities of the agency primarily responsible for administering part I and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States;[227]

(j)[225] to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas;

(k)[228] (1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1);

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[225] Sec. 2(5) of Public Law 95–268 (92 Stat. 214) struck subsecs. (f) and (l) and redesignated subsecs. (g) through (n) as (f) through (l), respectively. Subsecs. (f) and (l) formerly read as follows:

"(f) to encourage and support only those private investments in less developed friendly countries and areas which are sensitive and responsive to the special needs and requirements of their economies, and which contribute to the social and economic development of their people;"

"(l) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of $450 or less in 1973 United States dollars; and".

[226] Sec. 2(1)(E) of the OPIC Amendments Act of 1974 (Public Law 93–390) added the words "and employment".

[227] The words ", and to seek to support those developmental projects having positive trade benefits for the United States" were added by sec. 2(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021).

[228] This subsection was originally added as subsec. (m) by sec. 2(1)(H) of the OPIC Amendments Act of 1974 (Public Law 93–390). It was redesignated as subsec. (k) by sec. 2(5) of Public Law 95–268; 92 Stat. 214.

(l)[229] to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States;

(m)[230] to refuse to insure, reinsure, or finance any investment subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment; and

(n)[231] to refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

Sec. 231A.[232] **Additional Requirements.**—(a) WORKER RIGHTS.—

(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 507(4) of the Trade Act of 1974,[233] to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:[234]

"The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government."

(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 504 of the Trade Act of 1974.[235] The restriction set

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[229] This subsection was added as subsec. (n) by sec. 2(4) of Public Law 95–268 (92 Stat. 213), and redesignated as subsec. (l) by sec. 2(5) of the same Act.

[230] Subsec. (m) was added by sec. 2(3)(C) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021).

[231] Sec. 4(a)(4) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1669) added subsec. (n).

[232] 22 U.S.C. 2191a. Sec. 231A was added by sec. 5(a) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1670). Sec. 5(b) of the Act provides that sec. 231A(a) "shall not apply to projects insured, reinsured, guaranteed, or financed before the date of the enactment of this Act.".

[233] Sec. 1954(b)(3)(A) of Public Law 104–188 (110 Stat. 1928) struck out "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserted in lieu thereof "507(4) of the Trade Act of 1974".

[234] Sec. 102(a) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) added the last sentence, including the language required in contracts, to sec. 231A(a)(1).

[235] Sec. 1954(b)(3)(B) of Public Law 104–188 (110 Stat. 1928) struck out "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserted in lieu thereof "504 of the Trade Act of 1974".

forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guaranty, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.[236]

(4)[237] In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 507(4)[238] of the Trade Act of 1974.

(b)[239] ENVIRONMENTAL IMPACT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

(1) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

(2) such assessment or audit has been made available tot he public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

(c)[239] PUBLIC HEARINGS.—(1)[240] The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this title.

(2)[240] In conjunction with each meeting of its Board of Directors, the Corporation shall hold a public hearing in order to afford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.

Sec. 232.[241] **Capital of the Corporation.**—The President is authorized to pay in as capital of the Corporation, out of dollar re-

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[236] The President determined "that the waiver of section 231A(a)(1) with respect to Nicaragua, permitting the Overseas Private Investment Corporation to insure, reinsure, guaranty, and finance projects in Nicaragua, is in the national economic interests of the United States." (Presidential Determination 90–24 of June 21, 1990; 55 F.R. 27631).

[237] Sec. 231A(a)(4) was added by sec. 2203(c) of Public Law 100–418 (102 Stat. 1328).

Sec. 902(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 83) continued a suspension of OPIC's issuing new insurance, reinsurance, guarantees, financing, or other financial support to the People's Republic of China until the President reported to the Congress under subsec. (b) of that sec. that China had made certain political reforms, or that such assistance was in the national interest of the United States. For text of sec. 902, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. D.

[238] Sec. 1954(b)(3)(C) of Public Law 104–188 (110 Stat. 1928) struck out "502(a)(4)" and inserted in lieu thereof "507(4)".

[239] Sec. 3(a) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1745) redesignated subsec. (b) as subsec. (c), and added a new subsec. (b).

[240] Sec. 3(a)(3) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1745) inserted "(1)" before "The Board" and added a new para. (2).

[241] 22 U.S.C. 2192. Sec. 232 was added by sec. 105 of the FA Act of 1969.

ceipts made available through the appropriation process from loans made pursuant to this part and from loans made under the Mutual Security Act of 1954, as amended, for the fiscal year 1970 not to exceed $20,000,000 and for the fiscal year 1971 not to exceed $20,000,000. Upon the payment of such capital by the President, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

Sec. 233.[242] **Organization and Management.**—(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

(b) BOARD OF DIRECTORS.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors ("the Board") which shall consist of fifteen Directors,[243] including the Chairman, with eight Directors[244] constituting a quorum for the transaction of business.[245] Eight Directors[245, 246] shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least two of the eight Directors[247] appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than three such Directors[248] shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.

The other Directors shall be officials of the Government of the United States, including the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and[249] an official of the Department of Labor,[250] designated by and serving at the pleasure of the President of the United States. The United States Trade Representative may designate a Deputy United States Trade Rep-

[242] 22 U.S.C. 2193. Sec. 233 was added by sec. 105 of the FA Act of 1969.

[243] The number of Directors was increased from 11 to 15 by sec. 3(a)(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021), effective Oct. 1, 1981.

[244] The number of Directors was increased from six to eight by sec. 3(a) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021), effective Oct. 1, 1981.

[245] Sec. 4(1) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out two sentences at this point that designated the Administrator of AID as Chairman of the Board, ex officio, and the U.S. Trade Representative or Deputy U.S. Trade Representative as Vice Chairman of the Board, ex officio. The second sentence, establishing the USTR role, had been added by sec. 3(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1021), effective Oct. 1, 1981.

[246] Sec. 4(2) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out "(other than the President of the Corporation, appointed pursuant to subsection (c) who shall serve as a Director ex officio)" at this point.

[247] The number of Directors was increased from one of the six to two of the eight by sec. 3(a) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022), effective Oct. 1, 1981.

[248] The number of Directors was increased from two to three by sec. 3(a)(3) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022), effective Oct. 1, 1981.

[249] Sec. 4(3)(A) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) inserted "the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and" after "including".

[250] The reference to an official of the Department of Labor was added by sec. 3(b) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022), effective October 1, 1981.

resentative to serve on the Board in place of the United States Trade Representative.[251]

There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection.[252]

All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315)[253] when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended, from time to time, while away from their homes or usual places of business.

(c) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

(d) OFFICERS AND STAFF.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided,* That under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5 of the United States Code.

(e)[254] INVESTMENT ADVISORY COUNCIL.—The Board shall take prompt measures to increase the loan, guarantee, and insurance

[251] Sec. 4(3)(B) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) inserted "The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative.".

[252] Sec. 4(4) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) added this para.

[253] The current rate of compensation at level IV of the Executive Schedule is $134,000 per annum (Executive Order 13282; 68 F.R. 1133; December 31, 2002).

[254] Sec. 123(c)(1) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 269) added subsec. (e). Sec. 123 of that Act, furthermore, provided the following:

"SEC. 123. OVERSEAS PRIVATE INVESTMENT CORPORATION INITIATIVES.

"(a) INITIATION OF FUNDS.—It is the sense of the Congress that the Overseas Private Investment Corporation should exercise the authorities it has to initiate an equity fund or equity

programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an investment advisory council to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the investment advisory council shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The investment advisory council shall terminate 4 years after the date of the enactment of this subsection.

Sec. 234.[255] **Investment Insurance and Other Programs.**[256]—The Corporation is hereby authorized to do the following:

(a)[257] INVESTMENT INSURANCE.—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government;

(C) loss due to war, revolution, insurrection or civil strife; and[258]

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funds in support of projects in the countries in sub-Saharan Africa, in addition to the existing equity fund for sub-Saharan Africa created by the Corporation.

"(b) STRUCTURE AND TYPES OF FUNDS.—

"(1) STRUCTURE.—Each fund initiated under subsection (a) should be structured as a partnership managed by professional private sector fund managers and monitored on a continuing basis by the Corporation.

"(2) CAPITALIZATION.—Each fund should be capitalized with a combination of private equity capital, which is not guaranteed by the Corporation, and debt for which the Corporation provides guaranties.

"(3) INFRASTRUCTURE FUND.—One or more of the funds, with combined assets of up to $500,000,000, should be used in support of infrastructure projects in countries of sub-Saharan Africa.

"(4) EMPHASIS.—The Corporation shall ensure that the funds are used to provide support in particular to women entrepreneurs and to innovative investments that expand opportunities for women and maximize employment opportunities for poor individuals.

"(c) OVERSEAS PRIVATE INVESTMENT CORPORATION.—

"(1) INVESTMENT ADVISORY COUNCIL.—Section 233 of the Foreign Assistance Act of 1961 is amended * * *

"(2) REPORTS TO CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Overseas Private Investment Corporation shall submit to Congress a report on the steps that the Board has taken to implement section 233(e) of the Foreign Assistance Act of 1961 (as added by paragraph (1)) and any recommendations of the investment advisory council established pursuant to such section.".

[255] 22 U.S.C. 2194. Sec. 234 was added by sec. 105 of the FA Act of 1969.

[256] Sec. 2(2)(A) of the OPIC Amendments Act of 1974 (Public Law 93–390) inserted section title "Investment Insurance and Other Programs" in lieu of "Investment Incentive Programs".

[257] Sec. 5(b)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023) provided:

"(2) The authority of the Overseas Private Investment Corporation to enter into contracts under section 234(a) of the Foreign Assistance Act of 1961 shall be effective for any fiscal year beginning after September 30, 1981, only to such extent or in such amounts as are provided in appropriation Acts.".

[258] The reference to civil strife was added by sec. 4(a)(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022).

(D)[259] loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

(2)[260] Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.[261]

(3) Not more than 10 per centum of the maximum contingent liability[262] of investment insurance which the Corporation is permitted to have outstanding under section 235(a)(1)[263] shall be issued to a single investor.

(4)[264] Before issuing insurance for the first time for loss due to business interruption, and in each subsequent instance in which a significant expansion is proposed in the type of risk to be insured under the definition of "civil strife" or "business interruption", the Corporation shall, at least sixty days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[265] of the House of Representatives a report with respect to such insurance, including a

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[259] Sec. 6(a)(1)(D) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1671) added subpar. (D)

[260] Subsec. (a)(2) was amended by sec. 2(2)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390). It formerly read as follows: "(2) Recognizing that major private investments in less developed friendly countries in areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder: *Provided, however,* That liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing.".

[261] The words "total" and "financing", which previously appeared immediately before and after the word "project", were deleted by sec. 4(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022).

Sec. 3(1) of Public Law 95–268 (92 Stat. 214) struck out the following words that previously appeared at this point: "and that the maximum share of liabilities so assumed under paragraph (1) (A) and (B) of paragraph (1)(C) shall not exceed the Corporation's proportional share of such liabilities as specified in paragraph (4) or (5) of this subsection.".

[262] The words "maximum contingent liability" were substituted in lieu of "total face amount" by sec. 3(2) of Public Law 95–268 (92 Stat. 214).

[263] The words "permitted to have outstanding under sec. 235(a)(1)" were inserted in lieu of the words "authorized to issue under this subsection" by sec. 4(a)(3) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022).

[264] Pars. (4) through (7), which had been added by the OPIC Amendments Act of 1974 (Public Law 93–390) and had appeared at this point, were struck by sec. 3(3) of Public Law 95–268 (92 Stat. 214). This new par. (4) was added by sec. 4(a)(4) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022). Subsequently, sec. 6(a)(2)(A) and (B) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1671) inserted "insurance for the first time loss due to business interruption" in lieu of "civil strife insurance for the first time" and replaced "definition of civil strife" with "definition of 'civil strife' or 'business interruption'".

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

thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered. Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.[266]

(b) INVESTMENT GUARANTIES.—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further,* That not more than 15[267] per centum of the maximum contingent liability of investment guaranties which the Corporation is permitted to have outstanding under section 235(a)(2)[268] shall be issued to a single investor.

(c) DIRECT INVESTMENT.—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine.[269] Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.[270]

The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and

[266] Sec. 6(a)(2) (C) and (D) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1671) added the text from the word "reserves" to the end of para. (4).

[267] Sec. 7 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1672) changed the per centum from 10 to 15.

[268] The words "permitted to have outstanding under section 235(a)(2)" were inserted in lieu of the words "authorized to issue under this subsection" by sec. 4(b) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022).

[269] Sec. 104 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), struck out the following which previously appeared at this point: "The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining.".

[270] This sentence was added by sec. 3(4) of Public Law 95–268 (92 Stat. 214).

are likely to contribute to the economic or social development of less developed countries.[271]

No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.[272]

(d) INVESTMENT ENCOURAGEMENT.—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private investors, except that—

(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed $200,000.[273]

(e) SPECIAL ACTIVITIES.—To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives and including the initiation of incentives, grants, and studies for renewable energy and other small business activities.[274] The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private. Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.[275]

(f)[276] OTHER INSURANCE FUNCTIONS.—(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and

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[271] This paragraph was added by sec. 103 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268).

[272] Sec. 3(5) of Public Law 95–268 (92 Stat. 214) inserted this paragraph in lieu of the following:

"No loans shall be made under this section to finance operations for mining or other extraction of any deposit of ore, oil, gas, or other mineral.".

[273] Sec. 3(6) of Public Law 95–268 (92 Stat. 214) struck out a proviso clause in subsec. (d) and added the words to this point beginning with ", except that—".

[274] Section 8(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218; 103 Stat. 1868) added text to the end of the sentence from "and including".

[275] Section 8(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218; 103 Stat. 1868) added the last sentence.

[276] Subsec. (f) was added by sec. 2(2)(D) of the OPIC Amendments Act of 1974 (Public Law 93–390).

in any other matter incident to an insurance business; except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 of this Act and shall be on equitable terms.[277]

(2) To enter into pooling or other risk-sharing agreements with[278] multinational insurance or financing agencies or groups of such agencies.

(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The amount of reinsurance of liabilities under this title which the Corporation may issue shall not[279] in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise.[280, 281]

(g)[282] PILOT EQUITY FINANCE PROGRAM.—

(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in para-

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[277] The words to this point beginning with "; except that such agreements" were added by sec. 3(6) of Public Law 95–268 (92 Stat. 214). Subsequently, sec. 4(b)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022) struck out the following text, as added by sec. 3(6) of Public Law 95–268: "and (B) the Corporation shall not make or carry out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than on an individual basis where such direct underwriting facilitates the purposes of the Corporation as set forth in section 231 of this Act.".

[278] Sec. 8 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1672) deleted the words "other national or" which previously appeared at this point.

[279] The words "exceed $600,000,000 in any one year, and the amount of such reinsurance shall not", which previously appeared at this point, were struck out by sec. 4(b)(3)(A) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022).

[280] The phrase "and the Corporation shall endeavor to increase such specified portions to the maximum extent possible", which previously appeared at this point, was struck out by sec. 4(b)(3)(B) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1022).

[281] Sec. 104 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), struck out the first sentence of this paragraph. It formerly read: "The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) against the Corporation purchasing or investing in any stock in any other corporation.".

[282] Subsec. (g) was added by sec. 104(3) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268).

Sec. 6001(1) of Public Law 106–31 (113 Stat. 113) struck out para. (c) within subsec. (g), which had provided as follows:

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of $10,000,000 (less amounts transferred to the fund before the date of the enactment of the Jobs Through Exports Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under this subsection, and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(a) of this Act.".

Previously the paragraph was amended and restated by sec. 103 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651).

graphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title except that—

(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

(2)[283] EQUITY AUTHORITY LIMITED TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN AND MARINE TRANSPORTATION PROJECTS GLOBALLY.—Equity investments may be made under this subsection only in projects in countries eligible for financing under this title that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 212 of the Caribbean Basin Economy Recovery Act[284] and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise.[285]

(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

(4) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporations' financial interests and the desirability of fostering the development of local cap-

[283] Sec. 6001(2) of Public Law 106–31 (113 Stat. 113) struck out "LIMITATION TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN" and inserted in lieu thereof "EQUITY AUTHORITY LIMITED TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN AND MARINE TRANSPORTATION PROJECTS GLOBALLY".

[284] Should read "Caribbean Basin Economic Recovery Act"; see *Legislation on Foreign Relations Through 2000*, vol. III, sec. J.

[285] Sec. 6001(2) of Public Law 106–31 (113 Stat. 113) inserted "and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise" at the end of the sentence.

ital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

(5)[286] IMPLEMENTATION.—To the extent provided in advance in appropriations Acts, the Corporation is authorized to create such legal vehicles as may be necessary for implementation of its authorities, which legal vehicles may be deemed non-Federal borrowers for purposes of the Federal Credit Reform Act of 1990. Income and proceeds of investments made pursuant to this section 234(g) may be used to purchase equity or quasi-equity securities in accordance with the provisions of this section: *Provided, however,* That such purchases shall not be limited to the 4-year period of the pilot program: *Provided further,* That the limitations contained in section 234(g)(2) shall not apply to such purchases.

(6) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs[287] of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.

Sec. 234A.[288] Enhancing Private Political Risk Insurance Industry.

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[286] Sec. 6001(3) of Public Law 106–31 (113 Stat. 113) added para. (5).

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

[288] 22 U.S.C. 2194b. Sec. 234A was amended by sec. 105 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268). First added by sec. 9 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 672), it formerly read as follows:

"In order to encourage greater availability of political risk insurance for eligible investors, the Corporation shall establish, not later than one year after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, a pilot program of facultative reinsurance. The program shall provide reinsurance to insurance companies, financial institutions, other persons, or groups thereof, with respect to insurance issued by such companies, institutions, persons, or groups for new investments, and expansions of existing investments, by eligible investors, in excess of limits which the Corporation would otherwise normally apply for its exposure to such investments. Contracts of reinsurance issued under the program shall be on equitable terms. The program, and any project covered by reinsurance under the program, shall be consistent with the provisions of this title.

"(b) PERSONS ELIGIBLE FOR THE PROGRAM.—An insurance company, financial institution, or other person shall be eligible to participate in the facultative reinsurance program established under subsection (a) if that company, institution, or other person is an eligible investor under this title. The Corporation shall take steps to encourage equitable participation in the program by all eligible persons.

"(c) MAXIMUM EXPOSURE.—The exposure of the Corporation under the facultative reinsurance program at any one time may not exceed $150,000,000 or, with respect to one country, $50,000,000.

"(d) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the program of facultative reinsurance under this section. The group shall be composed of nine members as follows:

"(A) Three officers or employees of the Corporation designated by the Board.

"(B) Four persons appointed by the Board, of whom at least one shall represent an insurance company, one a reinsurance brokerage firm, and one an underwriter, a financial institution, or other person or entity eligible for the facultative reinsurance program under this section. In selecting such persons, the Board shall consider their previous active involvement in the field of political risk insurance or reinsurance and shall consult with any major organizations representing insurance, reinsurance, and brokerage institutions as to the suitability of the respective candidates to represent their industry.

"(C) Two persons appointed by the Board from among persons who are eligible investors, other than persons described in subparagraph (B).

Continued

(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall under take programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

(3) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

(b) ADVISORY GROUP.—

(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

(A) Up to seven persons from the private political risk insurance industry, of whom no fewer than two shall represent private political risk insurers, one shall represent private political risk reinsurers, and one shall represent insurance or reinsurance brokerage firms.

(B) Up to four persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(2) FUNCTIONS.—The advisory group shall advise the Corporation on the development and implementation of the facultative reinsurance program under this section, including ways to ensure equitable participation in the program by all eligible persons.

"(3) MEETINGS.—The advisory group shall meet not later than one hundred and eighty days after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, and not less than once in every one hundred and eighty-day period thereafter.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(e) REPORT TO THE CONGRESS.—The Corporation shall, not later than eighteen months after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the implementation of the facultative reinsurance program established under subsection (a).".

(3) MEETINGS.—The advisory group shall meet not later than September 30, 1989, and at least annually thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Sec. 235.[289] **Issuing Authority, Direct Investment Authority and Reserves.—**

(a)[290] ISSUING AUTHORITY.—

(1) INSURANCE AND FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a), and the amount of financing issued under sections 234(b) and (c), shall not exceed in the aggregate $29,000,000,000.

(B) Subject to spending authority provided in appropriations Acts pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized to transfer such sums as are necessary from its noncredit activities to pay for the subsidy cost of the investment guaranties and direct loan programs under subsections (b) and (c) of section 234.

(2) TERMINATION OF AUTHORITY.—The authority of subsections (a), (b), and (c)[291] of section 234 shall continue until September 30, 2003.[292]

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[289] 22 U.S.C. 2195. Sec. 235 was added by sec. 105 of the FA Act of 1969, originally as "Issuing Authority, Direct Investment Fund and Reserves". Sec. 104(a)(1) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) struck out "Fund" in section caption, and inserted in lieu thereof "Authority".

[290] Sec. 104(a)(2) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) amended and restated subsec. (a), and par. (3) of that subsec. repealed subsec. (b), which formerly established the Direct Investment Fund.

Sec. 581(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435), amended and restated para. (1) of subsec. (a), struck out para. (2)(A), and redesignated para. (3) as para. (2). Paras. (1) and (2), as amended, formerly read as follows:

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed in the aggregate $13,500,000,000.

"(2) FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to financing issued under subsections (b) and (c) of section 234 shall not exceed in the aggregate $9,500,000,000.".

[291] Sec. 581(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435), struck out "(a) and (b)" and inserted in lieu thereof "(a), (b), and (c)".

[292] Sec. 4(2) of Public Law 95–268 (92 Stat. 214) extended the authority from Dec. 31, 1977, to Sept. 30, 1981. This date was further extended to Sept. 30, 1985, by sec. 5(b)(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023). Sec. 10 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1673), further extended the date from Sept. 30, 1985 to Sept. 30, 1988. Sec. 107 of the OPIC Amendments Act of 1988, H.R. 5263, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) extended the date from Sept. 30, 1988 to Sept. 30, 1992. Sec. 104(a)(2) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3651) amended and restated subsec. (a), extending the issuing authority from September 30, 1992 to September 30, 1994. The authority was extended again from Sept, 30, 1994 to Sept. 30, 1996 by sec. 103 of the Jobs Through Trade Expansion Act of 1994 (Public Law 103–392; 108 Stat. 4098). Title I of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (enacted as sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) extended the date from September 30, 1996, to September 30, 1997. Sec. 581(a)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435) extended the date from September 30, 1997, to September 30, 1999. Sec. 2 of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1745) extended the date from September 30, 1999, to September 30, 2003. Sec. 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law

Continued

(b)[290] * * * [Repealed—1992]

(c) There shall be established in the Treasury of the United States an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves shall be available for discharge of liabilities, as provided in subsection (d) of this section[293] until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to subsection (e) of this section[293] and (2) such sums as shall be appropriated pursuant to subsection (f) of this section for such purposes. The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury. Additional amounts may thereafter be transferred to such reserves pursuant to section 236.

(d) Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 234[294] under similar

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106–113; 113 Stat. 1535), struck out "1999" and inserted in lieu thereof "November 1, 2000", an amendment made unexecutable by the amendment executed pursuant to Public Law 106–158.

Title I of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 160), provided the following:

"OVERSEAS PRIVATE INVESTMENT CORPORATION

"NONCREDIT ACCOUNT

"The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $39,885,000: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

"PROGRAM ACCOUNT

"For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2003 and 2004: *Provided further,* That such sums shall remain available through fiscal year 2011 for the disbursement of direct and guaranteed loans obligated in fiscal year 2003, and through fiscal year 2012 for the disbursement of direct and guaranteed loans obligated in fiscal year 2004.

"In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.".

See also paragraph in title II of that Act, relating to assistance for the independent states of the former Soviet Union; sec. 513, relating to commerce and trade; sec. 531, relating to compliance with U.N. sanctions against Iraq; and sec. 583, relating to restricting OPIC and Export-Import Bank activities in countries that fail to meet requirements established to control trade in conflict diamonds.

[293] Sec. 17(b) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1676) replaced references to "section 234(e)" and "section 235(f)" with references to "subsection (e)", or "subsection (j)", "of this section", and references to "section 235(d)" with "subsection (d) of this section".

[294] Sec. 2(3)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390) substituted "insurance or reinsurance issued under section 234" in lieu of "insurance issued under section 234(a)".

predecessor guaranty authority or under section 234A,[294] shall be paid first out of the Insurance Reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guaranties issued under section 234(b) or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section.[293]

(e) There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 236, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

(f)[295] There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the Insurance Reserve until the amount of funds in the Insurance Reserve is less than $25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation

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The reference to sec. 234A was added by sec. 9(b) of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1672).

[295] Subsec. (f) was amended by sec. 2(3)(C) of the OPIC Amendments Act of 1974 (Public Law 93–390). It formerly read as follows: "(f) There is hereby authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund or to discharge the liabilities under insurance and guaranties issued by the Corporation or issued under predecessor guaranty authority.".

Sec. 104(b) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3652) had added subsec. (g), which authorized the Corporation to draw form its noncredit account revolving fund $8,128,000 for fiscal year 1993 and $11,000,000 for fiscal year 1994 for administrative expenses. Subsec. (g) was struck out by sec. 104 of Public Law 103–392 (108 Stat. 4098).

Amendments Act of 1974. The purpose for which securities may be issued under such Bond Act shall include any such purchase.

Sec. 236.[296] **Income and Revenues.**—In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 235, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

Sec. 237.[297] **General Provisions Relating to Insurance Guaranty, and Financing Program.**—(a) Insurance guaranties, and reinsurance[298] issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government to which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.[298]

(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance[298] issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty, or reinsurance[298] is to be made, and right, title, claim, or cause of action existing in connection therewith.

(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance,[298] and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance,[298] or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(d)[299] FEES.—

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[296] 22 U.S.C. 2196. Sec. 236 was added by sec. 105 of the FA Act of 1969.

[297] 22 U.S.C. 2197. Sec. 237 was added by Sec. 105 of the FA Act of 1969.

Sec. 110(c) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) struck "and Guaranty" and inserted "Guaranty, and Financing".

[298] Sec. 2(4) of the OPIC Amendments Act of 1974 (Public Law 93–390) added the reference to reinsurance.

[299] Sec. 105(a) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3652) amended and restated subsec. (d). Previously it had been amended and restated by sec. 2(4)(D) of the OPIC Amendments Act of 1974 (Public Law 93–390).

(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

(e) No insurance, guaranty, or reinsurance[298] of any equity investment shall extend beyond twenty years from the date of issuance.

(f) Compensation for insurance, reinsurance, or guaranties issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, and (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss.[300] Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 or 234A so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties and[301]

[300] The first sentence of subsec. (f) was amended and restated by sec. 6(a) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023). Previous amendments to this sentence in subsec. (f) which are retained in the new text include the following: The word "reinsurance" was added by sec. 2(4)(F) of Public Law 93–390; the basic language of clause (1) was added by sec. 5 of Public Law 95–268 (92 Stat. 215).

[301] This sentence was added by sec. 2(4)(G) of the OPIC Amendments Act of 1974 (Public Law 93–390). The phrase "except that limitation shall not apply to direct insurance or reinsurance

Continued

(3)[302] compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

(g) No payment may be made under any guaranty, insurance or reinsurance[298] issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(h) Insurance, guaranties, or reinsurance[303] of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

(i) Claims arising as a result of insurance, reinsurance[304] or guaranty operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

(k)[305] In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.

(l)[306] (1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the date of enactment of this subsection for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

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of loans by banks or other financial institutions to unrelated parties" was added by sec. 5 of Public Law 95–268 (92 Stat. 215).

A sentence, as added by sec. 2(4)(G) of Public Law 93–390 and which previously appeared at this point, was struck out by sec. 6(b) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1023). It formerly read as follows: "The preceding sentence shall not apply to the extent not permitted by State law.".

[302] Subpara. (3) as added by sec. 6(b) of the OPIC Amendments Act of 1985 (Public Law 99–204).

[303] Sec. 2(4)(I) of the OPIC Amendments Act of 1974 (Public Law 93–390) substituted the words ", guaranties, or reinsurance" in lieu of "or guaranties".

[304] Sec. 2(4)(J) of the OPIC Amendments Act of 1974 (Public Law 93–390) added the word ", reinsurance".

[305] Subsec. (k) was amended by sec. 2(4)(K) of the OPIC Amendments Act of 1974 (Public Law 93–390). It formerly read as follows: "(k) In making a determination to issue insurance or a guaranty under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance or guaranty upon the balance of payments of the United States".

[306] Subsec. (l) was added by sec. 6 of Public Law 95–268 (92 Stat. 215); the subsec. became effective April 24, 1978.

(2) Not later than 120 days after the date of enactment of this subsection, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this title.

(m)[307] (1) Before finally providing insurance, reinsurance, guarantees, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to section 239(g).

(2) Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (1), the Corporation shall take into account any comments it receives on the project involved.

(3) On or before September 30, 1986, the Corporation shall notify appropriate government officials of a country of the guidelines, standards, and legal restrictions described in paragraph (1) that apply to any project in that country—

(A) which the Corporation identifies as potentially posing major hazards to public health and safety or the environment; and

(B) for which the Corporation provided insurance, reinsurance, guarantees, or financing under this title before the date of enactment of this subsection and which is in the Corporation's portfolio on that date.

(n)[308] PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 234 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the accept-

[307] Subsec. (m) was added by sec. 4(b) of the OPIC Amendments Act of 1985 (Public Law 99–204).

[308] Sec. 105(b) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3653) added subsec. (n).

ance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(o)[309] USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations made with funds described in this subsection.

Sec. 238.[310] **Definitions.**—As used in this title—

(a) the term "investment" includes any contribution or commitment[311] of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term "expropriation" includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term "eligible investor" means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States any State or territory thereof, or the District of Columbia,[312] and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided however,* That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total issued and subscribed share capital,[313] held by other than the United States owners: *Provided further,* That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as the time the insurance or guaranty is issued;[314]

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[309] Sec. 105(c) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3653) added subsec. (o).

[310] 22 U.S.C. 2198. Sec. 238 was added by sec. 105 of the FA Act of 1969.

[311] The words "or commitment" were added by sec. 7 of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024).

[312] Reference to the District of Columbia was added by sec. 17(a) of the OPIC Amendments Act of 1985 (Public Law 99–204).

[313] The words "required by Law to be", which appeared at this point were struck out by sec. 104(a) of the FA Act of 1971.

[314] Sec. 106 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3653): (1) struck out "and" at the end of subsec. (c); (2) redesignated subsec. (d) as subsec. (f); and (3) added new subsecs. (d) and (e).

(d)[314] the term "noncredit account revolving fund" means the account in which funds under section 236 and all funds from noncredit activities are held; and[315]

(e)[314] the term "noncredit activities" means all activities of the Corporation other than its loan guarantee program under section 234(b) and its direct loan program under section 234(c);[315]

(f)[314] the term "predecessor guaranty authority" means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b)(3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties).

Sec. 239.[316] **General Provisions and Powers.**—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

(b) The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b), and (d). Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this title as may be determined by the President.[317, 318]

(c)[319] (1) The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

(2) An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every three years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the

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[315] So in original.

[316] 22 U.S.C. 2199. Sec. 239 was added by sec. 105 of the FA Act of 1969.

[317] A Presidential Determination of Dec. 30, 1969 (35 F.R. 43; January 3, 1970), provided for AID administration until transfer to the Overseas Private Investment Corporation.

[318] Sec. 7(1) of Public Law 95–268 (92 Stat. 215) struck out a paragraph previously appearing in subsec. (b) which had directed OPIC to cease operating the programs authorized by sec. 234 (b) through (e) and sec. 240 on Dec. 31, 1979.

[319] Sec. 11 of the OPIC Amendments Act of 1985 (Public Law 99–204), substituted the text of subsec. (c) in lieu of:

"The Corporation shall be subject to the applicable provisions of the Government Corporation Control Act, except as otherwise provided in this title.".

Sec. 209(e)(16) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), stated that sec. 3003(a)(1) of Public Law 104–66 (109 Stat. 734) is not applicable to this subsection. Sec. 3003(a)(1) of that Act, as amended, provided that "* * * each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list * * * [prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress] shall cease to be effective, with respect to that requirement, May 15, 2000.".

extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than six and one-half months after the end of the last fiscal year covered by the audit. The General Accounting Office may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the General Accounting Office considers necessary.

(3) In lieu of the financial and compliance audit required by paragraph (2), the General Accounting Office shall, if the Office considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this paragraph.

(4) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office.

(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234;[320] to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(i));[321] to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of

[320] Sec. 107 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3654) inserted "to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234;" after "legal and arbitral proceedings;".

[321] The words to this point beginning with "or participation certificates * * *" were added by sec. 7(2) of Public Law 95–268 (92 Stat. 215).

the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;[322] and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) The Inspector General[323] of the Agency for International Development (1) may conduct[324] reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Inspector General[323] shall report to the Board. The agency primarily responsible for administering part I shall be reimbursed by the Corporation for all expenses incurred by the Inspector General[323] in connection with his responsibilities under this subsection.

(f)[325, 326] Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia, Poland, Hungary,[327] or any other East European country,[328] or the People's Republic of China, or Pakistan[329] of the programs authorized by this title, if the President determines that the operation of such program in such country is important to the national interest.

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[322] This phrase beginning with "to collect or compromise * * *" was added by sec. 8(1) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024).

[323] Reference to the Inspector General was inserted in lieu of a reference to the Auditor-General by sec. 8(2)(A) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024).

[324] The words "may conduct" were inserted in lieu of "shall have the responsibility for planning and directing the execution of audits," by sec. 8(2)(B) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024).

[325] Sec. 8(3) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024) struck out subsecs. (f), (j), and (k) (subsecs. (j) and (k) added by sec. 7(3) of Public Law 95–268), and redesignated existing subsecs. (g), (h), (i), and (l) as subsecs. (f), (g), (h), and (i), respectively.

Old subsec. (f) authorized the establishment of an Advisory Board in order to further the purposes of OPIC; old subsec. (j) blocked OPIC support for copper exploration or mining projects begun after Jan. 1, 1981, and projects for the production of copper beginning after this date if the project would cause injury to the primary U.S. copper industry; and old subsec. (k) blocked OPIC support for any project to establish or expand production of processing of palm oil, sugar, or citrus crops for export.

[326] Subsec. (f) was originally added as subsec. (g) by sec. 104(b) of the FA Act of 1971. Reference in the subsection to the People's Republic of China was added by Public Law 96–327 (94 Stat. 1026). Reference to Romania was struck out by sec. 108 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268).

[327] Section 302(a) of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 103 Stat. 1311) inserted reference to Hungary and Poland at this point.

[328] Sec. 576(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2044), inserted "or any other East European country".

[329] Sec. 579(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2435), inserted ", or Pakistan" after "China". Sec. 579(b) of that Act, furthermore, provided the following:

"(b) TRADE AND DEVELOPMENT.—It is the sense of Congress that the Director of the Trade and Development Agency should use funds made available to carry out the provisions of section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421) to promote United States exports to Pakistan.".

(g)[325, 330] The requirements of section 117(c) of this Act relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this title in connection with a project in a country.

(h)[325, 331] In order to carry out the policy set forth in paragraph (1) of the second undesignated paragraph of section 231 of this Act, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development.[332]

(i)[325, 333] The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

(j)[334] The Corporation, including its franchise, capital, reserves, surplus, advances, intangible property, and income, shall be exempt from all taxation at any time imposed by the United States, by any territory, dependency, or possession of the United States, or by any State, the District of Columbia, or any county, municipality, or local taxing authority.

(k)[334] The Corporation shall publish, and make available to applicants for insurance, reinsurance, guarantees, financing, or other assistance made available by the Corporation under this title, the policy guidelines of the Corporation relating to its programs.

Sec. 240.[335] **Small Business Development.**—The Corporation shall undertake, in cooperation with appropriate departments,

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[330] Subsec. (g) was originally added as subsec. (h) by sec. 2(5)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390). Sec. 4(c) of the OPIC Amendments Act of 1985 (Public Law 99–204), restated and amended subsec. (g) in its current form. It previously read as follows:

"Within six months after the date of enactment of this subsection, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.".

The OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268) replaced "118(c)" with "117(c)".

[331] Subsec. (h) was originally added as subsec. (i) by sec. 7(3) of Public Law 95–268 (92 Stat. 215).

[332] This consultative function was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[333] Subsec. (i) was originally added as subsec. *(l)* by sec. 8 of Public Law 95–268 (92 Stat. 216).

[334] Secs. 12 and 13 of the OPIC Amendments Act of 1985 (Public Law 99–204; 99 Stat. 1674), added subsecs. (j) and (k), respectively.

[335] 22 U.S.C. 2200. This new sec. 240 was added by sec. 9 of Public Law 95–268 (92 Stat. 216). Previously, sec. 240 had concerned agricultural credit and self-help community development projects but had been repealed by the FA Act of 1974.

agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 percent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 231(a), on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 234 and section 234A.

Sec. 240A.[336] **Reports to the Congress.**—After (a) the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

(1) an assessment, based upon the development impact profiles required by section 239(h), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

(2) a description of any project for which the Corporation—

(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 239(i); or

(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

(b)[337] (1) Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the preceding fiscal year, the Corporation initially issued any insurance, reinsurance, or guaranty or made any direct loan. Each such report shall include projections of—

(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

(B) the final destination of the products to be produced as a result of those projects; and

(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

[336] 22 U.S.C. 2200a. Sec. 240A, as added by sec. 105 of the FA Act of 1969 and amended by sec. 2(7) of Public Law 93–390, was amended and restated by sec. 10 of Public Law 95–268 (92 Stat. 216).

[337] Subsec. (b), which required a one-time report to Congress on the development of private and multilateral programs for investment insurance and any reinsurance arrangements OPIC had made with private insurance companies, multilateral organizations and institutions, or other entities, was struck out by sec. 9(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65; 95 Stat. 1024).

(2)[338] The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

(3)[338] In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

(B) any jobs created by the project; and

(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.

(c)(1)[339] * * * [Repealed—1988]

(d) The Corporation shall maintain as part of its records—

(1) all information collected in preparing the report required by subsection (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988),[340] whether the information was collected by the Corporation itself or by a contractor; and

(2) a copy of the analysis of each project analyzed in preparing the reports required by either subsection (b) or (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).[340]

(e)[341] Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 234A(a), including the following information, to the extent such information is available to the Corporation:

(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

(f)[341] Subsections (b) and (e) do not require the inclusion in any report submitted pursuant to those subsections of any information which would not be required to be made available to the public

[338] Sec. 108 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3654) struck out the former par. (2), and inserted new paras. (2) and (3).

[339] Sec. 240A(c) was repealed by sec. 110(b)(1) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268). Subsec. (c) had required that OPIC submit to Congress not later than December 31, 1987, a report analyzing the actual effects, as of September 30, 1986, on employment in the United States of all projects with respect to which any insurance, reinsurance, or guaranty issued by the Corporation was in effect on September 30, 1986, or with respect to which repayments on direct loans by the Corporation were being made as of that date.

[340] Sec. 110(b)(2) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), added the parenthetical text following "(c)".

[341] Sec. 105(b) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), amended Sec. 240A by redesignating subsec. (e) as (f) and inserting a new subsec. (e).

pursuant to section 552 of title 5, United States Code (relating to freedom of information).

SEC. 240B.[342] **PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON OPIC SUPPORTED EXPORTS.**

(a) REQUIREMENT FOR CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance, guaranties, or other financing is provided under this title with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

(2) WHEN CERTIFICATION MUST BE MADE.—The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

(3) EXCEPTION.—Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the investment, have a controlling interest in fact in the project in question.

(b) REPORTS BY THE UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "United States insurance company" includes—

(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

(2) United States insurance companies shall be considered to have had a "fair and open competitive opportunity to provide insurance" if they—

(A) have received notice of the opportunity to provide insurance; and

(B) have been evaluated on a nondiscriminatory basis; and

(3) the term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

[342] 22 U.S.C. 2200b. Sec. 109 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3654) added sec. 240B. Previously, sec. 240B addressed the return of appropriated funds by the Corporation to the general fund of the Treasury.

Title V—Disadvantaged Children in Asia[343]

Sec. 241.[344] **Assistance to Certain Disadvantaged Children in Asia.**—(a) The Congress recognizes the humanitarian needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Moreover, the Congress finds that inadequate provision has been made for the care and welfare of such disadvantaged children, particularly those fathered by the United States citizens.

(b) Accordingly, the President is authorized to expend up to $3,000,000[345] of funds made available under chapter 1 of this part, in addition to funds otherwise available for such purposes, to help meet the needs of these disadvantaged children in Asia by assisting in the expansion and improvement of orphanages, hostels, day care centers, school feeding programs, and health, education, and welfare programs. Assistance provided under this section shall be furnished under the auspices of and by international organizations or private voluntary agencies operating within, and in cooperation with, the countries of Asia where these disadvantaged children reside.

Title VI—Alliance for Progress[346] * * * [Repealed—1978]

Title VII—Evaluation of Programs[347] * * * [Repealed—1978]

Title VIII—Southeast Asia Multilateral and Regional Programs[348] * * * [Repealed—1978]

Title IX—Utilization of Democratic Institutions in Development[349]

Sec. 281.[350] **Utilization of Democratic Institutions in Development.**—(a)[351] In carrying out programs authorized in this chapter and chapter 1,[352] emphasis shall be placed on assuring maximum participation in the task of economic development on the part of the people of the developing countries, through the encouragement of democratic private and local governmental institutions.

(b)[351] In order to carry out the purposes of this title, programs under this chapter and chapter 1[352] shall—

(1) recognize the differing needs, desires, and capacities of the people of the respective developing countries and areas;

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[343] Sec. 116 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 952) struck out the title heading "Development Research" and added this new heading for title V.

[344] 22 U.S.C. 2201. This new sec. 241 was added by sec. 116 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 952). Previously, sec. 241 had contained the general authority under title V but had been repealed by Public Law 94–161 (89 Stat. 849).

[345] Sec. 903(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190) increased the authorization of funds from $2,000,000 to $3,000,000.

[346] Title VI, as added by the FA Act of 1962, was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[347] Title VII, as added by the FA Act of 1963, was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[348] Title VIII, as added by the FA Act of 1966, was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (92 Stat. 942).

[349] Title IX was added by sec. 106 of the FA Act of 1966.

[350] 22 U.S.C. 2218. Sec. 281 was added by sec. 106 of the FA Act of 1966.

[351] Subsec. designation "(a)" and subsecs. (b), (c) and (d) were added by sec. 108, of the FA Act of 1967.

[352] The words "and chapter 1" were added by sec. 102(g)(2)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

(2) use the intellectual resources of such countries and areas in conjunction with assistance provided under this Act so as to encourage the development of indigenous institutions that meet their particular requirements for sustained economic and social progress; and

(3) support civic education and training in skills required for effective participation in governmental and political processes essential to self-government.

(c)[351] In the allocation of funds for research under this chapter and chapter 1,[352] emphasis shall be given to research designed to examine the political, social, and related obstacles to development in countries receiving assistance under part I of this Act. In particular, emphasis should be given to research designed to increase understanding of the ways in which development assistance can support democratic, social and political trends in recipient countries.[353]

(d)[351] Emphasis shall also be given to the evaluation of relevant past and current programs under part I of this Act and to applying this experience so as to strengthen their effectiveness in implementing the objectives of this title.

(e)[354] In order to carry out the purposes of this title, the agency primarily responsible for administering part I of this Act, shall develop systematic programs of inservice training to familiarize its personnel with the objectives of this title and to increase their knowledge of the political and social aspects of development. In addition to other funds available for such purposes, not to exceed 1 per centum of the funds authorized to be appropriated for grant assistance under this chapter and chapter 1[352] may be used for carrying out the objectives of this subsection.

Title X—Programs Relating to Population Growth[355] * * * [Repealed—1978]

Title XI—Food Production Targets and Reports[356] * * * [Repealed—1978]

Title XII—Famine Prevention and Freedom From Hunger[357]

Sec. 296.[357] **General Provisions.**—(a)[358] The Congress declares that, in order to achieve the mutual goals among nations of ensuring food security, human health, agricultural growth, trade expansion, and the wise and sustainable use of natural resources, the United States should mobilize the capacities of the United States land-grant universities, other eligible universities, and pub-

[353] The last sentence was added by sec. 106(a) of the FA Act of 1968.

[354] Subsec. (e) was added by sec. 106(b) of the FA Act of 1968.

[355] Title X, as added by the FA Act of 1967, was repealed by sec. 104(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 947).

[356] Title XI, as added by the FA Act of 1967, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[357] 22 U.S.C. 2220a. Sec. 312 of Public Law 94–161 (89 Stat. 849) added title XII and new sec. 296.

[358] Sec. 2(a)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) amended and restated the first sentence of subsec. (a). The sentence formerly read as follows:

"The Congress declares that, in order to prevent famine and establish freedom from hunger, the United States should strengthen the capacities of the United States land-grant and other eligible universities in program-related agricultural institutional development and research, consistent with sections 103 and 103A, should improve their participation in the United States Government's international efforts to apply more effective agricultural sciences to the goal of increasing world food production, and in general should provide increased and longer term support to the application of science to solving food and nutrition problems of the developing countries.".

lic and private partners of universities in the United States and other countries, consistent with sections 103 and 103A of this Act, for: (1) global research on problems affecting food, agriculture, forestry, and fisheries; (2) improved human capacity and institutional resource development for the global application of agricultural and related environmental sciences; (3) agricultural development and trade research and extension services in the United States and other countries to support the entry of rural industries into world markets; and (4) providing for the application of agricultural sciences to solving food, health, nutrition, rural income, and environmental problems, especially such problems in low-income, food deficit countries.

The Congress so declares because it finds—

(A)[359] that the establishment, endowment, and continuing support of land-grant universities in the United States by Federal, State, and county governments has led to agricultural progress with and through the private sector in this country and to understanding processes of economic development;[360]

(B)[361] that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with international agencies, educational and research institutions in other countries, the private sector, and nongovernmental organizations worldwide, in expanding global agricultural production, processing, business and trade, to the benefit of aid recipient countries and of the United States;

(C)[362] that, in a world of growing populations with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger and ensure human health and child survival, but to build the basis for economic growth and trade, and the social security in which democracy and a market economy can thrive, and moreover, that the greatest

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[359] Sec. 2(a)(2)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) redesignated paras. (1) through (7) as subparas. (A) through (G), respectively. Sec. 2(a)(2)(E) of that Act struck out newly redesignated subparas. (E) and (G), which had read as follows:

"(E) that research, teaching, and extension activities, and appropriate institutional development therefor are prime factors in increasing agricultural production abroad (as well as in the United States) and in improving food distribution, storage, and marketing;

* * * * * * *

"(G) that universities need a dependable source of Federal funding, as well as other financing, in order to expand, or in some cases to continue, their efforts to assist in increasing agricultural production in developing countries.".

[360] Sec. 2(a)(2)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) struck out "in this country" and inserted in lieu thereof "with and through the private sector in this country and to understanding processes of economic development".

[361] Sec. 2(a)(2)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1427) amended and restated subpara. (B). It formerly read as follows:

"(B) that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with foreign agricultural institutions in expanding indigenous food production for both domestic and international markets;".

[362] Sec. 2(a)(2)(D) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) amended and restated subpara. (C). It formerly read as follows:

"(C) that, in a world of growing population with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger but to build the economic base for growth, and moreover, that the greatest potential for increasing world food supplies is in the developing countries where the gap between food need and food supply is the greatest and current yields are lowest;".

potential for increasing world food supplies and incomes to purchase food is in the developing countries where the gap between food need and food supply is the greatest and current incomes are lowest;

(D)[359] that increasing and making more secure the supply of food is of greatest benefit to the poorest majority in the developing world;

(E)[363] that, with expanding global markets and increasing imports into many countries, including the United States, food safety and quality, as well as secure supply, have emerged as mutual concerns of all countries;

(F)[363] that research, teaching, and extension activities, and appropriate institutional and policy development therefore are prime factors in improving agricultural production, food distribution, processing, storage, and marketing abroad (as well as in the United States);

(G)[364] moreover, that agricultural research abroad has in the past and will continue in the future to provide benefits for agriculture and the broader economy of the United States and that increasing the availability of food of higher nutritional quality is of benefit to all;[365]

(H)[366] that there is a need to responsibly manage the world's agricultural and natural resources for sustained productivity, health and resilience to climate variability; and

(I)[366] that universities and public and private partners of universities need a dependable source of funding in order to increase the impact of their own investments and those of their State governments and constituencies, in order to continue and expand their efforts to advance agricultural development in cooperating countries, to translate development into economic growth and trade for the United States and cooperating countries, and to prepare future teachers, researchers, extension specialists, entrepreneurs, managers, and decisionmakers for the world economy.

(b)[367] Accordingly, the Congress declares that, in order to prevent famine and establish freedom from hunger, the following components must be brought together in a coordinated program to in-

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[363] Sec. 2(a)(2)(H) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) added subparas. (E) and (F).

[364] Sec. 2(a)(2)(F) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) struck out "and" at the end of this subpara.; subpara. (G) of that sec. redesignated this subpara. as subpara. (G).

[365] Sec. 2(a)(2)(I) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) struck out "in the United States" and inserted in lieu thereof "and the broader economy of the United States".

[366] Sec. 2(a)(2)(J) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) added subparas. (H) and (I).

[367] Sec. 2(b) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1428) amended and restated subsec. (b). It formerly read as follows:

"(b) Accordingly, the Congress declares that, in order to prevent famine and establish freedom from hunger, various components must be brought together in order to increase world food production, including—

"(1) strengthening the capabilities of universities to assist in increasing agricultural production in developing countries;

"(2) institution-building programs for development of national and regional agricultural research and extension capacities in developing countries which need assistance;

"(3) international agricultural research centers;

"(4) contract research; and

"(5) research program grants.

crease world food and fiber production, agricultural trade, and responsible management of natural resources, including—

(1) continued efforts by the international agricultural research centers and other international research entities to provide a global network, including United States universities, for international scientific collaboration on crops, livestock, forests, fisheries, farming resources, and food systems of worldwide importance;

(2) contract research and the implementation of collaborative research support programs and other research collaboration led by United States universities, and involving research systems in other countries focused on crops, livestock, forests, fisheries, farming resources, and food systems, with benefits to the United States and partner countries;

(3) broadly disseminating the benefits of global agricultural research and development including increased benefits for United States agriculturally related industries through establishment of development and trade information and service centers, for rural as well as urban communities, through extension, cooperatively with, and supportive of, existing public and private trade and development related organizations;

(4) facilitation of participation by universities and public and private partners of universities in programs of multilateral banks and agencies which receive United States funds;

(5) expanding learning opportunities about global agriculture for students, teachers, community leaders, entrepreneurs, and the general public through international internships and exchanges, graduate assistantships, faculty positions, and other means of education and extension through long-term recurring Federal funds matched by State funds; and

(6) competitive grants through universities to United States agriculturalists and public and private partners of universities from other countries for research, institution and policy development, extension, training, and other programs for global agricultural development, trade, and responsible management of natural resources.

(c) The United States should—

(1) effectively involve the United States land-grant and other eligible universities more extensively in each of the program components described in paragraphs (1) through (6) of subsection (b);[368]

(2) provide mechanisms for the universities and public and private partners of universities[369] to participate and advise in the planning, development, implementation, and administration of each component;[369]

[368] Sec. 2(c)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) struck out "each component" and inserted in lieu thereof "each of the program components described in paragraphs (1) through (6) of subsection (b)".

[369] Sec. 2(c)(2)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) inserted "and public and private partners of universities" after "for the universities". Sec. 2(c)(2)(B) of that Act struck out "and" at the end of para. (2).

(3) assist such universities and public and private partners of universities[370] in cooperative joint efforts with—

(A) agricultural institutions in developing nations;[371]

(B) regional and international agricultural research centers;[372]

(C)[373] multilateral banks and agencies receiving United States funds;

(D)[373] development agencies of other countries; and

(E)[373] United States Government foreign assistance and economic cooperation programs;

(4)[374] generally engage the United States university community more extensively in the agricultural research, trade, and development initiatives undertaken outside the United States, with the objectives of strengthening its capacity to carry out research, teaching, and extension activities for solving problems in food production, processing, marketing, and consumption in agriculturally developing nations, and for transforming progress in global agricultural research and development into economic growth, trade, and trade benefits for aid recipient countries and United States communities and industries, and for the wise use of natural resources; and

(5)[374] ensure that all federally funded support to universities and public and private partners of universities relating to the goals of this title is periodically reviewed for its performance.

(d) As used in this title, the term "universities" means those colleges or universities in each State, territory, or possession of the United States, or the District of Columbia, now receiving, or which may hereafter receive, benefits under the Act of July 2, 1862 (known as the First Morrill Act), or the Act of August 30, 1890 (known as the Second Morrill Act), which are commonly known as "land-grant" universities; institutions now designated or which may hereafter be designated as sea-grant colleges under the Act of October 15, 1966 (known as the National Sea Grant College and Program Act), which are commonly known as sea-grant colleges; Native American land-grant colleges as authorized under the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note);[375] and other United States colleges and universities which—

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[370] Sec. 2(c)(3)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) inserted "and public and private partners of universities" after "such universities".

[371] Sec. 2(c)(3)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) struck out ", and" and inserted in lieu thereof a semicolon.

[372] Sec. 2(c)(3)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) replaced a comma with a semicolon. Sec. 2(c)(3)(D) of that Act struck out a phrase following subpara. (B), which had read as follows:

"directed to strengthening their joint and respective capabilities and to engage them more effectively in research, teaching, and extension activities for solving problems in food production, distribution, storage, marketing, and consumption in agriculturally underdeveloped nations.".

[373] Sec. 2(c)(2)(E) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1429) added subparas. (C), (D), and (E).

[374] Sec. 2(c)(4) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) added paras. (4) and (5).

[375] Sec. 2(d)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) inserted "Native American land-grant colleges as authorized under the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note);" after "sea-grant colleges;".

(1) have demonstrable capacity in teaching, research, and extension (including outreach)[376] activities in the agricultural sciences; and

(2) can contribute effectively to the attainment of the objective of this title.

(e) As used in this title, the term "Administrator" means the Administrator of the United States[377] Agency for International Development.[378]

(f)[379] As used in this title, the term "public and private partners of universities" includes entities that have cooperative or contractual agreements with universities, which may include formal or informal associations of universities, other education institutions, United States Government and State agencies, private voluntary organizations, nongovernmental organizations, firms operated for profit, nonprofit organizations, multinational banks, and, as designated by the Administrator, any organization, institution, or agency incorporated in other countries.

(g)[380] As used in this title, the term "agriculture" includes the science and practice of activity related to food, feed, and fiber production, processing, marketing, distribution, utilization, and trade, and also includes family and consumer sciences, nutrition, food science and engineering, agricultural economics and other social sciences, forestry, wildlife, fisheries, aquaculture, floraculture, veterinary medicine, and other environmental and natural resources sciences.

(h)[381] As used in this title, the term "agriculturists" includes farmers, herders, and livestock producers, individuals who fish and others employed in cultivating and harvesting food resources from salt and fresh waters, individuals who cultivate trees and shrubs and harvest nontimber forest products, as well as the processors, managers, teachers, extension specialists, researchers, policymakers, and others who are engaged in the food, feed, and fiber system and its relationships to natural resources.

Sec. 297.[382] **General Authority.**—(a) To carry out the purposes of this title, the President is authorized to provide assistance on such terms and conditions as he shall determine—

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[376] Sec. 2(d)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) struck out "extension" and inserted in lieu thereof "extension (through outreach)".

[377] Sec. 2(e) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) inserted "United States" before "Agency".

[378] Sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA), transferred all responsibilities and functions vested in this subsection from the Administrator to the Director of IDCA. The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[379] Added by sec. 2(f) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430).

Former subsecs. (f) and (g), which defined the terms "agriculture" and "farmers," were repealed in 1978 by sec. 103(c) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 945). Similar definitions for these terms can now be found in sec. 644 (o) and (p) of this Act.

[380] Added by sec. 2(g) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430).

[381] Sec. 2(h) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1430) added subsec. (h).

[382] 22 U.S.C. 2220b. Sec. 297 was added by sec. 312 of Public Law 94–161 (89 Stat. 849).

(1)[383] to implement program components through United States universities as authorized by paragraphs (2) through (5) of this subsection;

(2) to build and strengthen the institutional capacity and human resources skills of agriculturally developing countries so that these countries may participate more fully in the international agricultural problem-solving effort and to introduce and adapt new solutions to local circumstances;

(3)[384] to provide long-term program support for United States university global agricultural and related environmental collaborative research and learning opportunities for students, teachers, extension specialists, researchers, and the general public;

(4) to involve United States[385] universities more fully in the international network of agricultural science, including the international agricultural[386] research centers, the activities of international organizations such as the United Nations Development Program and the Food and Agriculture Organization, multilateral banks, the institutions of agriculturally developing nations, and United States and foreign nongovernmental organizations supporting extension and other productivity-enhancing programs;[387] and

(5) to provide program support for international agricultural research centers, to provide support for research projects identified for specific problem-solving needs, and to develop and strengthen national research systems in the developing countries.

(b) Programs under this title shall be carried out so as to—

(1) utilize and strengthen the capabilities of United States universities with public and private partners of universities[388] in—

(A) developing capacity in the cooperating nation for classroom teaching in agriculture, plant and animal sciences, human nutrition, and vocational and domestic arts and other relevant fields appropriate to local needs;

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[383] Sec. 3(a)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) amended and restated para. (1). It formerly read as follows:

"(1) to strengthen the capabilities of universities in teaching, research, and extension work to enable them to implement current programs authorized by paragraphs (2), (3), (4), and (5) of this subsection, and those proposed in the report required by section 300 of this title;".

[384] Sec. 3(a)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) amended and restated para. (3). It formerly read, as amended, as follows:

"(3) to provide program support for long-term collaborative university research, in the developing countries themselves to the maximum extent practicable, on food production, distribution, storage, marketing and consumption;".

[385] Sec. 3(a)(3)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted "United States" before "universities".

[386] Sec. 3(a)(3)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted "agricultural" before "research centers".

[387] Sec. 3(a)(3)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "and the institutions of agriculturally developing nations" and inserted in lieu thereof "multilateral banks, the institutions of agriculturally developing nations, and United States and foreign nongovernmental organizations supporting extension and other productivity-enhancing programs".

[388] Sec. 3(b)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "universities" and inserted in lieu thereof "United States universities with public and private partners of universities".

(B) agricultural research to be conducted in the cooperating nations, at international agricultural research centers, or in the United States;

(C) the planning, initiation, and development of extension services through which information concerning agriculture, environment,[389] and related subjects will be made available directly to agriculturalists[390] in the agriculturally developing nations by means of education and demonstration; or

(D) the exchange of educators, scientists, and students for the purpose of assisting in successful development in the cooperating nations;

(2) take into account the value to the United States agriculture of such programs, integrating to the extent practicable the programs and financing authorized under this title with those supported by other Federal or State resources, including resources of the private sector,[391] so as to maximize the contribution to the development of agriculture in the United States and in agriculturally developing nations; and

(3) whenever practicable, build on existing programs and institutions including those of the universities, the Department of Agriculture, State agricultural agencies, the Department of Commerce, the Department of the Interior, the Environmental Protection Agency, the Office of the United States Trade Representative, the Food and Drug Administration, other appropriate Federal agencies, and appropriate nongovernmental and business organizations.[392]

(c)[393] To the maximum extent practicable, activities under this section shall—

(1) be directly related to the food and agricultural needs of developing countries;

(2)[394] focus primarily on the needs of agricultural producers, rural families, processors, traders, consumers, and natural resources managers;

(3) be adapted to local circumstances;

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[389] Sec. 3(b)(1)(B)(i) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted ", environment," before "and related".

[390] Sec. 3(b)(1)(B)(ii) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "farmers and farm families" and inserted in lieu thereof "agriculturalists".

[391] Sec. 3(b)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) inserted ", including resources of the private sector," after "Federal or State resources".

[392] Sec. 3(b)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) struck out "and the United States Department of Agriculture and the United States Department of Commerce." and inserted in lieu thereof ", the Department of Agriculture, State agricultural agencies, the Department of Commerce, the Department of the Interior, the Environmental Protection Agency, the Office of the United States Trade Representative, the Food and Drug Administration, other appropriate Federal agencies, and appropriate nongovernmental and business organizations.".

[393] Subsec. (c) was amended and restated by sec. 113(2) of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 364). It formerly read as follows:

"(c) To the maximum extent practicable, activities under this section shall (1) be designed to achieve the most effective interrelationship among the teaching of agricultural sciences, research, and extension work, (2) joins primarily on the needs of agricultural producers, (3) be adapted to local circumstances, and (4) be carried out within the developing countries."

[394] Sec. 3(c)(1) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1431) amended and restated para. (2). It formerly read as follows:

"(2) be carried out within the developing countries;".

(4)[395] be carried out within the developing countries and transition countries comprising newly emerging democracies and newly liberalized economies; and

(5) emphasize the improvement of local systems for delivering the best available knowledge to the small farmers of such countries.

(d) The President shall exercise his authority under this section through the Administrator.[396]

(e)[397] The Administrator shall establish and carry out special programs under this title as part of ongoing programs for child survival, democratization, development of free enterprise, environmental and natural resource management, and other related programs.

Sec. 298.[398] **Board for International Food and Agricultural Development.**—(a) To assist in the administration of the programs authorized by this title, the President shall establish a permanent Board for International Food and Agricultural Development (hereafter in this title referred to as the "Board") consisting of seven members, not less than four to be selected from the universities. Terms of members shall be set by the President at the time of appointment. Members of the Board shall be entitled to such reimbursement for expenses incurred in the performance of their duties (including per diem in lieu of subsistence while away from their homes or regular place of business) as the President deems appropriate on a case-by-case basis.[399]

(b)[400] The Board's general areas of responsibility shall include participating in the planning, development, and implementation of, initiating recommendations for, and monitoring, the activities described in section 297 of this title.

(c) The Board's duties shall include, but not necessarily be limited to—

(1) participating in the formulation of basic policy, procedures, and criteria for project proposal review, selection, and monitoring;

(2) developing and keeping current a roster of universities—

(A) interested in exploring their potential for collaborative relationships with agricultural institutions, and

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[395] Sec. 3(c)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) amended and restated para. (4). It formerly read as follows:

"(4) provide for the most effective interrelationship between research, education, and extension in promoting agricultural development in developing countries; and".

[396] This authority of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[397] Sec. 3(d) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) added subsec. (e).

[398] 22 U.S.C. 2220c. Sec. 298 was added by sec. 312 of Public Law 94–161 (89 Stat. 849).

[399] Sec. 4(a) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted "on a case-by-case basis".

[400] Sec. 4(b) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) amended and restated subsec. (b). It formerly read as follows:

"(b) The Board's general areas of responsibility shall include, but not be limited to—

"(1) participating in the planning, development, and implementation of,

"(2) initiating recommendations for, and

"(3) monitoring of,

the activities described in section 297 of this title.".

with scientists working on significant programs designed to improve agricultural production, trade, and natural resource management in developing countries, and with private organizations seeking to increase agricultural production and trade, natural resources management, and household food security in developing and transition countries;[401]

(B) having capacity in the agricultural, environmental, and related social[402] sciences,

(C) able to maintain an appropriate balance of teaching, research, and extension functions,

(D) having capacity, experience, and commitment with respect to international agricultural efforts, and

(E) able to contribute to solving the problems addressed by this title;

(3) recommending which developing nations could benefit from programs carried out under this title, and identifying those nations which have an interest in establishing or developing agricultural institutions which engage in teaching, research, or extension activities;

(4) reviewing and evaluating memorandums of understanding or other documents that detail the terms and conditions between the Administrator and universities and their partners[403] participating in programs under this title;

(5) reviewing and evaluating agreements and activities authorized by this title and undertaken by universities and public and private partners of universities[404] to assure compliance with the purposes of this title;

(6)[405] recommending to the Administrator the apportionment of funds under section 297 of this title;[406]

(7) assessing the impact of programs carried out under this title in solving agricultural problems and natural resource issues in the developing nations, assuring efficiency in use of Federal resources, including in accordance with the Governmental[407] Performance and Results Act of 1993 (Public Law

[401] Sec. 4(c)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) struck out "increase food production in developing countries," and inserted in lieu thereof "improve agricultural production, trade, and natural resource management in developing countries, and with private organizations seeking to increase agricultural production and trade, natural resources management, and household food security in developing and transition countries;".

[402] Sec. 4(c)(1)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted ", environmental, and related social" before "sciences".

[403] Sec. 4(c)(2) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted "and their partners" after "Administrator and universities".

[404] Sec. 4(c)(3) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) inserted "and public and private partners of universities" after "universities".

[405] This function of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[406] Sec. 4(c)(4) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) struck out "and" at the end of para. (6).

[407] As enrolled. Should read "Government".

103–62; 107 Stat. 285), and the amendments made by that Act;[408]

(8)[409] developing information exchanges and consulting regularly with nongovernmental organizations, consumer groups, producers, agribusinesses and associations, agricultural cooperatives and commodity groups, State departments of agriculture, State agricultural research and extension agencies, and academic institutions;

(9)[409] investigating and resolving issues concerning implementation of this title as requested by universities; and

(10)[409] advising the Administrator on any and all issues as requested.

(d) The President may authorize the Board to create such subordinate units as may be necessary for the performance of its duties, including but not limited to the following:

(1) a Joint Policy[410] Committee to participate in the design[411] and development of the collaborative activities described in section 297;[412] and

(2) a Joint Operations Committee[413] which shall assist in and advise on the mechanisms and processes for implementation of activities described in section 297.[414]

(e) In addition to any other functions assigned to and agreed to by the Board, the Board shall be consulted in the preparation of the annual report required by section 300 of this title and on other agricultural development activities related to programs under this title.

Sec. 299.[415] **Authorization.**—(a) The President is authorized to use any of the funds hereafter made available under section 103 of this Act to carry out the purposes of this title. Funds made available for such purposes may be used without regard to the provisions of sections 110(b) and 122(d)[416] of this Act.

(b) Foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs

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[408] Sec. 4(c)(5) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) struck out "in the developing nations." and inserted in lieu thereof "and natural resource issues in the developing nations, assuring efficiency in use of Federal resources, including in accordance with the Governmental *[sic]* Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the amendments made by that Act;".

[409] Sec. 4(c)(6) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1432) added paras. (8), (9), and (10).

[410] Sec. 4(d)(1)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out" Research" and inserted in lieu thereof "Policy".

[411] Sec. 4(d)(1)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "administration" and inserted in lieu thereof "design".

[412] Sec. 4(d)(1)(C) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433)struck out "section 297(a)(3) of this title" and inserted in lieu thereof "section 297".

[413] Sec. 4(d)(2)(A) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "Joint Committee on Country Programs" and inserted in lieu thereof "Joint Operations Committee".

[414] Sec. 4(d)(2)(B) of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "which shall assist in the implementation of the bilateral activities described in sections 297(a)(2), 297(a)(4), and 297(a)(5)." and inserted in lieu thereof "which shall assist in and advise on the mechanisms and processes for implementation of activities described in section 297.".

[415] 22 U.S.C. 2220d. Sec. 299 was added by sec. 312 of Public Law 94–161 (89 Stat. 849).

[416] The references to "110(b) and 122(d)" were inserted in lieu of "110(b), 211(a), and 211(d)" by sec. 102(c)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941).

of the United States shall be used to the maximum extent possible in lieu of dollars in carrying out the provisions of this title.

(c) Assistance authorized under this title shall be in addition to any allotments or grants that may be made under other authorizations.

(d) Universities may accept and expend funds from other sources, public and private, in order to carry out the purposes of this title. All such funds, both prospective and inhand, shall be periodically disclosed to the Administrator as he shall by regulation require, but no less often than in an annual report.[417]

Sec. 300.[418] **Annual Report.**—The President shall transmit to the Congress, not later than September 1[419] of each year, a report detailing the activities carried out pursuant to this title during the preceding fiscal year and containing a projection of programs and activities to be conducted during the subsequent five fiscal years. Each report shall contain a summary of the activities of the Board established pursuant to section 298 of this title and may include the separate views of the Board with respect to any aspect of the programs conducted or proposed to be conducted under this title.

Chapter 3—International Organizations and Programs

Sec. 301.[420] **General Authority.**—(a) When he determines it to be in the national interest, the President is authorized to make voluntary contributions on a grant basis to international organizations and to programs administered by such organizations, and in the case of the Indus Basin Development Fund administered by the International Bank for Reconstruction and Development to make grants and loans payable as to principal and interest in United States dollars and subject to the provisions of section 122(b),[421] on such terms and conditions as he may determine, in order to further the purposes of this part.

(b)[422] * * * [Repealed—1981]

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[417] This function of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[418] 22 U.S.C. 2220e. Sec. 300 was added by sec. 312 of Public Law 94–161 (89 Stat. 849).

Sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", and is applicable to this section.

[419] Sec. 5 of the Famine Prevention and Freedom From Hunger Improvement Act of 2000 (Public Law 106–373; 114 Stat. 1433) struck out "April 1" and inserted in lieu thereof "September 1".

[420] 22 U.S.C. 2221.

[421] The words to this point, beginning with ", and in the case of the Indus Basin", were added by sec. 107(a) of the FA Act of 1966. The reference to sec. 122(b) was substituted in lieu of a reference to sec. 201(d) by the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 941).

[422] Subsec. (b), as amended by sec. 107(b) of the FA Act of 1966, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It formerly read as follows:

"(b) Contributions to the United Nations Development Program for the calendar years succeeding 1961 may not exceed forty per centum of the total amount contributed for such purposes (including assessed and audited local costs) for each such year. The President shall seek to assure that no contribution to the United Nations Development Program authorized by this Act shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime.".

(c)[423] No contributions by the United States shall be made to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.

(d)[424] In any case in which a fund established solely by United States contributions under this or any other Act is administered by an international organization under the terms of an agreement between the United States and such international organization, such agreement shall provide that the Comptroller General of the United States shall conduct such audits as are necessary to assure that such fund is administered in accordance with such agreement. The President shall undertake to modify any existing agreement entered into before the date of enactment of this subsection to conform to the requirements of the preceding sentence. The Comptroller General shall report simultaneously to the Congress and the President the results of the audit conducted under this subsection.[425]

(e)[426] (1) In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations of external, professionally qualified groups[427] of appropriate size for the purpose of providing an independent and continuous program of selective examinations, review, evaluation, and audits[428] of the programs and activities of such organizations. Such proposal shall provide that

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[423] Subsec. (c) was amended by sec. 108(a) of the FA Act of 1969. It formerly read as follows: "(c) In determining whether or not to continue furnishing assistance for Palestine refugees in the Near East through contributions to the United Nations Relief and Works agency for Palestine Refugees in the Near East, the President shall take into account (1) whether Israel and the Arab host governments are taking steps toward the resettlement and repatriation of such refugees, and (2) the extent and success of efforts by the Agency and the Arab host governments to rectify the Palestine refugee relief rolls. Contributions by the United States for the fiscal year 1967 shall not exceed $13,300,000. No contributions under this subsection shall be made except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army.".

Sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 213), provided the following:

"GAO REPORT

"SEC. 580. Not later than November 1, 2003, the Comptroller General of the United States shall provide a report to the Committees on Appropriations on the extent to which the Department of State is complying with section 301(c) of the Foreign Assistance Act of 1961, and on the implementation of procedures that have been established to meet the standards of the Department of State regarding compliance with the requirements of section 301(c).".

[424] Subsec. (d) was added by sec. 110(a) of the FA Act of 1967.

[425] This sentence was added by sec. 701(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156).

[426] Subsec. (e) was added by sec. 9(1) of the FA Act of 1973.

[427] The reference to external groups was inserted in lieu of a reference to a single group by sec. 702(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156). All other references in subsec. (e) to these groups were also made plural by sec. 702(b).

[428] The reference to an audit was added by sec. 702(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156).

such groups[427] shall be established in accordance with such terms of reference as such governing authority may prescribe and that the reports of such groups[427] on each examination, review, evaluation or audits[428] shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.[427]

(2) In the case of the International Bank for Reconstruction and Development and the Asian Development Bank, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audits[428] of the programs and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authorities may prescribe, and that the reports of such groups on each examination, review, evaluation, or audit[428] shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

(3)[429] * * * [Repealed—1981]

(f)[430] The President is hereby authorized to permit United States participation in the International Fertilizer Development Center and is authorized to use any of the funds made available under this part for the purpose of furnishing assistance to the Center on such terms and conditions as he may determine.

(g)[431] It is the sense of the Congress that the President should instruct the appropriate representatives of the United States to the United Nations to encourage the specialized agencies of the United Nations to transfer the funding of technical assistance programs carried out by such agencies to the United Nations Development Program.

(h)[432] The President is authorized to permit the United States to participate in and to use any of the funds made available under

[429] Par. (3), as added by sec. 9(1) of the FA Act of 1973 and amended by sec. 702(b)(6) of Public Law 96–533, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Par. (3) had required that the U.S. representatives to these international organizations submit any reports they received under this subsection to the President for transmittal to Congress and the Comptroller General. The Comptroller General was also directed to periodically review these reports and submit any appropriate suggestions to the Congress and the President.

[430] Subsec. (f) was added by sec. 313(c) of Public Law 94–161 (89 Stat. 849).

[431] Subsec. (g) was added by sec. 117(d) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953).

[432] Subsec. (h) was added by sec. 311(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

this part after the date of enactment of this subsection for the purpose of furnishing assistance (on such terms and conditions as the President may determine) to the International Food Policy Research Institute.

Sec. 302.[433] **Authorization.**—(a)(1) There are authorized to be appropriated to the President $270,000,000 for fiscal year 1986 and $236,084,000 for fiscal year 1987[434] for grants to carry out the purposes of this chapter, in addition to funds available under other Acts for such purposes. Of the amount appropriated for each of the fiscal years 1986 and 1987 pursuant to these authorizations—

(A) 59.65 percent shall be for the United Nations Development Program;

(B) 19.30 percent shall be for the United Nations Children's Fund;

(C) 7.20 percent shall be for the International Atomic Energy Agency, except that these funds may be contributed to that Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency;

(D) 5.44 percent shall be for Organization of American States development assistance programs;

(E) 3.51 percent shall be for the United Nations Environment Program;

(F) 0.70 percent shall be for the World Meteorological Organization;

(G) 0.70 percent shall be for the United Nations Capital Development Fund;

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[433] 22 U.S.C. 2222.

[434] The amount $236,084,000 was substituted in lieu of the amount $275,000,000 by sec. 404 of Public Law 99–529 (100 Stat. 3010).

The authorization figures and earmarkings for fiscal years 1986 and 1987 were added by sec. 402(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190).

Authorizations under sec. 302 during recent years included the following: fiscal year 1975—$165,000,000; fiscal year 1976—$195,500,000; fiscal year 1977—$219,900,000; fiscal year 1978—$252,000,000; fiscal year 1979—$285,450,000; fiscal year 1980—$267,280,000; fiscal year 1981—$233,350,000; fiscal year 1982—$218,600,000; fiscal year 1983—$218,600,000; fiscal year 1984—$266,214,000; fiscal year 1985—no authorization; fiscal years 1988 through 2000—no authorization. No general authorization for fiscal year 2001; see, however, subsec. (k); fiscal year 2003—no authorization.

Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and title IV of that Act (at 117 Stat. 179) provided the following:

"INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $195,150,000: *Provided*, That none of the funds appropriated under this heading may be made available to the Korean Peninsula Energy Development Organization (KEDO) or the International Atomic Energy Agency (IAEA): *Provided further,* That of the funds appropriated under this heading, not less than $500,000 should be made available for a United States contribution to the International Coffee Organization (ICO) if the United States becomes a member of the ICO prior to June 1, 2003: *Provided further,* That if the United States does not rejoin the International Coffee Organization by June 1, 2003, the amount allocated under the previous proviso should be made available for the United Nations Center for Human Settlements (UN-HABITAT) in addition to other funds made available for UN-HABITAT under this heading.".

See also paragraph in title II on nonproliferation, anti-terrorism, demining and related programs; sec. 515, relating to notification requirements; sec. 516, relating to limiting the availability of funds for international organizations and programs; sec. 522, relating to child survival and health activities; sec. 541, relating to prohibiting payments to U.N. members; sec. 562, relating to the Korean Peninsula Energy Development Organization; sec. 572, relating to contributions to the U.N. Population Fund; and sec. 584, relating to trade capacity building.

(H) 0.35 percent shall be for the United Nations Education and Training Program for Southern Africa;

(I) 0.18 percent shall be for the United Nations Voluntary Fund for the Decade for Women;

(J) 0.07 percent shall be for the Convention on International Trade in Endangered Species;

(K) 0.70 percent shall be for the World Food Program;

(L) 0.18 percent shall be for the United Nations Institute for Namibia;

(M) 0.12 percent shall be for the United Nations Trust Fund for South Africa;

(N) 0.04 percent shall be for the United Nations Voluntary Fund for Victims of Torture;

(O) 0.07 percent shall be for the United Nations Industrial Development Organization;

(P) 0.55 percent shall be for the United Nations Development Program Trust Fund To Combat Poverty and Hunger in Africa;

(Q) 0.97 percent shall be for contributions to international conventions and scientific organizations;

(R) 0.18 percent for the United Nations Center on Human Settlements (Habitat); and

(S) 0.09 percent shall be for the World Heritage Fund.[435]

(2)[436] The Congress reaffirms its support for the work of the Inter-American Commission on Human Rights. To permit such Commission to better fulfill its function of insuring observance and respect for human rights within this hemisphere, not less than $357,000 of the amount appropriated for fiscal year 1976 and $358,000 of the amount appropriated for fiscal year 1977, for contributions to the Organization of American States, shall be used only for budgetary support for the Inter-American Commission on Human Rights.

(3)[437] * * * [Repealed—1981]

(b)(1)[438] There is authorized to be appropriated to the President for loans for Indus Basin Development to carry out the purposes of this section, in addition to funds available under this or any other Act for such purposes, for use beginning in the fiscal year 1969, $61,220,000.[439] Such amounts are authorized to remain available until expended.

(2)[438] There is authorized to be appropriated to the President for grants for Indus Basin Development, in addition to any other funds available for such purposes, for use in the fiscal year 1974,

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[435] Sec. 117(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953) also provided an authorization of $1,000,000 for contribution to the World Assembly on Aging.

[436] Par. (2) was added by sec. 313(a)(1)(C) of Public Law 94–161 (89 Stat. 849)

[437] Par. (3), which had prohibited the use of funds under this subsection for the U.N. Institute for Namibia during fiscal year 1979 unless the President determined that such funds would not be used to support the military or paramilitary activities of the South-West African Peoples Organization, was repealed by sec. 734(a) of the International Security and Development Cooperation Act 1981 (Public Law 97–113; 95 Stat. 1560).

[438] Paragraph designation "(1)" and par. (2) were added by sec. 108(c) of the FA Act of 1969.

[439] Sec. 313(a)(2) of Public Law 94–161 (89 Stat. 849) inserted "$61,220,000" in lieu of "$51,220,000".

FA Appropriations Act, 1976: "Indus Basin Development Fund, loans: For expenses authorized by section 302(b)(1) $10,000,000, to remain available until expended: *Provided,* That no other funds appropriated or made available under this Act shall be used for the purposes of such section during the current fiscal year."

$14,500,000,[440] and for use in the fiscal year 1975, $14,500,000,[440] and for use beginning in the fiscal year 1976, $27,000,000,[441] which amounts shall remain available until expended. The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provisions of this Act.[442]

(c) None of the funds available to carry out this chapter shall be contributed to any international organization or to any foreign government or agency thereof to pay the costs of developing or operating any volunteer program of such organization, government, or agency relating to the selection, training, and programing of volunteer manpower.

(d)–(h)[443] * * * [Repealed—1978]

(i)[444] In addition to amounts otherwise available under this section there are authorized to be appropriated for fiscal year 1976 $1,000,000 and for fiscal year 1977 $2,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear missile facilities and materials.[445] Amounts appropriated under this subsection are authorized to remain available until expended.

(j)[446] In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $3,000,000 for fiscal year 1989 to be available only for United States contributions to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by this subsection—

(1) $2,000,000 shall be for a United States contribution to the United Nations Fund for Drug Abuse Control;

(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contribu-

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[440] Sec. 9(3) of the FA Act of 1973 inserted "for use in the fiscal year 1974, $14,500,000, and for use in the fiscal year 1975, $14,500,000," in lieu of "for use in the fiscal year 1972, $15,000,000, and for use in the fiscal year 1973, $15,000,000".

[441] The words to this point beginning with "and for use beginning * * *" were added by sec. 313(a)(3) of Public Law 94–161 (89 Stat. 849).

The Foreign Assistance Appropriations Act, 1977, provided the following: "For necessary expenses to carry out the provisions of section 302(b)(2), $15,750,000.".

[442] The last sentence was added by sec. 107(b)(2) of the FA Act of 1971.

[443] Subsecs. (d), (e), (f), (g), and (h) of sec. 302 were repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[444] Subsec. (i) was added by sec. 505 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–392).

[445] The Supplemental Appropriations Act, 1977 (Public Law 95–26; 91 Stat. 66), provided the following:

"For an additional amount for "International organizations and programs", $31,000,000: *Provided,* That of the funds appropriated under this paragraph, $3,000,000 shall be allocated for a contribution to the International Atomic Energy Agency to strengthen the Agency's safeguards program.".

[446] Sec. 4107 of Public Law 100–690 (102 Stat. 4266) added sec. (j).

tions to the budget of the Organization of American States for that fiscal year; and

(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year.

(k)[447] In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2004 through 2008[448] to be available only for United States contributions to the Vaccine Fund.[449]

(l)[447] In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2004 through 2008[450] to be available only for United States contributions to the International AIDS Vaccine Initiative.

(m)[451] In addition to amounts otherwise available under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2004 through 2008 to be available for United States contributions to malaria vaccine development programs, including the Malaria Vaccine Initiative of the Program for Appropriate Technologies in Health (PATH).

Sec. 303.[452] **Indus Basin Development.**—In the event that funds made available under this Act (other than part II) are used by or under the supervision of the International Bank for Reconstruction and Development in furtherance of the development of the Indus Basin through the program of cooperation among South Asian and other countries of the free world, which is designed to

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[447] Sec. 112(a) of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 753) added subsecs. (k) and (l). Sec. 112(b) of that Act provided the following:

"(b) REPORT.—At the close of fiscal year 2001, the President shall submit a report to the appropriate congressional committees on the effectiveness of the Global Alliance for Vaccines and Immunizations and the International AIDS Vaccine Initiative during that fiscal year in meeting the goals of—

"(1) improving access to sustainable immunization services;

"(2) expanding the use of all existing, safe, and cost-effective vaccines where they address a public health problem;

"(3) accelerating the development and introduction of new vaccines and technologies;

"(4) accelerating research and development efforts for vaccines needed primarily in developing countries; and

"(5) making immunization coverage a centerpiece in international development efforts.".

[448] Sec. 203(a)(1) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) struck out "$50,000,000 for each of the fiscal years 2001 and 2002" and inserted in lieu thereof "such sums as may be necessary for each of the fiscal years 2004 through 2008".

[449] Sec. 203(a)(2) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) struck out "Global Alliance for Vaccines and Immunizations" and inserted in lieu thereof "Vaccine Fund".

[450] Sec. 203(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) struck out "$10,000,000 for each of the fiscal years 2001 and 2002" and inserted in lieu thereof "such sums as may be necessary for each of the fiscal years 2004 through 2008".

[451] Sec. 203(c) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25; 117 Stat. 711) added subsec. (m).

[452] 22 U.S.C. 2223.

promote economic growth and political stability in South Asia, such funds may be used in accordance with requirements, standards, or procedures established by the Bank concerning completion of plans and cost estimates and determination of feasibility, rather than with requirements, standards, or procedures concerning such matters set forth in this or other Acts; and such funds may also be used without regard to the provisions of section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241),[453] whenever the President determines that such provisions cannot be fully satisfied without seriously impeding or preventing accomplishment of the purposes of such programs: *Provided,* That compensating allowances are made in the administration of other programs to the same or other areas to which the requirements of said section 901(b) are applicable.

Sec. 304.[454] **United Nations Peacekeeping.** * * * [Repealed—1978]

Sec. 305.[455] **Integration of Women.**—The President is requested to instruct each representative of the United States to each international organization of which the United States is a member (including but not limited to the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the International Monetary Fund, the United Nations, and the Organization for Economic Cooperation and Development) to carry out their duties with respect to such organizations in such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policy-making positions within such organizations, thereby improving the status of women. The President is further requested, in making United States contributions to such organizations, to take into account the progress, or lack of progress, of such organizations in adopting and implementing policies and practices which encourage and promote the integration of women into the national economies of member and recipient countries, and into professional and policy-making positions within such organizations, in accordance with the World Plan of Action of the Decade for Women.[456]

Sec. 306.[457] **Reports on International Organizations.**—The annual reports to the Congress under section 2 of the Act of September 21, 1950 (64 Stat. 902, 22 U.S.C. 262a), shall be submitted within nine months after the end of the fiscal year to which they relate.

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[453] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[454] Sec. 304, as added by the FA Act of 1967, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[455] 22 U.S.C. 2225. Sec. 305 was added by sec. 54 of the FA Act of 1974, which inserted it at the end of part III, chapter 3. Sec. 313(b) of Public Law 94–161 reinserted it at the end of part I, chapter 3.

[456] This sentence was added by sec. 118(b) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 540).

[457] 22 U.S.C. 2226. Sec. 306 was added by sec. 703 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3157). Sec. 1301(b) of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3293) struck out subsec. designation "(a)" in this para., and striking out subsec. (b), which had required the President to submit semiannual reports to the Congress listing all U.S. Government voluntary contributions to international organizations. Pursuant to Executive Order 12374 (July 28, 1982; 47 F.R. 32903), those reporting responsibilities had been delegated to the Secretary of State.

Sec. 307.[458] **Withholding of United States Proportionate Share for Certain Programs of International Organizations.**—(a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this chapter shall be available for the United States proportionate share for programs for Burma, Iraq, North Korea, Syria,[459] Libya, Iran, Cuba, or the Pal-

[458] 22 U.S.C. 2227. Sec. 307 was added by sec. 403 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 219).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 185 and 2155), provided:

"LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2004.

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"LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

"SEC. 545. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.".

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 579), provided the following:

"SEC. 1503. The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.".

[459] Sec. 431(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 459) struck out "the South-West Africa People's Organization" and inserted "Burma, Iraq, North Korea, Syria".

Sec. 431(b) of Public Law 103–236 (108 Stat. 459) further provided the following:

"(b) UNITED NATIONS DEVELOPMENT PROGRAM.—

"(1) Except as provided in paragraphs (2) and (3), for fiscal years 1994 and 1995 none of the funds made available for United Nations Development Program or United Nations Development Program—Administered Funds shall be available for programs and activities in or for Burma.

"(2) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1994, $11,000,000 may be available only if the President certifies to the Congress that the United Nations Development Program's programs and activities in or for Burma promote the enjoyment of internationally guaranteed human rights in Burma and do not benefit the State Law and Order Restoration Council (SLORC) military regime.

estine Liberation Organization or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it,[460] or at the discretion of the President, Communist countries listed in section 620(f) of this Act.[461]

(b) The Secretary of State—

(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this chapter; and

(2) shall report to the appropriate committees of the Congress the amounts of funds expended by each such organization for the purposes described in subsection (a) and the

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"(3) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1995, $27,600,000 may be available only if the President certifies to the Congress that—

"(A) the United Nations Development Program has approved or initiated no new programs and no new funding for existing programs in or for Burma since the United Nations Development Program Governing Council (Executive Board) meeting of June 1993,

"(B) such programs address unforeseen urgent humanitarian concerns, or

"(C) a democratically elected government in Burma has agreed to such programs.".

[460] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7); see secs. 534(d), 545, 548, and 552 (117 Stat. 194, 198, 199, and 200, respectively). See also sec. 563 (117 Stat. 204), restricting aid unless the Secretary of State certifies that certain conditions have been met pertaining to Palestinian statehood, and sec. 566 (117 Stat. 206), prohibiting assistance to the Palestinian Broadcasting Corporation.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); and through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327).

[461] Sec. 516 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681) added ", or at the discretion of the President, Communist countries listed in section 620(f) of this Act.".

Sec. 516 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 185), provides the following:

"LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2004.".

amount contributed by the United States to each such organization.

(c)[462] (1) Subject to paragraph (2), the limitations[463] of subsection (a) shall not apply to contributions to the International Atomic Energy Agency or the United Nations Children's Fund (UNICEF).

(2)[463] (A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this chapter and available for the International Atomic Energy Agency, the limitations of subsection (a) shall apply to programs or projects of such Agency in Cuba.

(B)(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection of nuclear facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a).

(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba—

(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

(III) incorporates internationally accepted nuclear safety standards.

(d)[464] (1) Notwithstanding subsection (c), if the Secretary of State determines that programs and projects of the International Atomic Energy Agency in Iran are inconsistent with United States nuclear nonproliferation and safety goals, will provide Iran with training or expertise relevant to the development of nuclear weapons, or are being used as a cover for the acquisition of sensitive nuclear technology, the limitations of subsection (a) shall apply to such programs and projects, and the Secretary of State shall so notify the appropriate congressional committees (as defined in section 3 of the Foreign Relations Authorization Act, Fiscal Year 2003).

(2) A determination made by the Secretary of State under paragraph (1) shall be effective for the 1-year period beginning on the date of the determination.

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[462] Sec. 431(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 459) added subsec. (c).

[463] Sec. 2809(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) struck out "The limitations" and inserted in lieu thereof "(1) Subject to paragraph (2), the limitations". Sec. 2809(a)(2) of that Act added para. (2). See also sec. 2809(b) and (c) of that Act, in *Legislation on Foreign Relations Through 2002*, vol. II.

[464] Sec. 1342 of the Iran Nuclear Proliferation Prevention Act of 2002 (subtitle D of title XIII of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1451) added subsec. (d).

Chapter 4—Supporting Assistance [465] [Repealed—1972]

Chapter 5—Contingencies [466]

Sec. 451.[467] **Contingencies.**[466]—(a)[468] (1) Notwithstanding any other provision of law, the President is authorized to use[469] funds made available to carry out any provision of this Act (other than the provisions of chapter 1 of this part) in order to provide, for any unanticipated contingencies,[470] assistance authorized by this part in accordance with the provisions applicable to the furnishing of such assistance, except that the authority of this subsection may not be used to authorize the use of more than $25,000,000 during any fiscal year.[471]

(2) The President shall report promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate each time he exercises the authority contained in this subsection.

(b)[472] * * * [Repealed—1981]

(c) No part of this fund shall be used to pay for any gifts to any officials of any foreign government made heretofore or hereafter.[473]

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[465] Sec. 202(b) of the FA Act of 1971 repealed chapter 4 of part I. This subject matter is now covered under chapter 4 of part II of this Act, Economic Support Fund.

[466] Sec. 2 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 701) changed the title of chapter 5 and sec. 451 from "Contingency Fund" to "Contingencies". Previously, sec. 503(1) of Public Law 94–329 substituted "Contingency Fund" for "Disaster Relief" in the title of chapter 5 while sec. 2(1) of Public Law 93–333 changed the title of chapter 5 from "Contingency Fund" to "Disaster Relief".

[467] 22 U.S.C. 2261. Sec. 451 was amended by sec. 28(c) of the FA Act of 1974. It formerly read as follows:

"Sec. 451. Contingency Fund—(a) There is authorized to be appropriated to the President for each of the fiscal years 1974 and 1975 not to exceed $30,000,000, to provide assistance authorized by this part primarily for disaster relief purposes, in accordance with the provisions applicable to the furnishing of such assistance. (b) The President shall provide quarterly reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Speaker of the House of Representatives on the programing and the obligation of funds under subsection (a).".

Pursuant to the authority stated in sec. 451, the Secretary of State, on September 9, 2002, authorized, "notwithstanding any other provision of law, the use of up to $5.0 million in FY 2002 Peacekeeping Operations (PKO) funds made available under Chapter 6 of Part II of the Act, in order to provide assistance authorized by Part I of the Act to support the South African Special Protection Unit to help protect returning opposition leaders participating in the Transitional Government inaugurated in Burundi on November 1, 2001." (Department of State Public Notice 4123; 67 F.R. 58671).

[468] Subsec. (a) was amended and restated by sec. 2 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 701).

[469] Sec. 588(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2056), struck out "not to exceed $10,000,000 of" and "in any fiscal year" at these points, respectively.

[470] Sec. 588(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2056), struck out "emergency purposes" and inserted in lieu thereof "unanticipated contingencies".

[471] Sec. 588(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2056), added ", except that the authority of this subsection may not be used to authorize the use of more than $25,000,000 during any fiscal year.".

Sec. 534(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 194) provided the following:

"SEC. 534. SPECIAL AUTHORITIES. * * *

"(e) CONTINGENCIES.—During fiscal year 2003, the President may use up to $45,000,000 under the authority of section 451 of the Foreign Assistance Act, notwithstanding the funding ceiling in section 451(a).".

[472] Subsec. (b), which had required a quarterly report from the President concerning the programing and obligation of funds under this section, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[473] Sec. 452, which was added by sec. 2(2) of the Foreign Disaster Assistance Act of 1974 (Public Law 93–333) and formerly appeared at this point, was redesignated as sec. 494 by Sec. 101(4) of Public Law 94–161 (89 Stat. 849).

Chapter 6—Central America Democracy, Peace, and Development Initiative[474]

Sec. 461.[474, 475] **Statement of Policy.**—(a) The Congress finds that—

(1) the building of democracy, the restoration of peace, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States; and

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America.

(b)(1) The achievement of democracy, respect for human rights, peace, and equitable economic growth depends primarily on the cooperation and the human and economic resources of the people and governments of Central America. The Congress recognizes that the United States can make a significant contribution to such peaceful and democratic development through a consistent and coherent policy which includes a long-term commitment of assistance. This policy should be designed to support actively—

(A) democracy and political reform, including opening the political process to all members of society;

(B) full observance of internationally recognized human rights, including free elections, freedom of the press, freedom of association, and the elimination of all human rights abuses;

(C) leadership development, including training and educational programs to improve public administration and the administration of justice;

(D) land reform, reform in tax systems, encouragement of private enterprise and individual initiative, creation of favorable investment climates, curbing corruption where it exists, and spurring balanced trade;

(E) the establishment of the rule of law and an effective judicial system; and

(F) the termination of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of crimes and the prosecution to the extent possible of past offenders.

(2) The policy described in paragraph (1) should also promote equitable economic growth and development, including controlling the flight of capital and the effective use of foreign assistance and adhering to approved programs for economic stabilization and fiscal responsibility. Finally, this policy should foster dialog and negotiations—

(A) to achieve peace based upon the objectives of democratization, reduction of armament, an end to subversion, and the withdrawal of foreign military forces and advisers; and

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[474] Chapter 6, as enacted in the Foreign Assistance Act of 1961, titled: "Assistance to Countries Having Agrarian Economies", was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961). A new ch. 6 (sec. 461 through 466), was added by sec. 701 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 234).

[475] 22 U.S.C. 2271.

(B) to provide a security shield against violence and intimidation.

(3) It is the purpose of this chapter to establish the statutory framework and to authorize the appropriations and financing necessary to carry out the policy described in this section.

(c) The Congress finds, therefore, that the people of the United States are willing to sustain and expand a program for economic and military assistance in Central America if the recipient countries can demonstrate progress toward and a commitment to these goals.

Sec. 462.[474, 476] **Conditions on Furnishing Assistance.**—The President shall ensure that assistance authorized by this Act and the Arms Export Control Act to Central American countries is furnished in a manner which fosters demonstrated progress toward and commitment to the objectives set forth in section 461. Where necessary to achieve this purpose, the President shall impose conditions on the furnishing of such assistance. In carrying out this section, the President shall consult with the Congress in regard to progress toward the objectives set forth in section 461, and any conditions imposed on the furnishing of assistance in furtherance of those objectives.

Sec. 463.[474, 477] **Peace Process in Central America.**—The Congress—

(1) strongly supports the initiatives taken by the Contadora group and the resulting Document of Objectives which has been agreed to by Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua and which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region; and

(2) finds that the United States should provide such assistance and support as may be appropriate in helping to reach comprehensive and verifiable final agreements, based on the Document of Objectives, which will ensure peaceful and enduring solutions to the Central American conflicts.

Sec. 464.[474, 478] **Economic Assistance Coordination.**—(a) The Congress finds that participation by Central American countries in an effective forum for dialog on, and the continuous review and advancement of, Central America's political, economic, and social development would foster cooperation between the United States and Central American countries.

(b) It is the sense of the Congress that—

(1) the President should enter into negotiations with the countries of Central America to establish a Central American Development Organization (hereafter in this section referred to as the "Organization") to help provide a continuous and coherent approach to the development of the Central American region; and

(2) the establishment of the Organization should be based upon the following principles:

(A) Participation in the Organization should be open to the United States, other donors, and those Central Amer-

[476] 22 U.S.C. 2272.
[477] 22 U.S.C. 2273.
[478] 22 U.S.C. 2274.

ican countries that commit themselves to, among other things, respecting internationally recognized human rights, building democracy, and encouraging equitable economic growth through policy reforms.

(B) The Organization should be structured to include representatives from both the public and private sectors, including representatives from the labor, agriculture, and business communities.

(C) The Organization should meet periodically to carry out the functions described in subparagraphs (D) and (E) of this paragraph and should be supported by a limited professional secretariat.

(D) The Organization should make recommendations affecting Central American countries on such matters as—

(i) political, economic, and social development objectives, including the strengthening of democratic pluralism and the safeguarding of internationally recognized human rights;

(ii) mobilization of resources and external assistance needs; and

(iii) reform of economic policies and structures.

(E) The Organization should have the capacity for monitoring country performance on recommendations issued in accordance with subparagraph (D) of this paragraph and for evaluating progress toward meeting such country objectives.

(F) To the maximum extent practicable, the United States should follow the recommendations of the Organization in disbursing bilateral economic assistance for any Central American country. No more than 75 percent of such United States assistance in any fiscal year should be disbursed until the recommendations of the Organization for that fiscal year have been made final and communicated to the donor countries. The limitation on disbursements contained in the preceding sentence should apply only to recommendations made final and communicated to donor countries prior to the fourth quarter of such fiscal year. The United States representative to the Organization should urge other donor countries to similarly implement the recommendations of the Organization.

(G) The administrator of the agency primarily responsible for administering part I of this Act, or his designee, should represent the United States Government in the Organization and should carry out his functions in that capacity under the continuous supervision and general direction of the Secretary of State.

(c) Subject to subsection (d)(2), the President is authorized to participate in the Organization.

(d)(1) The administrator of the agency primarily responsible for administering part I of this Act, under the supervision and direction of the Secretary of State, shall prepare a detailed proposal to carry out this section and shall keep the Committee on Foreign Af-

fairs[479] of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed concerning the development of this proposal.

(2) The President shall transmit to the Committee on Foreign Affairs[479] of the House of Representatives and the Committee on Foreign Relations of the Senate a copy of the text of any agreement, which he proposes to sign, that would provide for the establishment of and United States participation in the Organization no less than sixty days prior to his signature. During that sixty-day period there shall be full and formal consultations with and review by those committees in accordance with procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

Sec. 465.[474, 480] **Authorization for Fiscal Years 1988 and 1989.**—(a) In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President, for the purpose of furnishing nonmilitary assistance for Central American countries, $1,200,000,000 for each of the fiscal years 1988 and 1989, which are authorized to remain available until expended.

(b) For the purpose of providing the assistance described in subsection (a), funds appropriated pursuant to the authorizations in that subsection may be transferred by the President for obligation in accordance with the authorities of part I of this Act (including chapter 4 of part II), the Peace Corps Act, the Migration and Refugee Assistance Act of 1962, the United States Information and Education Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, the National Endowment for Democracy Act, and the State Department Basic Authorities Act of 1956.

Sec. 466.[474, 481] **Definitions.**—For the purposes of this chapter, the term "Central American countries" includes Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and regional programs which benefit such countries.

Chapter 7—Debt-For-Nature Exchanges[482]

Sec. 461.[483] **Definition.**—For purpose of this chapter, the term "debt-for-nature exchange" means the cancellation or redemption of the foreign debt of the government of a country in exchange for—

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

[480] 22 U.S.C. 2275.

[481] 22 U.S.C. 2276.

[482] Chapter 7, as enacted in the Foreign Assistance Act of 1966 (Public Law 89–583), titled: "Joint Commissions on Rural Development", was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961). A new ch. 7 was added by sec. 711 of the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521).

[483] 22 U.S.C. 2281. All sections in ch. 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 471".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 190), provided the following:

"DEBT-FOR-DEVELOPMENT

"SEC. 528. In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.".

(1) that government's making available local currencies (including through the issuance of bonds) which are used only for eligible projects involving the conservation or protection of the environment in that country (as described in section 463);[484] or

(2) that government's financial resource or policy commitment to take certain specified actions to ensure the restoration, protection, or sustainable use of natural resources within that country; or

(3) a combination of assets and actions under both paragraphs (1) and (2).

Sec. 462.[485] **Assistance for Commercial Debt Exchanges.**—(a) The Administrator of the Agency for International Development is authorized to furnish assistance, in the form of grants on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible country which will be canceled or redeemed under the terms of an agreement with that government as part of a debt-for-nature exchange.

(b) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in subsection (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

Sec. 463.[486] **Eligible Projects.**—(a) The Administrator of the Agency for International Development shall seek to ensure that debt-for-nature exchanges under this chapter support one or more of the following activities by either the host government, a local private conservation group, or a combination thereof:

(1) restoration, protection, or sustainable use of the world's oceans and atmosphere;

(2) restoration, protection, or sustainable use of diverse animal and plant species;

(3) establishment, restoration, protection, and maintenance of parks and reserves;

(4) development and implementation of sound systems of natural resource management;

(5) development and support of local conservation programs;

(6) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(7) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

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[484] All sections in ch. 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Reference should read "section 473".

[485] 22 U.S.C. 2282. All sections in ch. 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 472".

[486] 22 U.S.C. 2283. All sections in ch. 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 473".

(8) design and implementation of sound programs of land and ecosystem management; and

(9) promotion of regenerative approaches in farming, forestry, fishing, and watershed management.

(b)(1) In cooperation with nongovernmental organizations, the Administrator of the Agency for International Development shall seek to identify those areas, which because of an imminent threat, are in particular need of immediate attention to prevent the loss of unique biological life or valuable ecosystem.

(2) The Administrator of the Agency for International Development shall encourage as many eligible countries as possible to propose such exchanges with the purpose of demonstrating to a large number of governments the feasibility and benefits of sustainable development.

Sec. 464.[487] **Eligible Countries.**—In order for a foreign country to be eligible to participate in a debt-for-nature exchange under this chapter, the Administrator of the Agency for International Development shall determine that—

(1) the host country is fully committed to the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange;

(2) a long-term plan has been prepared by the host country, or private conservation group, which adequately provides for the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange or that such a plan will be prepared in a timely manner; and

(3) there is a government agency or a local nongovernmental organization, or combination thereof, in the host country with the capability, commitment, and record of environmental concern to oversee the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange.

Sec. 465.[488] **Terms and Conditions.**—(a) The terms and conditions for making grants under this chapter shall be deemed to be fulfilled upon final approval by the Administrator of the Agency for International Development of the debt-for-nature exchange, a certification by the nongovernmental organization that the host government has accepted the terms of the exchange, and that an agreement has been reached to cancel the commercial debt in an agreed upon fashion.

(b) Grants made under this section are intended to complement, and not substitute for, assistance otherwise available to a foreign country under this Act or any other provision of law.

(c) The United States Government is prohibited from accepting title or interest in any land in a foreign country as a condition on the debt exchange.

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[487] 22 U.S.C. 2284. All sections in ch. 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 474".

[488] 22 U.S.C. 2285. All sections in ch. 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 475".

Sec. 466.[489] **Pilot Program for Sub-Saharan Africa.**—(a) The Administrator of the Agency for International Development, in cooperation with nongovernmental conservation organizations, shall invite the government of each country in sub-Saharan Africa to submit a list of those areas of severely degraded national resources which threaten human survival and well-being and the opportunity for future economic growth or those areas of biological or ecological importance within the territory of that country.

(b) The Administrator of the Agency for International Development shall assess the list submitted by each country under subsection (a) and shall seek to reach agreement with the host country for the restoration and future sustainable use of those areas.

(c)(1) The Administrator of the Agency for International Development is authorized to make grants, on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible sub-Saharan country in exchange for commitments by that government to restore natural resources identified by the host country under subsection (a) or for commitments to develop plans for sustainable use of such resources.

(2) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

Chapter 8—International Narcotics Control[490]

SEC. 481.[491] POLICY, GENERAL AUTHORITIES, COORDINATION, FOREIGN POLICE ACTIONS, DEFINITIONS, AND OTHER PROVISIONS.

(a) POLICY AND GENERAL AUTHORITIES.—

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[489] 22 U.S.C. 2286. All sections in ch. 7 are misnumbered, as enacted by the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2521). Should read "Sec. 476".

[490] Chapter 8 was added by sec. 109 of the FA Act of 1971. See other legislation on international narcotics control in *Legislation on Foreign Relations Through 2002*, vol. I–B, particularly the establishment of the President's Council on Counter-Narcotics (title VII, sec. 709, of Public Law 105–277), and the Western Hemisphere Drug Elimination Act (title VIII of Public Law 105–277).

[491] 22 U.S.C. 2291. Sec. 1519(a) of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 4060) amended sec. 481 at subsec. (a) by redesignating former subpar. (E) as (F), and inserting a new (E).

Sec. 1519(b) of Public Law 102–550, furthermore, amended sec. 481(e) to require a report on major money laundering countries.

Sec. 4 of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4914), however, substantially amended and restated sec. 481. Sec. 4(a) struck the section designation, section heading, and subsection (a), and restated these through subpar. (F).

Chapter 8 was originally added by sec. 109 of the FA Act of 1971. See other legislation on international narcotics control in *Legislation on Foreign Relations Through 2002*, vol. I–B.

The original sec. 481 read as follows:

"It is the sense of the Congress that effective international cooperation is necessary to put an end to the illicit production, trafficking in, and abuse of dangerous drugs. In order to promote such cooperation, the President is authorized to conclude agreements with other countries to facilitate control of the production, processing, transportation, and distribution of narcotic analgesics, including opium and its derivatives, other narcotic drugs and psychotropics and other controlled substances as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513). Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and condi-

(1) STATEMENTS OF POLICY.—(A) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

(D)[492] International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(E)[492] The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

(F)[492] The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

(G)[492] Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

(2) In order to promote such cooperation, the President is authorized to conclude agreements, including reciprocal maritime agree-

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tions as he may determine, for the control of the production of, processing of, and traffic in, narcotic and psychotropic drugs. In furnishing such assistance the President may use any of the funds made available to carry out the provisions of this Act. The President shall suspend economic and military assistance furnished under this or any other Act, and shall suspend sales under the Foreign Military Sales Act and under title I of the Agriculture Trade Development and Assistance Act of 1954 with respect to any country when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such suspension shall continue until the President determines that the government of such country has taken adequate steps to carry out the purposes of this chapter.".

Sec. 481(a) had been amended previously by sec. 503 of the Foreign Relations Authorization Act of 1972, sec. 11 of the FA Act of 1973, sec. 1003(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, sec. 4502 of the International Narcotics Control Act of 1988, and sec. 17 of the International Narcotics Control Act of 1989.

[492] Sec. 131(a)(1) of Public Law 104–164 (110 Stat. 1429) redesignated subparas. (D) through (F) as subparas. (E) through (G), and added a new subpara. (D).

ments,[493] with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

(3)[494] In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

(4)[494] Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes.[495]

(b)[496] COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—

(1) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(2) RULE OF CONSTRUCTION.—Nothing contained in this subsection or section 489(b) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.[497]

(c)[498] PARTICIPATION IN FOREIGN POLICE ACTIONS.—

(1) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

(2) PARTICIPATION IN ARREST ACTIONS.—Paragraph (1) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being

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[493] Sec. 4(b) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) inserted ", including reciprocal maritime agreements,".

[494] Par. (3) was added by sec. 2017 of Public Law 99–570 (100 Stat. 3207–68). Sec. 2017 redesignated the previous par. (3) as par. (4).

[495] Sec. 131(a)(2) of Public Law 104–164 (110 Stat. 1429) added ", or for other anticrime purposes".

[496] Sec. 4(c) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) amended and restated subsec. (b). Originally, subsec. (b) was added to sec. 481 by sec. 11(a) of the FA Act of 1973. This subsection has previously been amended and restated by sec. 17(b) of the International Narcotics Control Act of 1989, and sec. 604 of the International Security and Development Cooperation Act of 1985.

[497] For text, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. D.

[498] Subsec. (c) was comprehensively amended and restated by sec. 15 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1963). It had previously been restated by sec. 2009 of Public Law 99–570 (100 Stat. 3207–64). Subsec. (c), often referred to as the "Mansfield Amendment," was originally added by sec. 504(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 764).

present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

(3) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Paragraph (1) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

(4) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, paragraph (1) does not apply with respect to maritime law enforcement operations in the territorial sea or archipelagic waters [499] of that country.

(5) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

(6) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This subsection does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces Arrangements.

(d) [500] USE OF HERBICIDES FOR AERIAL ERADICATION.—

(1) MONITORING.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to deter-

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[499] Sec. 4(d) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) inserted "or archipelagic waters" after "sea".

[500] Subsec. (d), as added by sec. 4 of Public Law 95–384 (92 Stat. 730), was amended by sec. 3(b) of Public Law 96–92 (93 Stat. 702), amended by sec. 502(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1538), and was further amended and restated by sec. 17(c) of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1964). Sec. 502(a)(2) and (3) of Public Law 97–113 also stipulated the conditions under which funds appropriated prior to enactment of this amendment could be utilized generally, and specifically in the case of assistance for Colombia appropriated in fiscal year 1980. Subsection (d) previously read as follows:

"(d)(1) The Secretary of State shall inform the Secretary of Health and Human Services of the use or intended use by any country or international organization of any herbicide to eradicate marihuana in a program receiving assistance under this chapter.

"(2) The Secretary of Health and Human Services shall monitor the impact on the health of persons who may use or consume marihuana of the spraying of a herbicide to eradicate such marihuana in a program receiving assistance under this chapter, and if the Secretary determines that such persons are exposed to amounts of such herbicide which are harmful to their health, the Secretary shall prepare and transmit a report to the Congress setting forth such determination together with any recommendations the Secretary may have.

"(3) Of the funds authorized to be appropriated for the fiscal year 1982 under section 482, the President is urged to use not less than $100,000 to develop a substance that clearly and readily warns persons who may use or consume marihuana that it has been sprayed with the herbicide paraquat or other herbicide harmful to the health of such person.

"(4) If the Secretary of Agriculture determines that a substance has been developed that clearly and readily warns persons who may use or consume marihuana that it has been sprayed with the herbicide paraquat or other herbicide harmful to the health of such persons, such substance shall be used in conjunction with the spraying of paraquat or such other herbicide in any program receiving assistance under this chapter.

"(5)(A) The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide in the aerial eradication of coca in order to determine the impact of such use on the environment and on the health of individuals.

"(B) The President shall report on such impact in the annual report required by subsection (e).

"(C) If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.".

mine the impact of such use on the environment and on the health of individuals.

(2)[501] ANNUAL REPORTS.—In the annual report required by section 489(a),[502] the President shall report on the impact on the environment and the health of individuals of the use under this chapter of a herbicide for aerial eradication.

(3) REPORT UPON DETERMINATION OF HARM TO ENVIRONMENT OR HEALTH.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs[503] of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.

(e)[504] DEFINITIONS.—For purposes of this chapter and other provisions of this Act relating specifically to international narcotics matters—

(1) the term "legal and law enforcement measures" means—

(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control;

(2)[505] the term "major illicit drug producing country" means a country in which—

(A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;

(B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or

(C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President

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[501] Sec. 101(a) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) struck out para. (2), and redesignated paras. (3) and (4) as paras. (2) and (3). Paragraph (2) formerly required that the Secretary of State inform the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency of the use or intended use by any country or international organization of any herbicide for aerial eradication in a program receiving assistance under this chapter.

[502] Sec. 6(b)(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) struck out "subsection (e)" and inserted in lieu thereof "section 489(a)".

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

[504] Sec. 101(b)(1) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) struck out "Except as provided in sections 490(h) and (i) with respect to the definition of major illicit drug producing country and major drug-transit country, for" as the opening clause of subsec. (e), inserting in lieu thereof "For". Previously, sec. 6(b)(3) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) amended and restated the opening sentence of subsec. (e). Subsec. (e) was originally added by sec. 1003(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1053).

[505] Sec. 101(b)(2) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) amended and restated para. (2), changing the measure of "major illicit drug producing country" from quantity of production to acreage devoted to production. Previously, sec. 17(e) of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1965) restated para. (2), adding emphasis on illicit production.

determines that such illicit cannabis production does not significantly affect the United States;

(3) the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country of countries concerned;

(4)[506] the term "United States assistance" means—

(A) any assistance under this Act (including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation), other than—

(i) assistance under this chapter,

(ii) any other narcotics-related assistance under this part (including chapter 4 of part II), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act,

(iii) disaster relief assistance, including any assistance under chapter 9 of this part,

(iv) assistance which involves the provision of food (including monetization of food) or medicine, and

(v) assistance for refugees;

(B) sales, or financing on any terms, under the Arms Export Control Act;

(C) the provision of agricultural commodities, other than food, under the Agricultural Trade Development and Assistance Act of 1954; and

(D) financing under the Export-Import Bank Act of 1945;

(5)[507] the term "major drug-transit country" means a country—

(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or[508]

(B) through which are transported such drugs or substances;[509]

(6)[509] the term "precursor chemical" has the same meaning as the term "listed chemical" has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33);[510]

(7)[509] the term "major money laundering country" means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking; and

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[506] Sec. 5(b) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4931) amended and restated par. (4).

[507] Para. (5) was added by sec. 2005(c)(3) of Public Law 95–570 (100 Stat. 3207–63).

[508] Sec. 1519(c) of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 4060) (1) inserted "or" to the end of subpar. (A); (2) struck out "or" at the end of subpar. (B) and inserted a period (but did not strike out semicolon); and (3) struck out subpar. (C), which formerly read "(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.".

[509] Sec. 11(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) struck out a period at the end of par. 5; inserted "; and"; and added par. (6). Subsequently, sec. 101(b) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691) struck out "; and", redesignated para. (6) as para. (8), and added new paras. (6) and (7).

[510] Para. (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33) defines "listed chemical" as "any list I chemical or any list II chemical". List I chemicals are listed in para. (34) of that section; list II chemicals in para. (35).

(8)[509] the term "appropriate congressional committees" means the Committee on Foreign Affairs[511] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Sec. 482.[512] **Authorization.**—(a)[513] (1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $147,783,000 for fiscal year 1993 and $171,500,000 for fiscal year 1994.[514]

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

[512] 22 U.S.C. 2291a. Sec. 482, as added by sec. 503 of the Foreign Relations Authorization Act of 1972, was amended and restated by sec. 3 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 614). It formerly read as follows:

"SEC. 482. AUTHORIZATION.—To carry out the purposes of section 481, there are authorized to be appropriated to the President $42,500,000 for each of the fiscal years 1974 and 1975, $40,000,000 for the fiscal year 1976, no part of which may be obligated for or on behalf of any country where illegal traffic in opiates has been a significant problem unless and until the President determines and certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that assistance furnished to such country pursuant to the authority in this chapter is significantly reducing the amount of illegal opiates entering the international market, and not to exceed $34,000,000 for the fiscal year 1977. Amounts appropriated under this section are authorized to remain available until expended.".

[513] Subsection designation "(a)" and the original text of subsec. (b) were added by sec. 5(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731). Subsec. (a) was further amended and restated by sec. 3 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 701); and further amended by Sec. 402(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3149). The 1980 amendment, in addition to other changes in subsection (a), struck out a paragraph which had earmarked $16 million for Colombia during fiscal year 1980 for a variety of items used in the interdiction of drug traffic.

Subsec. (a) was further amended and restated when sec. 502(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1539) substituted the authorization levels for fiscal years 1982 and 1983 in lieu of the figure for fiscal year 1981 and deleted a paragraph limiting the fiscal year 1981 U.S. contribution to the U.N. Fund for Drug Abuse Control to $3,000,000 or 50 percent of total contributions, whichever is less.

Subsec. (a) was further amended when sec. 4201 of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4267) set the fiscal year 1989 authorization level and struck out the following:

"In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year to 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less that $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under this chapter. These funds shall be used primarily for aircraft which will be based in Latin America for use for narcotics control eradication and interdiction efforts throughout the region. These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts.".

Para. (3) subsec. (a), added by sec. 614 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 231), was struck out by the International Narcotics Control Act of 1988. It previously read as follows:

"(3) Funds authorized to be appropriated by this section for fiscal year 1986 and for fiscal year 1987 may be used for a contribution to the United Nations Fund for Drug Abuse Control only if that organization includes in its crop substitution projects a plan for cooperation with the law enforcement forces of the host country.".

[514] Authorizations under sec. 482 during recent years included the following: fiscal year 1975—$42,500,000; fiscal year 1976—$40,000,000; fiscal year 1977—$34,000,000; fiscal year 1978—$39,000,000; fiscal year 1979—$40,000,000; fiscal year 1980—$51,758,000; fiscal year 1981—$38,573,000; fiscal year 1982—$37,700,000; fiscal year 1983—$37,700,000; fiscal year 1984—$47,000,000; fiscal year 1985—no authorization; fiscal years 1995 through 2003—no authorization.

Sec. 602 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 228), added the authorizations for fiscal years 1986 ($57,529,000) and 1987 ($75,445,000). The authorization amount for 1987 was subsequently amended by sec. 401 of Public Law 99–529 and by sec. 2002(1) of Public Law 99–570 (100 Stat. 3207–60). Sec. 16 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1964) added authorization for fiscal year 1990 ($115,000,000). Sec. 5 of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3354) authorized $150,000,000 for fiscal year 1991. Sec.

3 of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4914) added authorization for fiscal years 1993 and 1994.

Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and title II of that Act (117 Stat. 172) provided the following:

"DEPARTMENT OF STATE

"INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $197,000,000, to remain available until expended: *Provided*, That during fiscal year 2003, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading, not less than $5,000,000 shall be apportioned directly to the Department of the Treasury, International Affairs Technical Assistance, to be used for financial crimes and law enforcement technical assistance programs: *Provided further,* That of the funds appropriated under this heading, $10,000,000 should be made available for the demand reduction program: *Provided further,* That of the funds appropriated under this heading, $10,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: *Provided further,* That of the funds appropriated under this heading, not more than $24,180,000 may be available for administrative expenses.

"ANDEAN COUNTERDRUG INITIATIVE

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $700,000,000, to remain available until expended: *Provided,* That in addition to the funds appropriated under this heading and subject to the regular notification procedures of the Committees on Appropriations, the President may make available up to an additional $31,000,000 for the Andean Counterdrug Initiative, which may be derived from funds appropriated under the heading 'International Narcotics Control and Law Enforcement' in this Act and in prior Acts making appropriations for foreign operations, export financing, and related programs: *Provided further,* That in fiscal year 2003, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further,* That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further,* That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: *Provided further,* That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the amount appropriated under this heading, not less than $250,000,000 shall be apportioned directly to the United States Agency for International Development, to be used for economic and social programs: *Provided further,* That of the funds appropriated under this heading and under the heading 'Foreign Military Financing Program', not less than $5,000,000 should be made available to support a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations: *Provided further,* That of the funds made available for assistance for Colombia under this heading, up to $3,000,000 should be made available for commercially developed, web monitoring software, and training on the usage thereof, for the Colombian National Police: *Provided further,* That of the funds made available for assistance for Colombia under this heading, not less than $1,500,000 should be made available for vehicles, equipment, and other assistance for the human rights unit of the Procurador General: *Provided further,* That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State, after consultation with the Administrator of the Environmental Protection Agency (EPA), certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for com-

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

(b)[515] PROCUREMENT OF WEAPONS AND AMMUNITION.—

(1) PROHIBITION.—Except as provided in paragraph (2), funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to funds for the procurement of—

(A) weapons or ammunition provided only for the defensive arming of aircraft used for narcotics-related purposes, or

(B) firearms and related ammunition provided only for defensive purposes to employees or contract personnel of the Department of State engaged in activities under this chapter,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

(c)[516] CONTRIBUTIONS AND REIMBURSEMENT.—(1) To[517] ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an "in kind" basis.

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parable use in the United States and any additional controls recommended by the EPA for this program, and with the Colombian Environmental Management Plan for aerial fumigation; (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment; (3) complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims; and such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961, as amended, shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the provisions of section 3204(b) through (d) of Public Law 106–246, as amended by Public Law 107–115, shall be applicable to funds appropriated for fiscal year 2003: *Provided further,* That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further,* That of the funds appropriated under this heading, not less than $3,500,000 shall be made available for assistance for the Colombian National Park Service for training, equipment, and other assistance to protect Colombia's national parks and reserves: *Provided further,* That of the funds appropriated under this heading, not more than $15,680,000 may be available for administrative expenses of the Department of State, and not more than $4,500,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.".

See also in that Act: under title II—Assistance for Eastern Europe and the Baltic States (117 Stat. 168); and under title V—sec. 515—Notification Requirements (117 Stat. 184).

[515] Sec. 4(e) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4915) amended and restated subsec. (b). Subsection (b) was originally added by sec. 5(b) of the International Security Assistance Act of 1978.

[516] Redesignated from subsec. (d) by sec. 6(b)(4) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932). Originally added by sec. 608 of Public Law 99–83 (99 Stat. 229); amended and restated by sec. 17(g) of the International Narcotics Control Act of 1989.

[517] Sec. 131(b)(1) of Public Law 104–164 (110 Stat. 1429) struck out "CONTRIBUTION BY RECIPIENT COUNTRY.—To" and inserted in lieu thereof "CONTRIBUTIONS AND REIMBURSEMENT.—(1) To".

(2)[518] (A) The President is authorized to accept contributions from foreign governments to carry out the purposes of this chapter. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

(B) At the time of submission of the annual congressional presentation documents required by section 634(a), the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.

(3)[518] The President is authorized to provide assistance under this chapter on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

(d)[519] ADMINISTRATIVE ASSISTANCE.—(1) Except as provided in paragraph (2), personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau designated by the Secretary of State to replace the Bureau for International Narcotics Matters.

(2) Paragraph (1) shall not apply to the extent that it would result in a reduction in funds available for antinarcotics assistance to foreign countries.

(e)[520] ADVANCE NOTIFICATION OF TRANSFER OF SEIZED ASSETS.—The President shall notify the appropriate congressional committees at least 10 days prior to any transfer by the United States Government to a foreign country for narcotics control purposes of any property or funds seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity.

(f)[521] TREATMENT OF FUNDS.—Funds transferred to and consolidated with funds appropriated pursuant to this chapter may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this chapter. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this chapter.

(g)[521] EXCESS PROPERTY.—For purposes of this chapter, the Secretary of State may use the authority of section 608, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this chapter.

Sec. 483.[522] **Prohibition on Use of Foreign Assistance for Reimbursements for Drug Crop Eradications.**—Funds made

[518] Sec. 131(b)(2) of Public Law 104–164 (110 Stat. 1429) added paras. (2) and (3).
[519] Sec. 164(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 411), added subsec. (d).
[520] Sec. 101(c) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) added subsec. (e).
[521] Sec. 131(c) of Public Law 104–164 (110 Stat. 1429) added secs. (f) and (g).
[522] 22 U.S.C. 2291b. Sec. 483 was added by sec. 609 of Public Law 99–83 (99 Stat. 230).

available to carry out this Act may not be used to reimburse persons whose illicit drug crops are eradicated.

SEC. 484.[523] REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.

(a) RETENTION OF TITLE TO AIRCRAFT.—

(1) IN GENERAL.—(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this chapter, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

(2) EXCEPTIONS.—(A) Paragraph (1) shall not apply to the extent that—

(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and

(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

(3) ASSISTANCE FOR LEASING OF AIRCRAFT.—(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act may be used to finance the leasing of aircraft under chapter 6 of that Act.

(B) Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

(b)[524] PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries

[523] 22 U.S.C. 2291c. Sec. 4(f)(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4916) amended and restated sec. 484. Sec. 484 was originally added by sec. 2003 of the International Narcotics Control Act of 1986, and amended by sec. 7 of the International Narcotics Control Act of 1990.

[524] Sec. 4(f)(2)(B) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck "IN GENERAL" and inserted in lieu thereof "PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT". Sec. 4(f)(2)(D) of that Act redesignated sec. 489(a) as sec. 484(b).

under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

(c)[525] REPORTS.—In the reports submitted pursuant to section 489(a),[526] the President shall discuss—

(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

Sec. 485.[527] **Records of Aircraft Use.**—(a) REQUIREMENT TO MAINTAIN RECORDS.—The President[528] shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

(b) CONGRESSIONAL ACCESS TO RECORDS.—The President shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs[529] of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

Sec. 486.[530] **Reallocation of Funds Withheld from Countries Which Fail to Take Adequate Steps to Halt Illicit Drug Production or Trafficking.**

(a)[531] If any funds authorized to be appropriated for any fiscal year for assistance under this Act[532] are not used for assistance for the country for which those funds were allocated because of the requirements of section 490[533] or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or

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[525] Sec. 4(f)(2)(D) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) redesignated sec. 489(b) as sec. 484(c).

[526] Sec. 4(f)(2)(C) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck out "subsection (e)", and inserted in lieu thereof "section 489(a)".

[527] 22 U.S.C. 2291d. Sec. 485 was added by sec. 2003 of Public Law 99–570 (100 Stat. 3207–61).

[528] Sec. 4(f)(3) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck out "Secretary of State" both places it appeared in sec. 485 and inserted in lieu thereof "President".

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

[530] 22 U.S.C. 2291e. Sec. 486 was added by sec. 4206(a) of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4270). Sec. 4206(b) of the same act stipulated the following:

"(1) The amendment made by subsection (a) of this section supersedes section 578(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461).

"(2) Funds may be transferred pursuant to paragraph (1) of section 486(a) of the Foreign Assistance Act of 1961 (as enacted by this section) notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.".

[531] Sec. 101(d)(1) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out subsec. (a) catchline, which read "ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—".

[532] Sec. 101(d)(2) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "security assistance" and inserted in lieu thereof "assistance under this Act".

[533] Sec. 6(b)(5)(A) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) struck out "481(h)", and inserted in lieu thereof "490".

have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

(2) OTHER[534] ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional[535] assistance for those countries.

Sec. 487.[536] Prohibition on Assistance to Drug Traffickers.

(a) PROHIBITION.—The President shall take all reasonable steps to ensure that assistance under this Act and the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe—

(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating to[537] narcotic or psychotropic drugs or other controlled substances;[538] or

(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

(b)[539] REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

(c) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect.

SEC. 488.[540] LIMITATIONS ON ACQUISITION OF REAL PROPERTY AND CONSTRUCTION OF FACILITIES.

(a) ACQUISITION OF REAL PROPERTY.—

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[534] Sec. 101(d)(3)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "SECURITY" in the para. (2) catchline, and inserted in lieu thereof "OTHER". Sec. 101(d)(4) of that Act struck out subsec. (b) in this section, which had provided a definition of "security assistance".

[535] Sec. 101(d)(3)(B) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "security" here.

[536] 22 U.S.C. 2291f. Sec. 487 was added by sec. 4503 of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4285).

[537] Sec. 101(e) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) inserted "to" after "relating".

[538] Sec. 6(b)(6) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) struck out "(as defined in section 481(i)(3) of this Act)" preceding the semicolon.

[539] The Bureau of International Narcotics Matters, Department of State, issued regulations to implement sec. 487 in Public Notice 2840 (22 CFR Part 140; 63 F.R. 36571; July 7, 1998). The initial proposed rule was issued in Public Notice 2159 (60 F.R. 7737; February 9, 1995).

[540] 22 U.S.C. 2291g. Sec. 4(g) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) amended and restated sec. 488. It was originally added by sec. 4505 of the International Narcotics Control Act of 1988. Sec. 671(3) of the Foreign Relations Author-

(1) PROHIBITION.—Funds made available to carry out this chapter may not be used to acquire (by purchase or other means) any land or other real property for use by foreign military, paramilitary, or law enforcement forces.

(2) EXCEPTION FOR CERTAIN LEASES.—Paragraph (1) shall not apply to the acquisition of real property by lease of a duration not to exceed 2 years.

(b) CONSTRUCTION OF FACILITIES.—

(1) LIMITATION.—Funds made available to carry out this chapter may not be used for construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such construction, the President notifies the appropriate congressional committees in accordance with procedures applicable to reprogramming notifications under section 634A.

(2) EXCEPTION.—Paragraph (1) shall not apply to the construction of facilities which would require the obligation of less than $750,000 under this chapter.

SEC. 489.[541] REPORTING REQUIREMENTS.

(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—Not later than March 1[542] of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report containing the following:

(1) For each country that received assistance under this chapter for either of the 2 preceding fiscal years, a report on the extent to which the country has—

(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

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ization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1407), struck out subsec. (a)(3), which had required the Secretary of State to report to Congress at the end of each quarter on all leases entered into pursuant to para. (2).

[541] 22 U.S.C. 2291h. Added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917).

Sec. 101(f)(1)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "FOR FISCAL YEARS 1993 AND 1994" from the section heading and inserted in lieu thereof "FOR FISCAL YEAR 1995". Sec. 1112(c)(1) of Public Law 104–66 (109 Stat. 707) struck out "FOR FISCAL YEAR 1995".

The original sec. 489 was added by sec. 4507 of the International Narcotics Control Act of 1988 (Public Law 100–690; 102 Stat. 4286). Sec. 4(f)(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917) struck out subsecs. (c) and (d) of the original sec. 489, and restated sec. 489, subsecs. (a) and (b), as sec. 484, subsecs. (c) and (d).

Subsec. (c) of this sec. was struck out by sec. 1112(c)(2) of Public Law 104–66 (109 Stat. 707). Originally enacted as subsec. (d), redesignated as subsec. (c) by sec. 101(f)(1)(D) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692). Subsec. (c) formerly read as follows:

"EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 489A does not apply during that fiscal year.".

[542] Sec. 101(f)(1)(B)(i) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "April 1" in subsec. (a), and inserted in lieu thereof "March 1".

(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including appropriate information on the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries. The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

(3)[543] The identity of those countries which are—

(A) major illicit drug producing countries or major drug-transit countries as determined under section 490(h);

(B) major sources of precursor chemicals used in the production of illicit narcotics; or

(C) major money laundering countries.

(4) In addition, for each country identified pursuant to paragraph (3), the following:

(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

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[543] Sec. 101(f)(1)(B)(ii) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out subpara. (B), and redesignated subparas. (C) and (D) as subparas. (B) and (C). Subpara. (B) formerly read as follows:

"(B) the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States;".

(B) Whether as a matter of government policy or practice, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

(7) In addition, for those countries identified pursuant to paragraph (3)(D) the following:

(A)(i) Which countries have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

(ii) which countries identified pursuant to clause (i) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

(iii) which countries identified pursuant to clause (ii)—

(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

(B) Which countries—

(i) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations; and

(ii) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

(C) Findings on each country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

(vi) enacted laws for the sharing of seized narcotics assets with other governments;

(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

(b) ANNUAL REPORTS ON ASSISTANCE.—

(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal

year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

(A) specify the amount and nature of the assistance provided or to be provided;

(B) include, for each country identified in subsection (a)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

(i) the assistance provided or to be provided to such country by that agency, and

(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 489A.[544] * * * [Repealed—1995]

SEC. 490.[545] **ANNUAL CERTIFICATION PROCEDURES.**

(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

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[544] Formerly at 22 U.S.C. 2291i. Sec. 1112 of Public Law 104–66 (109 Stat. 707) repealed secs. 489A—Reporting Requirements Applicable After September 30, 1995—and 490A—Annual Certification Procedures After September 30, 1995. That section also amended the section catchlines of secs. 489 and 490, striking out "FOR FISCAL YEAR 1995" in each case. Sec. 489A was originally added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917), the heading originally read "Reporting Requirements Applicable After September 30, 1994.". Sec. 101(f)(2) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "1994" and inserted in lieu thereof "1995".

[545] 22 U.S.C. 2291j. Added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917), the heading originally read "ANNUAL CERTIFICATION PROCEDURES FOR FISCAL YEARS 1993 AND 1994.". Sec. 101(g)(1)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4692) struck out "FOR FISCAL YEARS 1993 AND 1994", and inserted in lieu thereof "FOR FISCAL YEAR 1995". Sec. 1112(b) of Public Law 104–66 (109 Stat. 707) struck out "FOR FISCAL YEAR 1995".

Sec. 1112(d)(2) of Public Law 104–66 (104 Stat. 707) struck out subsec. (i) to this section. Previously amended and restated by sec. 101(g)(1)(H) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693), subsec. (i) most recently read as follows:

"(i) EFFECTIVE DATES OF SECTIONS.—This section applies only during fiscal year 1995. Section 490A does not apply during that fiscal year.".

Sec. 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1424; 22 U.S.C. 2291j–1), provided the following:

"SEC. 706. INTERNATIONAL DRUG CONTROL CERTIFICATION PROCEDURES.

"During any fiscal year, funds that would otherwise be withheld from obligation or expenditure under section 490 of the Foreign Assistance Act of 1961 may be obligated or expended beginning October 1 of such fiscal year provided that:

"(1) REPORT.—Not later than September 15 of the previous fiscal year the President has submitted to the appropriate congressional committees a report identifying each country determined by the President to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

Continued

"(2) DESIGNATION AND JUSTIFICATION.—In each report under paragraph (1), the President shall also—

"(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

"(i) to adhere to its obligations under international counternarcotics agreements; and

"(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961; and

"(B) include a justification for each country so designated.

"(3) LIMITATION ON ASSISTANCE FOR DESIGNATED COUNTRIES.—In the case of a country identified in a report under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided to such country in the subsequent fiscal year only if the President determines and reports to the appropriate congressional committees that—

"(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

"(B) subsequent to the designation being made under paragraph (2)(A), the country has made substantial efforts—

"(i) to adhere to its obligations under international counternarcotics agreements; and

"(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961.

"(4) INTERNATIONAL COUNTERNARCOTICS AGREEMENT DEFINED.—In this section, the term "international counternarcotics agreement" means—

"(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

"(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

"(i) the production, distribution, and interdiction of illicit drugs;

"(ii) demand reduction;

"(iii) the activities of criminal organizations;

"(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence);

"(v) the extradition of nationals and individuals involved in drug-related criminal activity;

"(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity;

"(vii) border security;

"(viii) money laundering;

"(ix) illicit firearms trafficking;

"(x) corruption;

"(xi) control of precursor chemicals;

"(xii) asset forfeiture; and

"(xiii) related training and technical assistance,

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

"(5) APPLICATION.—(A) Section 490 (a) through (h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(a)-(h)) shall not apply during any fiscal year with respect to any country identified in the report required by paragraph (1) of this section.

"(B) Notwithstanding paragraphs (1) through (5)(A) of this section, the President may apply the procedures set forth in section 490 (a) through (h) of the Foreign Assistance Act of 1961 during any fiscal year with respect to any country determined to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

"(6) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or modifies the requirement in section 489(a) of the Foreign Assistance Act of 1961 (with respect to the International Narcotics Control Strategy Report) for the transmittal of a report not later than March 1, each fiscal year under that section.

"(7) TRANSITION RULE.—For funds obligated or expended under this section in fiscal year 2003, the date for submission of the report required by paragraph (1) of this section shall be at least 15 days before funds are obligated or expended.

"(8) EFFECTIVE DATE.—This section shall take effect upon the date of enactment of this Act into law and shall remain in effect thereafter unless Congress enacts subsequent legislation repealing such section.".

Pursuant to sec. 706, the President submitted the following determination on January 30, 2003 (Presidential Determination No. 2003–14; 68 F.R. 5787):

"Pursuant to section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), which was enacted on September 30, 2002, I hereby identify the following countries as major drug transit or major illicit drug producing countries: Afghanistan, The Bahamas, Bolivia, Brazil, Burma, China, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, Venezuela, and Vietnam.

"The Majors List applies by its terms to countries. The United States Government interprets the term broadly to include entities that exercise autonomy over actions or omissions that could lead to a decision to place them on the list and, subsequently, to determine their eligibility for

(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country[546] shall be withheld from obligation and expenditure, except as provided in subsection (b). This paragraph shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after March 1[547] of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country (as determined under subsection (h)), except as provided in subsection (b). For purposes of this paragraph, the term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian

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certification. A country's presence on the Majors List is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or drug producing country set forth in section 481(e)(5) of the Foreign Assistance Act of 1961, as amended (FAA), one of the reasons that major drug transit or drug producing countries are placed on the list is the combination of geographical, commercial, and economic factors that allow drugs to transit or be produced despite the concerned government's most assiduous enforcement measures.

"Pursuant to section 706(2)(A) of the FRAA, I hereby designated Burma, Guatemala, and Haiti as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Attached to this memorandum are justifications for each of the countries so designated, as required by section 706(2)(B).

"I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that provision of United States assistance to Guatemala and Haiti in FY 2003 is vital to the national interests of the United States.

"Additionally, the alarming increase in the quantity of illegal synthetic drugs entering to the United States, especially ecstasy from Europe, is of particular concern. A significant amount of the ecstasy consumed in the United States is manufactured clandestinely in The Netherlands (in 2001, a total of 9.5 million ecstasy tablets were seized in the United States, and the Drug Enforcement Administration believes that the majority of tablets originated in The Netherlands). We are working closely with Dutch authorities to stop the production and export of ecstasy, which we both regards as a serious threat to our citizens. We expect Dutch authorities to move effectively and measurably in the coming year against the production and export of this drug, including dismantling labs and proceeding against trafficking organizations. Early in the year, we plan to discuss specific steps we can take together to reduce drug trafficking.

"Although the United States enjoys an excellent level of bilateral cooperation with Canada, the United States Government is concerned that Canada is a primary source of pseudoephedrine and an increasing source of high potency marijuana, which are exported to the United States. Over the past few years there has been an alarming increase in the amount of pseudoephedrine diverted from Canadian sources to clandestine drug laboratories in the United States, where it is used to make methamphetamine. The Government of Canada, for the most part, has not regulated the sale and distribution of precursor chemicals. The regulations to restrict the availability of pseudoephedrine, which the Government of Canada has just promulgated, should be stronger. Notwithstanding Canada's inadequate control of illicit diversion of precursor chemicals, I commend Canada's law enforcement agencies, which continue to work energetically to support our joint law enforcement efforts.".

[546] Sec. 101(g)(1)(B) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "(as determined under subsection (h))" after "major drug-transit country".

[547] Sec. 101(g)(1)(C) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "April 1" and inserted in lieu thereof "March 1".

Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

(b) CERTIFICATION PROCEDURES.—

(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489(a), that—

(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

(3) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national in-

terests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

(c) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production.[548]

(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 30[549] calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 489(a), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

(f) RECERTIFICATION.—Subsection (e) shall apply to a country described in that subsection until—

(1) the President, at the time of submission of the report required by section 489(a), makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

(2) the President, at any other time, makes the certification described in subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

(A) the President also certifies that—

(i) that country has undergone a fundamental change in government, or

[548] Sec. 101(g)(1)(D) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "that such country has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.", and inserted in lieu thereof "that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production.".

[549] Sec. 101(g)(1)(E) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "45" and inserted in lieu thereof "30".

(ii) there has been a fundamental change in the conditions that were the reason—

(I) why the President had not made a certification with respect to that country under subsection (b)(1)(A), or

(II) if he had made such a certification and the Congress enacted a joint resolution disapproving the determination contained in the certification, why the Congress enacted that joint resolution; or

(B) the Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1)(B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

(g)[550] SENATE PROCEDURES.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(h)[551] DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Not later than November 1[551] of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act.

SEC. 490A.[552] * * * [Repealed—1995]

Chapter 9—International Disaster Assistance[553]

Sec. 491.[554] **Policy and General Authority.**—(a) The Congress, recognizing that prompt United States assistance to alleviate

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[550] Subsec. (g) formerly read "CONGRESSIONAL REVIEW PROCEDURES.—(1) SENATE.—". Sec. 101(g)(1)(F) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck this out, inserted "SENATE PROCEDURES.—", and struck out para. (2), which had read as follows:

"(2) HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

[551] Sec. 101(g)(1)(G) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "FOR FISCAL YEARS 1993 AND 1994" in the subsec. catchline, and struck out "January 1" in lieu of "November 1" in the text.

[552] Formerly at 22 U.S.C. 2291k. Sec. 1112 of Public Law 104–66 (109 Stat. 707) repealed secs. 489A—Reporting Requirements Applicable After September 30, 1995—and 490A—Annual Certification Procedures After September 30, 1995. That section also amended the section catchlines of secs. 489 and 490, striking out "FOR FISCAL YEAR 1995" in each case. Originally added by sec. 5(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4917).

Sec. 101(g)(2)(A) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4693) struck out "1994" from the section catchline, and inserted in lieu thereof "1995".

[553] Sec. 101(1) of Public Law 94–161 (89 Stat. 849) inserted "International Disaster Assistance" in lieu of "Refugee Relief Assistance".

See also Executive Order 13151 (April 27, 2000; 65 F.R. 25617), establishing an Interagency Coordinating Committee to provide leadership and oversight through a Global Disaster Information Network "to use information technology more effectively to reduce loss of life and property from natural and man-made disasters".

[554] 22 U.S.C. 2292. Sec. 491 was added by sec. 101(3) of Public Law 94–161 (80 Stat. 849). An earlier sec. 491, which was added by sec. 109 of the FA Act of 1971, and repealed by sec. 101(2) of Public Law 94–161 (89 Stat. 849), read as follows:

"Sec. 491. Refugee Relief Assistance.—There is authorized to be appropriated to the President for the fiscal year 1972, in addition to funds otherwise available for such purposes, not to exceed $250,000,000, to remain available until expended, for use by the President in providing assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief

human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

(b) Subject to the limitations[555] in section 492, and notwithstanding any other provision of this or any other Act, the President is authorized to furnish assistance to any foreign country, international organization, or private voluntary organization,[556] on such terms and conditions as he may determine, for international disaster relief and rehabilitation, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad.

(c) In carrying out the provisions of this section the President shall insure that the assistance provided by the United States shall, to the greatest extent possible, reach those most in need of relief and rehabilitation as a result of natural and manmade disasters.

Sec. 492.[557] **Authorization.**—(a)[558] There are authorized to be appropriated to the President to carry out section 491, $25,000,000 for the fiscal year 1986 and $25,000,000 for the fiscal year 1987.[559]

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in East Pakistan. Such assistance shall be distributed, to the maximum extent practicable, under the auspices of and by international institutions and relief agencies or United States voluntary agencies.".

[555] The words "on appropriations" which previously appeared at this point, were struck out by sec. 404(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3150).

[556] The words, "international organization, or private voluntary organization," were inserted in lieu of "or international organization" by sec. 118(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953).

[557] 22 U.S.C. 2292a. Sec. 492 was added by sec. 101(3) of Public Law 94–161 (89 Stat. 849).

[558] The subsection designation "(a)" and a new subsec. (b) were added by sec. 404(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3150).

[559] The authorization figures for fiscal years 1986 and 1987 were inserted by sec. 404 of the International Security and Development Cooperation Act of 1985. (Public Law 99–83; 99 Stat. 219). Authorizations under Sec. 492 in recent years included the following: fiscal year 1979—$25,000,000; fiscal year 1980—$21,800,000; fiscal year 1981—$25,000,000; fiscal year 1982—$27,000,000; fiscal year 1983—$27,000,000; fiscal year 1984—$25,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and title II of that Act (at 117 Stat. 164) provided the following:

"INTERNATIONAL DISASTER ASSISTANCE

"For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $230,000,000, to remain available until expended.

"In addition, for assistance for Afghanistan, $60,000,000 to remain available until expended: *Provided,* That these funds shall be used for humanitarian and reconstruction assistance for the Afghan people including health and education programs, housing, to improve the status of women, infrastructure, and assistance for victims of war and displaced persons.

"TRANSITION INITIATIVES

"For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $50,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided,* That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further,* That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance.".

See also sec. 501 of that Act (117 Stat. 179), relating to obligations during last month of availability, and sec. 523 (117 Stat. 188), relating to Afghanistan.

Continued

Amounts appropriated under this section are authorized to remain available until expended.[560]

(b)[558] In addition to amounts otherwise available to carry out this chapter, up to $50,000,000 in any fiscal year may be obligated against appropriations under this part (other than this chapter) for use in providing assistance in accordance with the authorities and general policies of section 491. Amounts subsequently appropriated under this chapter with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this subsection with respect to that disaster.

Sec. 493.[561] **Disaster Assistance—Coordination.**—The President is authorized to appoint a Special Coordinator for International Disaster Assistance whose responsibility shall be to promote maximum effectiveness and coordination in responses to foreign disasters by United States agencies and between the United States and other donors. Included among the Special Coordinator's responsibilities shall be the formulation and updating of contingency plans for providing disaster relief.

Sec. 494.[562] **Disaster Relief Assistance.**—There is authorized to be appropriated, in addition to other sums available for such purposes, $65,000,000 for use by the President for disaster relief and emergency recovery needs in Pakistan, and Nicaragua, under such terms and conditions as he may determine, such sums to remain available until expended.

Sec. 494A.[563] **Famine and Disaster Relief to Drought-Stricken African Nations.** * * * [Repealed—1978]

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 573, 578), provided the following:

"INTERNATIONAL DISASTER ASSISTANCE

"For an additional amount for 'International Disaster Assistance', $143,800,000, to remain available until expended: *Provided,* That amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961 for the purpose of addressing relief and rehabilitation needs in Iraq, prior to enactment of this Act, shall be in addition to the amount that may be obligated in any fiscal year under that section: *Provided further,* That during the remainder of fiscal year 2003 the authority referenced in the preceding proviso may not be utilized unless written notice has been provided to the Committees on Appropriations not less than 5 days prior to the exercise of such authority.

* * * * * * *

"GENERAL PROVISIONS, THIS CHAPTER

"SEC. 1501. Any appropriation made available in this chapter under the headings 'International Disaster Assistance', 'United States Emergency Refugee and Migration Assistance Fund', 'Nonproliferation, Anti-Terrorism, Demining and Related Programs', 'Peacekeeping Operations', or 'Iraq Relief and Reconstruction Fund' may be transferred between such appropriations for use for any of the purposes for which the funds in such receiving account may be used: *Provided,* That the total amount transferred from funds appropriated under these headings shall not exceed $100,000,000: *Provided further,* That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority contained in this section: *Provided further,* That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 5 days in advance of the obligations of funds.".

[560] A sentence that called for a quarterly report on the programming and obligation of funds under sec. 492 and had previously appeared at this point, was struck by sec. 118(b)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953).

[561] 22 U.S.C. 2292b. Sec. 493 was added by sec. 101(3) of Public Law 94–161 (89 Stat. 849).

[562] 22 U.S.C. 2292c. Former sec. 452, which was added by sec. 2(2) of the Foreign Disaster Assistance Act of 1974 (Public Law 93–333), was redesignated as sec. 494 by sec. 101(4) of Public Law 94–161 (89 Stat. 849).

[563] Sec. 494A, originally added as sec. 639A by the FA Act of 1973 and subsequently redesignated as sec. 494A by Public Law 94–161 (89 Stat. 849), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

Sec. 494B.[564] **African Development Program.** * * * [Redesignated—1977]

Sec. 495.[565] **Cyprus Relief and Rehabilitation.**—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Cyprus. There is authorized to be appropriated for the purposes of this section, in addition to amounts otherwise available for such purposes, $40,000,000.[566] Such amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policy and general authority contained in section 491.

Sec. 495A.[567] **Guatemala Relief and Rehabilitation.** * * * [Repealed—1978]

Sec. 495B.[568] **Italy Relief and Rehabilitation.**—(a) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated $25,000,000 for the fiscal year 1976 to furnish assistance under this chapter for the relief and rehabilitation of the people who have been victimized by the recent earthquake in Italy. Amounts appropriated under this section are authorized to remain available until expended.

(b)[569] There are authorized to be appropriated to the President $30,000,000 for the fiscal year 1978 for relief, rehabilitation, and reconstruction assistance, in accordance with the provisions of section 491 and on such terms and conditions as he may determine, for the people who have been victimized by the recent earthquakes in Italy. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Italy may be charged to the appropriations authorized under this section.

(d)[570] (1) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from

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[564] Sec. 494B, originally added as sec. 639B of this Act by the FA Act of 1973 and later redesignated as sec. 494B in 1975, was subsequently redesignated as sec. 120 (Sahel Development Program—Planning) by sec. 115 of Public Law 95–88 (91 Stat. 539).

[565] 22 U.S.C. 2292f. Sec. 495 was added by sec. 101(8) of Public Law 94–161 (89 Stat. 849).

[566] Sec. 402 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 757) inserted "$40,000,000" in lieu of "$30,000,000".

The FA Appropriations Act, 1976, provided the following: "Cyprus relief and rehabilitation: For necessary expenses to carry out the provisions of section 495, $25,000,000.".

For "Cyprus relief and rehabilitation" for the period July 1, 1976, through September 30, 1976, $5,000,000.

[567] Sec. 495A, as added by Public Law 94–276 (90 Stat. 397), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[568] 22 U.S.C. 2292h. Sec. 495B was added by sec. 415 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 761).

[569] Sec. 120 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541) redesignated subsec. (b) as subsec. (c) and added this new subsec. (b).

The FA Appropriations Act, 1978, provided the following:

"Italy relief and rehabilitation assistance: For necessary expenses to carry out the provisions of section 495B, $25,000,000.".

[570] Subsec. (d) was added by Public Law 96–525 (94 Stat. 3043).

The full $50,000,000 authorized in this subsection for Italian earthquake disaster assistance was appropriated by Public Law 96–536, the continuing resolution providing foreign aid funds for fiscal year 1981. This $50,000,000 was designated as an earmarking out of the total of $73,000,000 appropriated in fiscal year 1981 for international disaster assistance. The FA Appropriations, 1982, also provided that of the $27,000,000 made available under sec. 491, "not less than $10,000,000 shall be used for earthquake relief and reconstruction in southern Italy.".

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the earthquakes in southern Italy in late 1980. Accordingly, there are authorized to be appropriated to the President, in addition to amounts otherwise available for such purpose, $50,000,000 for the fiscal year 1981 for relief, rehabilitation, and reconstruction assistance for the victims of those earthquakes. Such assistance shall be provided in accordance with the policies and general authorities of section 491 and on such terms and conditions as the President may determine.

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

(3) Obligations incurred against other appropriations or accounts for the purpose of providing relief, rehabilitation, and reconstruction assistance for the victims of the late 1980 earthquakes in southern Italy may be charged to appropriations, enacted after those obligations were incurred, for assistance for that purpose under this chapter.

Sec. 495C.[571] **Lebanon Relief and Rehabilitation.**—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from the civil strife in Lebanon and to restore the confidence of the people of Lebanon, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Lebanon.

(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $20,000,000, which amount is authorized to remain available until expended.[572]

(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

(e)[573] * * * [Repealed—1978]

Sec. 495D.[574] **Romanian Relief and Rehabilitation.**—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from recent earthquakes in Romania, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief

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The FA Appropriations Act, 1984 (sec. 101(b)(1) of the Further Continuing Appropriations Act, 1984) further provided that out of the $25,000,000 made available under sec. 491, "$10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 103 through 106 of such Act.".

[571] 22 U.S.C. 2292i. Sec. 495C was added by sec. 416 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 762).

[572] The FA Appropriations Act, 1977, provided the following: "For necessary expenses to carry out the provisions of section 495C, $20,000,000.".

[573] Subsec. (e), which called for a quarterly report on programing and obligation of funds under sec. 495C and had previously appeared at this point, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[574] 22 U.S.C. 2292j. Sec. 495D was added by Public Law 95–21 (91 Stat. 48).

and rehabilitation of refugees and other earthquake victims in Romania.

(b) There are hereby authorized to be appropriated to the President for the fiscal year 1977, notwithstanding any other provisions of this Act, in addition to amounts otherwise available for such purposes, not to exceed $20,000,000, which amount is authorized to remain available until expended.[575]

(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Romania may be charged to the appropriations authorized under this section.

(e)[576] * * * [Repealed—1981]

(f) Nothing in this section shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki) Final Act and the United Nations Declaration on Human Rights, or as constituting a precedent for or commitment to provide United States development assistance to Romania, and the Romanian Government shall be so notified when aid is furnished under this section.

Sec. 495E.[577] **Turkey Relief, Rehabilitation, and Reconstruction.**—The President is requested to use up to $10,000,000 of the funds made available under section 492 of this Act to provide relief, rehabilitation, and reconstruction assistance to the victims of the recent earthquakes in Turkey.

Sec. 495F.[578] **African Rehabilitation and Resettlement.**—(a) The Congress recognizes that United States assistance is necessary to help developing countries in Africa meet the longer term rehabilitation and resettlement needs of displaced persons and other innocent victims of civil strife. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the longer term rehabilitation and resettlement needs of such victims. Funds for this purpose should be used to assist African governments in providing semipermanent housing, potable

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[575] The FA Appropriations Act, 1978, provided the following:

"SEC. 601. For expenses necessary to carry out the provisions of section 495D of the Foreign Assistance Act of 1961, as amended, $13,000,000 for the fiscal year 1977 for Romanian relief and rehabilitation assistance, to remain available until expended.".

[576] Subsec. (e), which had required a quarterly report from the President on the programing and obligation of funds under this section, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[577] 22 U.S.C. 2292k. Sec. 495E was originally added as sec. 495D by sec. 121 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541). It was redesignated as sec. 495E by sec. 119(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953).

[578] 22 U.S.C. 2292*l*. Sec. 495F, as added by sec. 119(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 953), was amended and restated by sec. 405 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3150). It formerly read as follows:

"SEC. 495F. ASSISTANCE TO AFRICAN REFUGEES.—The President is authorized to furnish assistance, on such terms and conditions as he may determine, exclusively for the relief and rehabilitation of African refugees and other needy people located in Africa. There is authorized to be appropriated for the fiscal year 1980 for purposes of this section in addition to amounts otherwise available for such purposes, $14,920,000, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.".

water supply systems, and sanitary facilities which are generally not provided by existing refugee relief agencies.

(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $15,000,000 for the fiscal year 1981.[579] Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.

Sec. 495G.[580] **Special Caribbean Hurricane Relief Assistance.**—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief and reconstruction in the Caribbean to assist in alleviating the human suffering caused by recent hurricanes in that region. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $25,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.[581] Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.

Sec. 495H.[582] **Cambodian Disaster Relief Assistance.**—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from famine and disease in Cambodia. Accordingly, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief to alleviate the suffering of the victims of famine and disease in Cambodia. Assistance provided under this section shall be for humanitarian purposes and limited to the civilian population, with emphasis on providing food, medicine and medical care, clothing, temporary shelter, transportation for emergency supplies and personnel, and similar assistance to save human lives.

(b) Assistance provided under this section or any other provision of law to alleviate the human suffering caused by famine and disease in Cambodia shall be provided, to the maximum extent prac-

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[579] Authorizations under sec. 495F during recent years included the following: fiscal year 1979—$15,000,000; fiscal year 1980—$14,920,000.

During fiscal year 1981, foreign assistance programs operated pursuant to a series of continuing resolutions. The last continuing resolution in the series (H.J. Res. 644, Public Law 96–536) provided (with several exceptions) such amounts as may be necessary for continuing projects or activities "which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96–787), and in accordance with associated agreements stated in the Joint Explanatory Statements of the Committee of Conference, accompanying H.R. 4473 * * *" (this conference report was never approved by Congress). H.R. 4473 provided the following: "Assistance to African refugees: For necessary expenses to carry out the provisions of section 495F, $14,250,000: *Provided,* That these funds shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure.".

[580] 22 U.S.C. 2292m. Sec. 495G was added by Public Law 96–109 (93 Stat. 842). Such Act also stated that priority should be given to furnishing agricultural commodities under Public Law 480 to this hurricane affected area.

[581] The Supplemental Appropriation and Rescission Bill, 1980 (Public Law 96–304; 94 Stat. 873), contained $10 million intended for special Caribbean hurricane disaster relief.

[582] 22 U.S.C. 2292n. Sec. 495H was added by sec. 2 of Public Law 96–110 (93 Stat. 843). Sec. 4 of such Act also required a report from the President by Jan. 12, 1980, regarding total costs of the U.S. Government and State and local governments of domestic and foreign assistance to refugees during fiscal years 1980 and 1981. Subsequently, sec. 1011(a)(4) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1061) repealed sec. 4 of Public Law 96–110.

ticable, through international agencies and private voluntary organizations such as (among others) the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, Catholic Relief Services, Oxfam, and the International Rescue Committee.

(c)(1) In providing assistance under this section, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine and disease for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the assistance is being distributed within Cambodia.

(2)[583] * * * [Repealed—1981]

(d)(1) In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $30,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.[584]

(2) Obligations incurred, prior to the enactment of appropriations to carry out this section, against other appropriations or accounts for the purpose of alleviating the human suffering caused by famine and disease in Cambodia may be charged to the appropriations authorized by paragraph (1) of this subsection.

(3) The President may exercise the authority of section 610(a) of this Act (without regard to the 20 percent limitation contained in that section on increases in accounts) in order to transfer, for use in carrying out this section, up to $30,000,000 of the funds made available for the fiscal year 1980 to carry out other provisions of this Act.

(4) Priority shall be given in allocating assistance under the Agricultural Trade Development and Assistance Act of 1954 to furnishing agricultural commodities for use in carrying out this section.

(e) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.

Sec. 495I.[585] **Assistance for Displaced Persons in Central America.**—(a)(1) The Congress recognizes that prompt United States assistance is necessary to help meet the basic human needs of persons displaced by strife in El Salvador. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to help alleviate the suffering of these displaced persons. Assistance provided under this section shall be for humanitarian purposes, with emphasis on the provision of food, medicine, medical care, and shelter and, where possible, implementation of other relief and rehabilitation activities. The Congress encourages the use, where appropriate of the services of private and

[583] Par. (2), which had required a report by the President that adequate procedures have been established ensure that the assistance provided under this section is reaching the innocent victims of famine and disease for whom it is intended, was repealed by sec. 734(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Such report was submitted on February 11, 1980.

[584] The Supplemental Appropriation and Rescission Bill, 1980 (Public Law 96–304; 94 Stat. 873), included $30 million intended for Cambodian Disaster Relief Assistance.

[585] 22 U.S.C. 2292o. Sec. 495I was added by sec. 504 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1540).

voluntary organizations and international relief agencies in the provision of assistance under this section.

(2) The Congress understands that the country of Belize has expressed interest and willingness in the resettlement in its territory of Haitian nationals who desire to settle in Belize. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to assist the Government of Belize in the resettlement of Haitian nationals in the national territory of Belize.

(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $5,000,000 for the fiscal year 1982 and $5,000,000 for the fiscal year 1983.[586] Amounts appropriated under this section are authorized to remain available until expended.

(c) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.

Sec. 495J.[587] **Lebanon Emergency Relief, Rehabilitation, and Reconstruction Assistance.**—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering and resettlement needs of the innocent victims of recent strife in Lebanon. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief, rehabilitation, and reconstruction needs of such victims. Assistance provided under this section shall emphasize the provision of food, medicine, clothing, shelter, and water supply systems, and similar efforts to ameliorate the suffering of the people in Lebanon.

(b) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $50,000,000 to carry out this section. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491.

Sec. 495K.[588] **African Famine Assistance.**—

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[586] The FA Appropriations Act, 1982, provided that out of the $473 million in funds for migration and refugee assistance during fiscal year 1982, "$5,000,000 of this amount shall be used for assistance for persons displaced by strife in El Salvador as provided in H.R. 3566 as reported May 19, 1981.". Under the provisions of the Further Continuing Appropriations Act, 1983 (Public Law 97–377), which continued funding for foreign assistance at the rates and under the terms and conditions provided in the FA Appropriations Act, 1982, with exceptions, no prior year earmarking of funds under the "Migration and Refugee Assistance" account would apply.

[587] 22 U.S.C. 2292p. Sec. 495J was added by Public Law 97–208 (96 Stat. 138). The Supplemental Appropriations Act, 1982 (Public Law 97–257; 96 Stat. 818 at 833), included the following:

"LEBANON EMERGENCY RELIEF

"(TRANSFER OF FUNDS)

"For expenses necessary to carry out the provisions of section 495J of the Foreign Assistance Act of 1961, $50,000,000 which shall be derived by transfer from the Department of State, 'Migration and Refugee Assistance', to remain available until expended: *Provided,* That of such amount not less than $10,000,000 shall be available only for the America University of Beirut.".

[588] 22 U.S.C. 2292q. Sec. 495K was added by sec. 2 of the African Relief and Recovery Act of 1985 (Public Law 99–8; 99 Stat. 21).

The Urgent Supplemental Appropriations, 1985—African Famine Relief (Public Law 99–10; 99 Stat. 27), provided the following:

"For an additional amount for international disaster assistance, $137,500,000 for emergency relief and recovery assistance for Africa, to be available only for such purpose and to remain available until March 31, 1986 *Provided,* That the Committee on Appropriations of each House

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance for famine relief, rehabilitation, and recovery in Africa. Assistance under this section shall be provided for humanitarian purposes and shall be provided on a grant basis. Such assistance shall include—

(1) relief, rehabilitation, and recovery projects to benefit the poorest people, including the furnishing of seeds for planting, fertilizer, pesticides, farm implements, farm animals and vaccine and veterinary services to protect livestock upon which people depend, blankets, clothing, and shelter, disease prevention and health care projects, water projects (including water purification and well-drilling), small-scale agricultural projects, and food protection and preservation projects; and

(2) projects to meet emergency health needs, including vaccinations.

(b) USES OF FUNDS.—

(1) PRIVATE AND VOLUNTARY ORGANIZATIONS AND INTERNATIONAL ORGANIZATIONS.—Funds authorized to be appropriated by this section shall be used primarily for grants to private and voluntary organizations and international organizations.

(2) EMERGENCY HEALTH PROJECTS.—A significant portion of the funds authorized to be appropriated by this section shall be used for emergency health projects pursuant to subsection (a)(2).

(3) MANAGEMENT SUPPORT ACTIVITIES.—Of the amount authorized to be appropriated by this section, $2,500,000 shall be transferred to the "Operating Expenses of the Agency for International Development" account. These funds shall be used for management support activities associated with the planning, monitoring, and supervision of emergency food and disaster assistance provided in those countries in Africa described in section 5(a) of the African Famine Relief and Recovery Act of 1985.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts otherwise available for such purpose, there are authorized to be appropriated $137,500,000 for the fiscal year 1985 for use in providing assistance under this section.

(d) POLICIES AND AUTHORITIES TO BE APPLIED.—Assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491.

Chapter 10—Development Fund for Africa [589]

Sec. 496.[590] **Long-Term Development Assistance for Sub-Saharan Africa.**—(a) FINDINGS.—The Congress finds that—

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of Congress is notified five days in advance of the obligation of any funds made available under this paragraph, unless the emergency is life threatening and immediate action is necessary.

"OPERATING EXPENSES

"Of the amount appropriated in this Act for 'International disaster' assistance, $2,500,000 shall be transferred to 'Operating expenses of the Agency for International Development' to be used for monitoring food and disaster assistance in Africa.".

[589] Sec. 562(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2026), added chapter 10, secs. 496–497. Pre-

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(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

(c) PURPOSE OF ASSISTANCE.—

(1) PURPOSE.—The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is equitable, participatory, environmentally sustainable, and self-reliant.

(2) USE OF ASSISTANCE TO ENCOURAGE PRIVATE SECTOR DEVELOPMENT.—Assistance under this section should, in a manner consistent with paragraph (1), be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

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viously, chapter 10, sec. 496, relating to assistance to Portugal and Portuguese colonies in Africa gaining independence, as added by sec. 53 of the Foreign Assistance Act of 1974, was repealed by sec. 1211(a)(4) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279).

Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2030), further stated:

"(b) EVALUATIONS.—It is the sense of the Congress that there should be periodic evaluations of the progress of the Agency for International Development in achieving the purpose specified in section 496(c) of the Foreign Assistance Act of 1961.

"(c) REPORTS TO CONGRESS.—As part of the annual Congressional Presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961 in three countries in sub-Saharan Africa which represent differing economic situations and levels of progress. The description shall include—

"(1) the nature and extent of consultation to ensure local perspectives, as described in subsections (e)(1) and (f) of section 496;

"(2) the degree of involvement of local people in the implementation of projects having a local focus;

"(3) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

"(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

"(5) a description of the assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.".

See related legislation in "Assistance to Africa," in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[590] 22 U.S.C. 2293.

(1) any reference in any law to chapter 1 of this part (including references to sections 103 through 106) shall be deemed to include a reference to this section; and

(2) assistance under this section shall be provided consistent with the policies contained in section 102.

(e) PRIVATE AND VOLUNTARY ORGANIZATIONS.—

(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The Agency for International Development shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the Agency for International Development should consult closely with African, United States, and other private and voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

(2) DEFINITION OF PRIVATE AND VOLUNTARY ORGANIZATIONS.—For purposes of this section, the term "private and voluntary organization" includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, nonprofit development research institutions, and indigenous local organizations, which are private and nonprofit.

(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which as a local focus.

(g) PARTICIPATION OF AFRICAN WOMEN.—The Agency for International Development shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decisionmaking) and integration of African women in each of the critical sectors described in subsection (i).

(h) TYPES OF ASSISTANCE.—

(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

(2) REFORM OF ECONOMIC POLICIES.—

(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of sectoral economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of economic policies to support the critical sectoral priorities described in subsection (i).

(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers, the urban poor, and children including displaced children) and long-term environmental interests from possible negative consequences of the reforms.

(3)[591] DEMOCRATIZATION AND CONFLICT RESOLUTION CAPABILITIES.—Assistance under this section may also include program assistance—

(A) to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and

(B) to strengthen conflict resolution capabilities of governmental, intergovernmental, and nongovernmental entities in sub-Saharan Africa.

(4)[591] OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1), (2), and (3).[592] Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of sections 103 through 106 of this Act.

(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base primarily in ways which increase agricultural production, through the following:

(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations.

(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective

[591] Sec. 127(c)(1) of the African Growth and Opportunity Act (title I of Public Law 106–200; 114 Stat. 273) redesignated para. (3) as para. (4) and added a new para. (3).

[592] Sec. 127(c)(1) 2f the African Growth and Opportunity Act (title I of Public Law 106–200; 114 Stat. 273) struck out "paragraphs (1) and (2)" and inserted in lieu thereof "paragraphs (1), (2), and (3)".

extension and other services in support of environmentally sustainable increases in food production.

(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

(2) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children (including displaced children) through the establishment of primary health care systems that give priority to preventive health and that will be ultimately self-sustaining. In addition, providing training and training facilities, in sub-Saharan Africa, for doctors and other health care providers, notwithstanding any provision of law that restricts assistance to foreign countries.[593]

(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunities in micro- and small-scale labor-intensive enterprises.

(j) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The Agency for International Development should target the equivalent of 10 percent of the amount authorized to be appropriated for each fiscal year to carry out this chapter for each of the following:

(1) The activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

(2) The activities described in subsection (i)(2).

(3) The activities described in subsection (i)(3).

(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

[593] Sec. 111(b) of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 752) added this sentence.

(m) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

(n) RELATION TO OTHER AUTHORITIES.—

(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally funded programs which benefit sub-Saharan Africa shall continue to be funded under chapter 1 of part I of this Act.

(2) TRANSFER AUTHORITIES.—

(A) The transfer authority contained in section 109 of this Act shall not apply with respect to this section.

(B) The transfer authority contained in section 610(a) of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

(3) REPROGRAMMING NOTIFICATIONS.—Section 634A of this Act does not apply with respect to funds made available to carry out this section.

(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 604(a) of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti/Apartheid[594] Act of 1986.

(o) SUPPORT FOR SADCC PROJECTS.—

(1) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in paragraph (2), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the member states forming that regional institution.

(2) SECTORS.—The sectors with respect to which assistance may be provided under this subsection are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

(3) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and

[594] Should read "Anti-Apartheid".

authorities contained in the preceding subsection of this section.

Sec. 497.[595] **Authorizations of Appropriations for the Development Fund for Africa.**—Funds appropriated to carry out this chapter are authorized to be made available until expended. It is the sense of the Congress that the authority of this subsection[596]

[595] 22 U.S.C. 2294.

[596] Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and title II of that Act (at 117 Stat. 161) provided the following:

"UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"(INCLUDING TRANSFER OF FUNDS)

"For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,836,500,000, to remain available until September 30, 2005: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for displaced and orphaned children; (5) programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $150,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $324,000,000 for child survival and maternal health; $27,000,000 for vulnerable children; $591,500,000 for HIV/AIDS including not less than $18,000,000 which should be made available to support the development of microbicides as a means for combating HIV/AIDS; $155,500,000 for other infectious diseases; $368,500,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species; and $120,000,000 for UNICEF: *Provided further,* That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That the cumulative amount of United States contributions to the Global Fund may not exceed the total resources provided by other donors and available for use by the Global Fund: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, up to $10,500,000 should be made available for the International AIDS Vaccine Initiative, and up to $100,000,000 should be made available for the International Mother and Child HIV Prevention Initiative: *Provided further,* That of the funds appropriated under this heading, up to $60,000,000 may be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the United States Agency for International Development' for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under the preceding provisos: *Provided further,* That notwithstanding any other provision of this Act, funds appropriated under this heading that are available for child survival and health programs shall be apportioned to the United States Agency for International Development, and the authority of sections 632(a) or 632(b) of the Foreign Assistance Act of 1961, or any comparable provision of law, may not be used to transfer or allocate any part of such funds to the Department of Health and Human Services including any office of that agency, except that the authority of those sections may be used to transfer or allocate up to $25,000,000 of such funds to the Centers for Disease Control and Prevention: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries: *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through

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should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 496.

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referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term 'motivate', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That the funds under this heading that are available for the treatment and prevention of HIV/AIDS should also include programs and activities that are designed to maintain and preserve the families of those persons living with HIV/AIDS and to reduce the numbers of orphans created by HIV/AIDS.

"DEVELOPMENT ASSISTANCE

"For necessary expenses to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,389,000,000, to remain available until September 30, 2004: *Provided,* That none of the funds appropriated under title II of this Act that are managed by or allocated to the United States Agency for International Development's Global Development Secretariat, may be made available except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That $159,000,000 should be allocated for trade capacity building: *Provided further,* That $218,000,000 should be allocated for basic education, of which $20,000,000 should be made available only for programs to increase the professional competence of national and regional education administrators: *Provided further,* That none of the funds appropriated under this heading may be made available for any activity which is in contravention to the Convention on International Trade in Endangered Species of Flora and Fauna: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $32,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further,* That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $25,000,000 should be made available for plant biotechnology research and development: *Provided further,* That not less than $2,300,000 should be made available for core support for the International Fertilizer Development Center: *Provided further,* That of the funds appropriated under this heading, not less than $18,000,000 should be made available for the American Schools and Hospitals Abroad program: *Provided further,* That of the funds appropriated by this Act, $100,000,000 shall be made available for drinking water supply projects and related activities.".

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

Chapter 11—Support for the Economic and Democratic Development of the Independent States of the Former Soviet Union [597]

SEC. 498.[598, 599] ASSISTANCE FOR THE INDEPENDENT STATES.

The President is authorized to provide assistance to the independent states of the former Soviet Union under this chapter for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—Meeting urgent humanitarian needs (including those arising from the health effects of exposure to radiation in the Chernobyl region), in particular—

(A) meeting needs for medicine, medical supplies and equipment, and food, including the nutritional needs of infants such as processed baby food; and

(B) continuing efforts to rebuild from the earthquake in Armenia.

(2)[600] DEMOCRACY AND RULE OF LAW.—Establishing a democratic and free society by fostering—

(A) political, social, and economic pluralism;

(B) respect for internationally recognized human rights and the rule of law;

(C) the development of institutions of democratic governance, including electoral and legislative processes;

(D) the institution and improvement of public administration at the national, intergovernmental, regional, and local level;

(E)[600] development and support of grass-roots and nongovernmental organizations promoting democracy, the rule of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

(F)[600] international exchanges and other forms of public diplomacy to promote greater understanding on how democracy, the public policy process, market institutions, and an independent judiciary function in Western societies;

(G)[600] political parties and coalitions committed to promoting democracy, human rights, and economic reforms;

(H)[600] support for civic organizations committed to promoting human rights;

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[597] Sec. 201 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3324) added chapter 11, secs. 498–498C.

[598] 22 U.S.C. 2295.

[599] Section 3(b) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the President in sec. 498. This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act. Sec. 3 of that Executive Order ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(4) (division G of Public Law 105–277; 112 Stat. 2681).

[600] Sec. 4(a)(1)(A) of the Russian Democracy Act of 2002 (Public Law 107–246; 116 Stat. 1514) struck out "DEMOCRACY" and inserted in lieu thereof "DEMOCRACY AND RULE OF LAW". Sec. 4(a)(1)(B) of that Act struck out subparas. (E) and (G), relating to the development of a free and independent media and administration of justice, respectively. Sec. 4(a)(1)(C) redesignated subpara. (F) as subpara. (I), and sec. 4(a)(1)(D) added new subparas. (E) through (H). Lastly, sec. 4(A)(1)(E) added a new subpara. (J).

(I)[600] the development of effective control by elected civilian officials over, and the development of a nonpolitical officer corps in, the military and security forces; and

(J)[600] strengthened administration of justice through programs and activities carried out in accordance with section 498B(e), including—

(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary;

(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

(iii) support for the creation of legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.

(3)[601] INDEPENDENT MEDIA.—Developing free and independent media, including—

(A) supporting all forms of independent media reporting, including print, radio, and television;

(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental civic organizations on methods and uses of Internet-based media; and

(C) training in journalism, including investigative journalism techniques that educate the public on the costs of corruption and act as a deterrent against corrupt officials.

(4) FREE MARKET SYSTEMS.—Creating and developing private enterprise and free market systems based on the principle of private ownership of property, including—

(A) the development of private cooperatives, credit unions, and labor unions;

(B) the improvement in the collection and analysis of statistical information;

(C) the reform and restructuring of banking and financial systems; and

(D) the protection of intellectual property.

(5) TRADE AND INVESTMENT.—Creating conditions that promote trade and investment, and encouraging participation of the United States private sector in the development of the private sector in the independent states of the former Soviet Union.

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[601] Sec. 4(a)(2) of the Russian Democracy Act of 2002 (Public Law 107–246; 116 Stat. 1514) redesignated paras. (3) through (13) as paras. (4) through (14), respectively, and added a new para. (3). Previously, reference to independent media appeared in sec. 498(2)(E), also struck out by the Russian Democracy Act of 2002. See preceding footnote.

(6) FOOD DISTRIBUTION AND PRODUCTION.—Promoting market-based mechanisms for the distribution of the inputs necessary to agricultural production and for the handling, marketing, storage, and processing of agricultural commodities; encouraging policies that provide incentives for agricultural production; and creating institutions that provide technical and financial support for the agricultural sector.

(7) HEALTH AND HUMAN SERVICES.—Promoting programs to strengthen and build institutions that provide quality health care and voluntary family planning services, housing, and other services and policies that are components of a social safety net, particularly for infants, children, and people with disabilities.

(8) EDUCATION AND EDUCATIONAL TELEVISION.—Promoting broad-based educational reform at all levels, in particular—

(A) by assisting the development of curricula and by making available textbooks, other educational materials, and appropriate telecommunications technologies for the delivery of educational and instructional programming; and

(B) by assisting the development of the skills necessary to produce educational television programs aimed at promoting basic skills and the human values associated with a democratic society and a free market economy.

(9) ENERGY EFFICIENCY AND PRODUCTION.—Promoting market-based pricing policies and the transfer of technologies that reduce energy wastage and harmful emissions; supporting developmentally sound capital energy projects that utilize United States advanced coal technologies; and promoting efficient production, use, and transportation of oil, gas, coal, and other sources of energy.

(10) CIVILIAN NUCLEAR REACTOR SAFETY.—Implementing—

(A) a program of short-term safety upgrade of civilian nuclear power plants, including the training of power plant personnel, implementation of improved procedures for nuclear power plant operation, the development of effective and independent regulatory authorities, and cost-effective hardware upgrades; and

(B) a program to retire those civilian nuclear power plants whose capacity could be more cost-effectively replaced through energy efficiency.

(11) ENVIRONMENT.—Enhancing the human and natural environment and conserving environmental resources, including through—

(A) facilitation of the adoption of environmentally-sound policies and technologies, environmental restoration, and sustainable use of natural resources;

(B) promotion of the provision of environmental technology, education, and training by United States businesses, not-for-profit organizations, and institutions of higher education; and

(C) promotion of cooperative research efforts to validate and improve environmental monitoring of protracted radiation exposure.

(12) TRANSPORTATION AND TELECOMMUNICATIONS.—Improving transportation and telecommunications infrastructure and management, including intermodal transportation systems to ensure the safe and efficient movement of people, products, and materials.

(13) DRUG EDUCATION, INTERDICTION, AND ERADICATION.—Promoting drug education, interdiction, and eradication programs.

(14) MIGRATION.—Protecting and caring for refugees, displaced persons, and other migrants; addressing the root causes of migration; and promoting the development of appropriate immigration and emigration laws and procedures.

SEC. 498A.[602] CRITERIA FOR ASSISTANCE TO GOVERNMENTS OF THE INDEPENDENT STATES.

(a)[603] IN GENERAL.—In providing assistance under this chapter for the government of any independent state of the former Soviet Union, the President shall take into account not only relative need but also the extent to which that independent state is acting to—

(1) make significant progress toward, and is committed to the comprehensive implementation of, a democratic system based on principles of the rule of law, individual freedoms, and representative government determined by free and fair elections;

(2) make significant progress in, and is committed to the comprehensive implementation of, economic reform based on market principles, private ownership, and integration into the world economy, including implementation of the legal and policy frameworks necessary for such reform (including protection of intellectual property and respect for contracts);

(3) respect internationally recognized human rights, including the rights of minorities and the rights to freedom of religion and emigration;

(4) respect international law and obligations and adhere to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Charter of Paris, including the obligations to refrain from the threat or use of force and to settle disputes peacefully;

(5) cooperate in seeking peaceful resolution of ethnic and regional conflicts;

(6) implement responsible security policies, including—

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[602] 22 U.S.C. 2295a. Sec. 907 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3357) prohibits assistance to the Government of Azerbaijan unless the President determines that that Government "is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.".

Title II of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2127), para. on Assistance for the Independent States of the Former Soviet Union, however, exempts the application of sec. 907 for a range of foreign assistance such as democracy support, Trade and Development Agency, Export-Import Bank, and OPIC programs, and humanitarian assistance. The para. also authorizes the President to waive sec. 907 if he determines that it is necessary to support U.S. efforts to counter international terrorism or other related concerns. The President issued such a waiver on January 25, 2002 (Presidential Determination No. 2002–06; 67 F.R. 5921).

See also footnote at sec. 498C.

[603] Section 2(c) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) those functions conferred upon the President in sections 498A(a), 498B(c) and 498B(g).

(A) adhering to arms control obligations derived from agreements signed by the former Soviet Union;

(B) reducing military forces and expenditures to a level consistent with legitimate defense requirements;

(C) not proliferating nuclear, biological, or chemical weapons, their delivery systems, or related technologies; and

(D) restraining conventional weapons transfers;

(7) take constructive actions to protect the international environment, prevent significant transborder pollution, and promote sustainable use of natural resources;

(8) deny support for acts of international terrorism;

(9) accept responsibility for paying an equitable portion of the indebtedness to United States firms incurred by the former Soviet Union;

(10) cooperate with the United States Government in uncovering all evidence regarding Americans listed as prisoners-of-war, or otherwise missing during American operations, who were detained in the former Soviet Union during the Cold War; and

(11) terminate support for the communist regime in Cuba, including removal of troops, closing military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,[604] and ceasing trade subsidies and economic, nuclear, and other assistance.

(b)[605] INELIGIBILITY FOR ASSISTANCE.—The President shall not provide assistance under this chapter—

(1) for the government of any independent state that the President determines is engaged in a consistent pattern of gross violations of internationally recognized human rights or of international law;

(2) for the government of any independent state that the President determines has failed to take constructive actions to facilitate the effective implementation of applicable arms control obligations derived from agreements signed by the former Soviet Union;

(3) for the government of any independent state that the President determines has, on or after the date of enactment of this chapter, knowingly transferred to another country—

(A) missiles or missile technology inconsistent with the guidelines and parameters of the Missile Technology Control Regime; or

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[604] Sec. 106(b) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 795) struck out "of military facilities" and inserted in lieu thereof "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos".

Sec. 111(b) of that Act (110 Stat. 802) further provided that "Notwithstanding any other provision of law, the President shall withhold from assistance allocated on or after [March 12, 1996], for any country an amount equal to the sum of assistance and credits, if any, provided on or after [March 12, 1996] by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.".

[605] Section 1(a)(2) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the President in paragraphs (1), (2), (3), and (5) of sec. 498A(b).

See also in the Foreign Assistance Appropriations, 2003: title II, paragraph assistance for the independent states of the former Soviet Union; and sec. 517—Independent States of the Former Soviet Union.

(B) any material, equipment, or technology that would contribute significantly to the ability of such country to manufacture any weapon of mass destruction (including nuclear, chemical, and biological weapons) if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapon;

(4) for the government of any independent state that is prohibited from receiving such assistance by section 101 or 102 of the Arms Export Control Act[606] or sections 306(a)(1) and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991;[607, 608]

(5)[608] for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30–day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Cuban Government; or

(6)[608] for the Government of Russia if it has failed to make significant progress on the removal of Russian or Commonwealth of Independent States troops from Estonia, Latvia, and Lithuania or if it has failed to undertake good faith efforts, such as negotiations, to end other military practices that violate the sovereignty of the Baltic states.

(c) EXCEPTIONS TO INELIGIBILITY.—Assistance prohibited by subsection (b) or any similar provision of law, other than assistance prohibited by the provisions referred to in subsection (b)(4), may be furnished under any of the following circumstances:

(1)[609] The President determines that furnishing such assistance is important to the national interest of the United States.

(2)[610] The President determines that furnishing such assistance will foster respect for internationally recognized human rights and the rule of law or the development of institutions of democratic governance.

(3)[611] The assistance is furnished for the alleviation of suffering resulting from a natural or man-made disaster.

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[606] Formerly referred to section 669 or 670 of this Act. Sec. 826(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 519), repealed those two sections, and sec. 826(c) of that Act stated that "Any reference in law as of the date of enactment of this Act [April 30, 1994] to section 669 or 670 of the Foreign Assistance Act of 1961 shall, after such date, be deemed to be a reference to section 101 or 102, as the case may be, of the Arms Export Control Act.".

[607] For text of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. F.

[608] Sec. 106(c)(1) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 796) struck out "or" at the end of para. (4); redesignated para. (5) as para. (6); and added a new para. (5).

[609] Section 1(a)(3) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Secretary of State those functions conferred upon the President in paragraph (1) of "section 498A(C)", "and the requirement to make reports under that section regarding determinations under that paragraph". As there is no such designation in the Foreign Assistance Act, the Executive Order is probably referring to sec. 498A(c).

[610] Section 2(d) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) those functions conferred upon the President in paragraph (2) of sec. 498A(c), and the requirement to make reports under that section regarding determinations under that paragraph.

[611] Section 3(c) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the Presi-

(4)[612] The assistance is provided under the secondary school exchange program administered by the United States Information Agency.

The President shall immediately report to the Congress any determination under paragraph (1) or (2) or any decision to provide assistance under paragraph (3).

(d)[613] REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—

(1) REDUCTION IN ASSISTANCE.—Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of the enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

(2) WAIVER.—(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

(B) At the time of a certification made with respect to Russia under subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

(C) The report required by subparagraph (B) may be submitted in classified form.

(D) For purposes of this paragraph, the term "appropriate congressional committees" includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

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dent in paragraph (3) of sec. 498A(c), and the requirement to make reports under that section regarding determinations under that paragraph. This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act. Sec. 3 of that Executive Order ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(4) (division G of Public Law 105–277; 112 Stat. 2681).

[612] Sec. 106(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 796) added para. (4).

[613] Sec. 106(d)(2) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 797) added subsec. (d). Sec. 106(d)(1) of that Act further provided the following:

"(d) FACILITIES AT LOURDES, CUBA.—

"(1) DISAPPROVAL OF CREDITS.—The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.".

(3) EXCEPTIONS TO REDUCTIONS IN ASSISTANCE.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) technical assistance for safety upgrades of civilian nuclear power plants;

(D) the creation of private sector or nongovernmental organizations that are independent of government control;

(E) the development of a free market economic system;

(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).

SEC. 498B.[614] AUTHORITIES RELATING TO ASSISTANCE AND OTHER PROVISIONS.

(a) ASSISTANCE THROUGH GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS.—Assistance under this chapter may be provided to governments or through nongovernmental organizations.

(b) TECHNICAL AND MANAGERIAL ASSISTANCE.—Technical assistance under this chapter shall, to the maximum extent feasible, be provided on a long term, on-site basis and shall emphasize the provision of practical, management and other problem-solving advice, particularly advice on private enterprise provided by United States business volunteers.

(c)[603] ENTERPRISE FUNDS.—Activities supported pursuant to this chapter may include the establishment of and the provision of support for one or more enterprise funds for the independent states of the former Soviet Union. If the President determines[615] that an enterprise fund should be established and supported under this chapter, the provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall be deemed to apply with respect to such enterprise fund and to funds made available to such enterprise fund pursuant to this chapter.

(d) COOPERATIVE DEVELOPMENT AND RESEARCH PROJECTS.—Assistance under this chapter may include support for cooperative development projects, including cooperative development research projects, among the United States, other countries, and independent states of the former Soviet Union.

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[614] 22 U.S.C. 2295b.

[615] In Department of State Public Notice 1926 of December 10, 1993, the Coordinator of U.S. Assistance to the New Independent States determined that the following enterprise funds should be established and supported under chapter 11 of part I of the Act: (1) The Russian-American Enterprise Fund, (2) The Fund for Large Enterprise Restructuring, and (3) The Central Asia Regional Enterprise Fund (58 F.R. 69441). Department of State Public Notice 1976 of March 23, 1994, determined that the Western NIS Enterprise Fund should be established and supported under chapter 11 of part I (59 F.R. 16255). Department of State Public Notice 2228 of June 23, 1995, determined that the U.S. Russia Investment Fund should be established and supported under chapter 11 of part I (61 F.R. 36176).

(e) ADMINISTRATION OF JUSTICE PROGRAMS.—In order to strengthen the administration of justice in the independent states of the former Soviet Union under paragraph (2)(J)[616] of section 498, the President may exercise the same authorities as are available under section 534 of this Act, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

(f) USE OF ECONOMIC SUPPORT FUNDS.—Any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this chapter.

(g)[603] USE OF SEED AGENCY FUNDS AND ADMINISTRATIVE AUTHORITIES.—The President may authorize any agency of the United States Government that has authority to conduct activities under the Support for East European Democracy (SEED) Act of 1989 to use—

(1) any funds that are available to it for activities related to international affairs outside Eastern Europe, and

(2) any administrative authorities that are available to it for activities with respect to Eastern Europe,

to conduct activities authorized by section 498 with respect to the independent states of the former Soviet Union.

(h)[617] PROCUREMENT RESTRICTIONS.—Funds made available for assistance under this chapter may be used for procurement—

(1) in the United States, the independent states of the former Soviet Union, or a developing country; or

(2) in any other country but only if—

(A) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in paragraph (1); or

(B) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(i) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in paragraph (1), or

(ii) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(i) TERMS AND CONDITIONS.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine, consistent with applicable provisions of law (except as otherwise provided in subsection (j)).

(j) WAIVER OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Funds authorized to be appropriated for fiscal year 1993 by this chapter, and any other funds appropriated for fiscal year 1993 that are used under the authority of subsection (f) or (g), may be used to provide assistance under

[616] Sec. 4(b) of the Russian Democracy Act of 2002 (Public Law 107–246; 116 Stat. 1515) struck out "paragraph (2)(G)" and inserted in lieu thereof "paragraph (2)(J)".

[617] Section 5(a) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the head of the agency that is responsible for administering relevant programs or activities those functions conferred upon the President in sections 498B(h) and 498B(i). This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act.

this chapter notwithstanding any other provision of law, except for—

(A) this chapter;

(B) section 634A of this Act and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs Act;

(C) sections 101 and 102 of the Arms Export Control Act[618] and sections 306 and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1961,[619] to the extent that they apply to assistance to governments; and

(D) section 1341 of title 31, United States Code (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.[620]

(2) NUCLEAR REACTOR SAFETY AND RELATED ACTIVITIES.—Any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology)[621] shall not apply with respect to funds used pursuant to this chapter.

(k) DEFINITIONS.—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this chapter, the term "appropriate congressional committees" means the Committee on Foreign Affairs[622] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—As used in this chapter, the terms "independent states of the former Soviet Union" and "independent states" have the meaning given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.

(3)[623] NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term "nonmarket based trade" includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum prod-

[618] Formerly referred to sections 669 and 670 of this Act. Sec. 826(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 519) repealed those two sections, and sec. 826(c) of that Act stated that "Any reference in law as of the date of enactment of this Act [April 30, 1994] to section 669 or 670 of the Foreign Assistance Act of 1961 shall, after such date, be deemed to be a reference to section 101 or 102 , as the case may be, of the Arms Export Control Act.".

[619] So in original. Should read "1991". Sec. 306 (22 U.S.C. 5604) and sec. 307 (22 U.S.C. 5605) may be found in *Legislation on Foreign Relations Through 2002*, vol. II, sec. F.

[620] Public Law 97–258 (96 Stat. 877 at 923), Public Law 93–344 (88 Stat. 297), Public Law 99–177 (99 Stat. 1037), and title XIII of Public Law 101–508 (104 Stat. 1388–573), respectively.

[621] Sec. 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2003), is restated currently by sec. 506 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 181).

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

[623] Sec. 106(c)(2) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 796) added para. (3).

ucts) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

(A) exports to the Cuban Government on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

(B) imports from the Cuban Government at preferential tariff rates;

(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Cuban Government is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

(D) the exchange, reduction, or forgiveness of debt of the Cuban Government in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(4) CUBAN GOVERNMENT.—(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

SEC. 498C.[624] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this chapter, there are authorized to be appropriated to the President for fiscal year 1993 $410,000,000, in addition to amounts otherwise available for assistance for the independent states of the former Soviet Union. Amounts appropriated pursuant to this subsection are authorized to remain available until expended.[625]

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[624] 22 U.S.C. 2295c.

[625] Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and titles II and V of that Act (117 Stat. 169, 175, 185), as amended, provided the following:

"ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

"(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $760,000,000, to remain available until September 30, 2004: *Provided,* That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further,* That of the funds made available for the Southern Caucasus region, notwithstanding any other provision of law, funds may be used for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further,* That of the funds appropriated under this heading, not less than $1,500,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: *Provided further,* That of the funds appropriated under this heading $17,500,000 shall be made available solely for assistance for the Russian Far East: *Provided further,* That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of the FREEDOM Support Act (Public Law 102–511) shall be subject to a 6 percent ceiling on administrative expenses.

Continued

"(b) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than $20,000,000 should be made available for nuclear reactor safety initiatives, and not less than $1,500,000 shall be made available for coal mine safety programs, including mine ventilation and fire prevention and control.

"(c) Of the funds appropriated under this heading, not less than $90,000,000 shall be made available for assistance for Armenia.

"(d)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation:

"(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

"(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

"(2) Paragraph (1) shall not apply to—

"(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

"(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

"(e) Of the funds appropriated under this heading, not less than $60,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, basic education, environmental and reproductive health/family planning, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

"(f) None of the funds appropriated under this heading may be made available for assistance for the central Government of Ukraine if the Secretary of State determines and certifies to the Committees on Appropriations that, since September 30, 2000, the Government of Ukraine has facilitated or engaged in arms sales or arms transfers to Iraq: *Provided,* That this paragraph shall not apply to assistance to combat infectious diseases, nuclear safety programs and activities, or assistance for victims of trafficking in persons, and to activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

"(g) Section 907 of the FREEDOM Support Act shall not apply to—

"(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

"(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

"(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

"(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

"(5) any financing provided under the Export-Import Bank Act of 1945; or

"(6) humanitarian assistance.

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"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $306,400,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), consistent with the provisions of section 562 of this Act, and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further,* That of this amount not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so following consultation with the appropriate committees of Congress: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That of the funds made available for demining and related activities, not to exceed $675,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That the Secretary of State is authorized to provide not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract.

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(b) OPERATING EXPENSES.—

(1) AUTHORITY TO TRANSFER PROGRAM FUNDS.—Subject to paragraph (2), funds made available under subsection (a) may be transferred to, and merged with, funds appropriated for "Operating Expenses of the Agency for International Development". Funds so transferred may be expended for administrative costs in carrying out this chapter, including reimbursement of the Department of State for its incremental costs associated with assistance provided under this chapter.

(2)[626] LIMITATION ON AMOUNT TRANSFERRED.—Not more than 2 percent of the funds made available for a fiscal year under subsection (a) may be transferred pursuant to paragraph (1) unless, at least 15 days before transferring any additional

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"TITLE V—GENERAL PROVISIONS

* * * * * * *

"INDEPENDENT STATES OF THE FORMER SOVIET UNION

"SEC. 517. (a) None of the funds appropriated under the heading 'Assistance for the Independent States of the Former Soviet Union' shall be made available for assistance for a government of an Independent State of the former Soviet Union—

"(1) unless that government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, respect for commercial contracts, and equitable treatment of foreign private investment; and

"(2) if that government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures. Assistance may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

"(b) None of the funds appropriated under the heading 'Assistance for the Independent States of the Former Soviet Union' shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

"(c) None of the funds appropriated under the heading 'Assistance for the Independent States of the Former Soviet Union' shall be made available for any state to enhance its military capability: *Provided,* That this restriction does not apply to demilitarization, demining or nonproliferation programs.

"(d) Funds appropriated under the heading 'Assistance for the Independent States of the Former Soviet Union' for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

"(e) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

"(f) Funds appropriated in this or prior appropriations Acts that are or have been made available for an Enterprise Fund in the Independent States of the Former Soviet Union may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

"(g) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading 'Assistance for the Independent States of the Former Soviet Union' and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.".

See also the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3320), in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[626] Section 3(b) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State those functions conferred upon the President in section 498C(b)(2). This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102 of the FREEDOM Support Act; 22 U.S.C. 5812) under sec. 102 of that Act. Sec. 3 of that Executive Order ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(4) (division G of Public Law 105–277; 112 Stat. 2681).

amount, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of this Act.

Chapter 12—Support for the Economic and Political Independence of the Countries of the South Caucasus and Central Asia [627]

SEC. 499.[628] UNITED STATES ASSISTANCE TO PROMOTE RECONCILIATION AND RECOVERY FROM REGIONAL CONFLICTS.

(a) PURPOSE OF ASSISTANCE.—The purposes of assistance under this section include—

(1) the creation of the basis for reconciliation between belligerents;

(2) the promotion of economic development in areas of the countries of the South Caucasus and Central Asia impacted by civil conflict and war; and

(3) the encouragement of broad regional cooperation among countries of the South Caucasus and Central Asia that have been destabilized by internal conflicts.

(b) AUTHORIZATION FOR ASSISTANCE.—

(1) IN GENERAL.—To carry out the purposes of subsection (a), the President is authorized to provide humanitarian assistance and economic reconstruction assistance for the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(2) DEFINITION OF HUMANITARIAN ASSISTANCE.—In this subsection, the term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies and equipment, education, and clothing.

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include—

(1) providing for the humanitarian needs of victims of the conflicts;

(2) facilitating the return of refugees and internally displaced persons to their homes; and

(3) assisting in the reconstruction of residential and economic infrastructure destroyed by war.

SEC. 499A.[629] ECONOMIC ASSISTANCE.

(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to foster economic growth and development, including the conditions necessary for regional economic cooperation, in the South Caucasus and Central Asia.

(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide assistance for the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(c) ACTIVITIES SUPPORTED.—In addition to the activities described in section 498, activities supported by assistance under sub-

[627] Sec. 596(b) of the Silk Road Strategy Act of 1999 (sec. 596 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535) added chapter 12 to part I of this Act.

[628] 22 U.S.C. 2296.

[629] 22 U.S.C. 2296a.

section (b) should support the development of the structures and means necessary for the growth of private sector economies based upon market principles.

SEC. 499B.[630] DEVELOPMENT OF INFRASTRUCTURE.

(a) PURPOSE OF PROGRAMS.—The purposes of programs under this section include—

(1) to develop the physical infrastructure necessary for regional cooperation among the countries of the South Caucasus and Central Asia; and

(2) to encourage closer economic relations and to facilitate the removal of impediments to cross-border commerce among those countries and the United States and other developed nations.

(b) AUTHORIZATION FOR PROGRAMS.—To carry out the purposes of subsection (a), the following types of programs for the countries of the South Caucasus and Central Asia may be used to support the activities described in subsection (c):

(1) Activities by the Export-Import Bank to complete the review process for eligibility for financing under the Export-Import Bank Act of 1945.

(2) The provision of insurance, reinsurance, financing, or other assistance by the Overseas Private Investment Corporation.

(3) Assistance under section 661 of this Act (relating to the Trade and Development Agency).

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by programs under subsection (b) include promoting actively the participation of United States companies and investors in the planning, financing, and construction of infrastructure for communications, transportation, including air transportation, and energy and trade including highways, railroads, port facilities, shipping, banking, insurance, telecommunications networks, and gas and oil pipelines.

SEC. 499C.[631] BORDER CONTROL ASSISTANCE.

(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section includes the assistance of the countries of the South Caucasus and Central Asia to secure their borders and implement effective controls necessary to prevent the trafficking of illegal narcotics and the proliferation of technology and materials related to weapons of mass destruction (as defined in section 2332a(c)(2) of title 18, United States Code), and to contain and inhibit transnational organized criminal activities.

(b)[632] AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide assist-

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[630] 22 U.S.C. 2296b.

[631] 22 U.S.C. 2296c.

[632] Sec. 516 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 859) provided the following:

"SEC. 516. BORDER SECURITY AND TERRITORIAL INDEPENDENCE.

"(a) GUUAM COUNTRIES AND ARMENIA.—For the purpose of carrying out section 499C of the Foreign Assistance Act of 1961 and assisting GUUAM countries and Armenia to strengthen national control of their borders and to promote the independence and territorial sovereignty of such countries, the following amounts are authorized to be made available for fiscal years 2001 and 2002:

Continued

ance to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include assisting those countries of the South Caucasus and Central Asia in developing capabilities to maintain national border guards, coast guard, and customs controls.

SEC. 499D.[633] STRENGTHENING DEMOCRACY, TOLERANCE, AND THE DEVELOPMENT OF CIVIL SOCIETY.

(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to promote institutions of democratic government and to create the conditions for the growth of pluralistic societies, including religious tolerance and respect for internationally recognized human rights.

(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide the following types of assistance to the countries of the South Caucasus and Central Asia:

(1) Assistance for democracy building, including programs to strengthen parliamentary institutions and practices.

(2) Assistance for the development of nongovernmental organizations.

(3) Assistance for development of independent media.

(4) Assistance for the development of the rule of law, a strong independent judiciary, and transparency in political practice and commercial transactions.

(5) International exchanges and advanced professional training programs in skill areas central to the development of civil society.

(6) Assistance to promote increased adherence to civil and political rights under section 116(e) of this Act.

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include activities that are designed to advance progress toward the development of democracy.

SEC. 499E.[634] ADMINISTRATIVE AUTHORITIES.

(a) ASSISTANCE THROUGH GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS.—Assistance under this chapter may be provided to governments or through nongovernmental organizations.

(b) USE OF ECONOMIC SUPPORT FUNDS.—Except as otherwise provided, any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet

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"(1) $5,000,000 for fiscal year 2001 and $20,000,000 for fiscal year 2002 are of the amounts made available under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

"(2) $2,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 of the amounts made available under chapter 9 of part II of the Foreign Assistance Act of 1961, as added by section 301.

"(3) $500,000 for fiscal year 2001 and $5,000,000 for fiscal year 2002 of the amounts made available to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

"(4) $1,000,000 for fiscal year 2001 and $2,000,000 for fiscal year 2002 of the amounts made available to carry out chapter 8 of part II of the Foreign Assistance Act.

"(b) GUUAM COUNTRIES DEFINED.—In this section, the term 'GUUAM countries' means the group of countries that signed a protocol on quadrilateral cooperation on November 25, 1997, together with Uzbekistan.".

[633] 22 U.S.C. 2296d.

[634] 22 U.S.C. 2296e.

Union may be used in accordance with the provisions of this chapter.

(c) TERMS AND CONDITIONS.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine.

(d) AVAILABLE AUTHORITIES.—The authority in this chapter to provide assistance for the countries of the South Caucasus and Central Asia is in addition to the authority to provide such assistance under the FREEDOM Support Act (22 U.S.C. 5801 et seq.) or any other Act, and the authorities applicable to the provision of assistance under chapter 11 may be used to provide assistance under this chapter.

SEC. 499F.[635] **DEFINITIONS.**

In this chapter:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA.—The term "countries of the South Caucasus and Central Asia" means Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

PART II[636]

Chapter 1—Policy[637]

Sec. 501.[638] **Statement of Policy.**—The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except for individual or collective self-defense. The Congress hereby finds that the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid. It is the purpose of this part to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying countries against violation and invasion.

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[635] 22 U.S.C. 2296f.

[636] Sec. 594(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1692), inserted a chapter 12 at the end of Part I, preceding this note, to provide for the Enterprise for the Americas Initiative. Sec. 602(b) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669), struck out this amendment, however, and inserted "Part IV—Enterprise for the Americas Initiative" beginning at sec. 701 of this Act.

[637] Sec. 201(a) of the FA Act of 1963 struck out the words "Short Title and" in the chapter heading which formerly read "Short Title and Policy".

[638] 22 U.S.C. 2301. Former sec. 502 was designated sec. 501 by sec. 201(a)(1) of the FA Act of 1967. Former sec. 501, which related to the short title, was repealed by sec. 201(b) of the FA Act of 1963.

The Congress recognizes that the peace of the world and the security of the United States are endangered so long as hostile countries[639] continue by threat of military action, by the use of economic pressure, and by internal subversion, or other means to attempt to bring under their domination peoples now free and independent and continue to deny the rights of freedom and self-government to peoples and countries once free but now subject to such domination.

It is the sense of the Congress that an important contribution toward peace would be made by the establishment under the Organization of American States of an international military force.

In enacting this legislation, it is therefore the intention of the Congress to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, improving the ability of friendly countries and international organizations to deter or, if necessary, defeat[640] aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security, and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress. The Congress urges that all other countries able to contribute join in a common undertaking to meet the goals stated in this part.

It is the sense of the Congress that in the administration of this part priority shall be given to the needs of those countries in danger of becoming victims of[641] aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.

Finally, the Congress reaffirms its full support of the progress of the members of the North Atlantic Treaty Organization toward increased cooperation in political, military, and economic affairs. In particular, the Congress welcomes the steps which have been taken to promote multilateral programs of coordinated procurement, research, development, and production of defense articles and urges that such programs be expanded to the fullest extent possible to further the defense of the North Atlantic area.

Sec. 502.[642] **Utilization of Defense Articles and Services.**—Defense articles and defense services[643] to any country shall be furnished solely for internal security (including for antiterrorism and nonproliferation purposes),[644] for legitimate self-defense, to

[639] Sec. 705(1)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "international communism and the countries it controls" and inserted in lieu thereof "hostile countries".

[640] Sec. 705(1)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Communist or Communist-supported" from this point.

[641] Sec. 705(1)(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "active Communist or Communist-supported aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion." and inserted in lieu thereof "aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.". This paragraph was added originally by sec. 201(a)(2) of the FA Act of 1967.

[642] 22 U.S.C. 2302. Former subsec. (a) of sec. 505 was redesignated sec. 502 by sec. 201(d)(1) of the FA Act of 1967.

[643] The words to this point were substituted for "Utilization of Assistance.—(a) Military assistance" by sec. 201(d)(2) of the FA Act of 1967.

[644] Sec. 701 of the Security Assistance Act of 2000 (public Law 106–280; 114 Stat. 861) inserted "(including for antiterrorism and nonproliferation purposes)" after "internal security".

permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security,[645] or for the purpose of assisting foreign military forces in less developed friendly countries (or the voluntary efforts of personnel of the Armed Forces of the United States in such countries) to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort.

Sec. 502A.[646] * * * [Repealed—1996]

Sec. 502B.[647] **Human Rights.**—(a)(1)[648] The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

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[645] Sec. 201(c)(1) of the FA Act of 1965 struck out a colon and added the remainder of this section from this point.

[646] Formerly at 22 U.S.C. 2302. Sec. 104(b)(2)(A) of Public Law 104–164 (110 Stat. 1426) repealed sec. 502A. Originally added by sec. 12(a) of the FA Act of 1973, the section had read as follows:

"SEC. 502A. EXCESS DEFENSE ARTICLES.—Excess defense articles shall be provided whenever possible rather than providing such articles by the procurement of new items.".

[647] 22 U.S.C. 2304. Sec. 502B, which was added by sec. 46 of the FA Act of 1974, was amended by sec. 301(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 748), and by the Export Administration Amendments Act of 1985 (Public Law 99–64; 99 Stat. 156.) It formerly read as follows:

"SEC. 502B. Human Rights.—It is the sense of Congress that except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person.

"(b) Whenever proposing or furnishing security assistance to any government falling within the provisions of paragraph (a), the President shall advise the Congress of the extraordinary circumstances necessitating the assistance.

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

"(d) For purposes of this section, 'security assistance' means assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) of this part, assistance under part V (Indochina Postwar Reconstruction) or part VI (Middle East Peace) of this Act, sales under the Foreign Military Sales Act, or assistance for public safety under this or any other Act.".

[648] Par. (1) was amended and restated by sec. 6(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731).

(2)[649] Except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights. Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1979[650] for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979), that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses. Assistance may not be provided under chapter 5 of this part to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance.[651]

(3) In furtherance of paragraphs (1) and (2),[652] the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

(4)[653] In determining whether the government of a country engages in a consistent pattern of gross violations of internationally recognized human rights, the President shall give particular consideration to whether the government—

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

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

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[649] The words "It is further the policy of the United States that," which previously appeared at this point, were struck by sec. 6(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731).

[650] The reference to the Export Administration Act of 1979 was inserted in lieu of a reference to the Export Administration Act of 1969 by sec. 704 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3157).

[651] The final two sentences of par. (2) were added by sec. 6 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 731, 732).

[652] The words "paragraphs (1) and (2)," were inserted in lieu of "the foregoing policy" by sec. 6(e) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 732).

[653] Sec. 421(b) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2810) added para. (4).

(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor[654] and with the assistance of the Ambassador at Large for International Religious Freedom,[655] with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. Wherever applicable, such report shall include consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987).[656] Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.[657] Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).[658] Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country.[659] Each report under this section shall describe the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement.[660] Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the

[654] Sec. 162(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), changed this title designation by striking "Human Rights and Humanitarian Affairs" and inserting lieu thereof "Democracy, Human Rights, and Labor". Previously, sec. 109(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105; 91 Stat. 846) changed the title designation from "Coordinator for Human Rights and Humanitarian Affairs" to "Assistant Secretary of State for Human Rights and Humanitarian Affairs".

[655] Sec. 102(d)(2)(A) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2795) inserted "and with the assistance of the Ambassador at Large for International Religious Freedom" after "Labor".

[656] The sentence beginning "Wherever applicable" referring to war crimes and crimes of genocide was added by sec. 806(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536).

[657] The sentence beginning "Wherever applicable" referring to coercive population control was added by sec. 127 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331).

[658] Sec. 102(d)(2)(B) of the International Religious Freedom Act of 1998 (Public Law 105–292; 112 Stat. 2795) added the sentence that begins "Such report shall also include".

[659] Sec. 665(b) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1407) added this sentence. Sec. 665(c) of that Act further provided the following:

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

[660] Sec. 252 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added the sentence relating to the protection of refugees.

compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State.[661] Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year.[662] In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

(c)(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[663] of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor,[654] with respect to the country designated in such request, setting forth—

(A) all the available information about observance of and respect for human rights and fundamental freedom in that country, and a detailed description of practices by the recipient government with respect thereto;

(B) the steps the United States has taken to—

(i) promote respect for and observance of human rights in that country and discourage any practices which are inimical to internationally recognized human rights, and

(ii) publicly or privately call attention to, and disassociate the United States and any security assistance provided for such country from, such practices;

(C) whether, in the opinion of the Secretary of State, notwithstanding any such practices—

(i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and,

[661] Sec. 683(b) of the Freedom Investment Act of 2002 (subtitle E of title VI of the Foreign Relations Authorization Act, Fiscal Year 2002; Public Law 107–228; 116 Stat. 1411) added the report requirement relating to compulsory recruitment and conscription of individuals under the age of 18.

[662] Sec. 201(b) of Public Law 104–319 (110 Stat. 3864) added this sentence.

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

if so, a description of such circumstances and the extent to which such assistance should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to provide such assistance; and

(D) such other information as such committee or such House may request.

(2)(A) A resolution of request under paragraph (1) of this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) The term "certification", as used in section 601 of such Act, means, for the purposes of this subsection, a resolution of request of the Senate under paragraph (1) of this subsection.

(3) In the event a statement with respect to a country is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within thirty days after receipt of such request, no security assistance shall be delivered to such country except as may thereafter be specifically authorized by law from such country unless and until such statement is transmitted.

(4)(A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating, restricting, or continuing security assistance for such country. In the event such a joint resolution is adopted, such assistance shall be so terminated, so restricted, or so continued, as the case may be.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

(d) For the purposes of this section—

(1) the term "gross violations of internationally recognized human rights" includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons,[664] and other flagrant denial of the right to life, liberty, or the security of person; and

(2) the term "security assistance" means—

(A) assistance under chapter 2 (military assistance) or chapter 4 (economic support fund)[665] or chapter 5 (military education and training) or chapter 6 (peacekeeping

[664] The words "causing the disappearance of persons by the abduction and clandestine detention of those persons," were added by sec. 701(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3156).

[665] The words "economic support fund" were inserted in lieu of "security supporting assistance" by sec. 10(b)(1) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 735).

operations) or chapter 8 (antiterrorism assistance) of this part;[666]

(B) sales of defense articles or services, extensions of credits (including participations in credits),[667] and guaranties of loans under the Arms Export Control Act; or

(C) any license in effect with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act.

(e)[668] Notwithstanding any other provision of law, funds authorized to be appropriated under part I of this Act may be made available for the furnishing of assistance to any country with respect to which the President finds that such a significant improvement in its human rights record has occurred as to warrant lifting the prohibition on furnishing such assistance in the national interest of the United States.

(f)[669] In allocating the funds authorized to be appropriated by this Act and the Arms Export Control Act, the President shall take into account significant improvements in the human rights records of recipient countries, except that such allocations may not contravene any other provision of law.

(g)[670] Whenever the provisions of subsection (e) or (f) of this section are applied, the President shall report to the Congress before making any funds available pursuant to those subsections. The report shall specify the country involved, the amount and kinds of assistance to be provided, and the justification for providing the assistance, including a description of the significant improvements which have occurred in the country's human rights record.

(h)[671] (1) The report required by subsection (b) shall include the following:

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

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

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[666] Sec. 12(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737) added the words "or chapter 6 (peacekeeping operations)" and struck the words "or part VI (assistance to the Middle East) of this Act" which had previously been the final phrase of this paragraph.

The International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations Act, 1984; Public Law 98–151) added the words "or chapter 8 (antiterrorism assistance)". Pursuant to Public Law 98–151, this amendment was enacted as stated in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983.

[667] While the printed slip law did not include a close parentheses in subpar. (B), it is interpreted that such a mark was intended to be inserted at this point.

[668] Subsec. (e) was added by sec. 511 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 380).

[669] Subsec. (f) was added by sec. 4 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 702).

[670] Subsec. (g) was added by sec. 1201 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276).

[671] Sec. 104(b) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1472) added subsec. (h).

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

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

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

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

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

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

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

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

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

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

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

Chapter 2—Military Assistance

Sec. 503.[672] **General Authority.**—(a) The President is authorized to furnish military assistance, on such terms and conditions as he may determine,[673] to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance, by—

(1) acquiring from any source and providing (by loan or grant) any defense article or defense service;

(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a non-combatant nature; or

(3)[674] transferring such of the funds appropriated or otherwise made available under this chapter as the President may determine for assistance to a recipient country,[675] to the account in which funds for the procurement of defense articles and defense services under section 21 and section 22 of the Arms Export Control Act have been deposited for such recipient, to be merged with such deposited funds, and to be used

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[672] 22 U.S.C. 2311. Sec. 12(b)(1) of the FA Act of 1973 amended sec. 503, which formerly read as follows:

"SEC. 503. GENERAL AUTHORITY.—The President is authorized to furnish military assistance on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance by—

"(a) acquiring from any source and providing (by loan or grant) any defense article or defense service;

"(b) making financial contributions to multilateral programs for the acquisition or construction of facilities for collective defense;

"(c) providing financial assistance for expenses incident to participation by the United States Government in regional or collective defense organizations;

"(d) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a noncombatant nature, including those related to training or advice.".

[673] In 2003, the President determined "that the furnishing of defense articles and services to Serbia and Montenegro will strengthen the security of the United States and promote world peace" (Presidential Determination No. 2003–22 of May 6, 2003; 68 F.R. 25809).

In 2002, the President made similar determinations for the Governments of Palau, Kiribati, and Tuvalu (Presidential Determination No. 2002–09 of March 12, 2002; 67 F.R. 13245); for the Governments of Armenia, Azerbaijan, and Tajikistan (Presidential Determination No. 2002–15 of April 18, 2002; 67 F.R. 20429); and for East Timor (Presidential Determination No. 02–19 of May 27, 2002; 67 F.R. 39245).

In 2000, the President made a similar determination for the Economic Community of Western African States (Presidential Determination No. 2000–13 of February 16, 2000; 65 F.R. 10069).

In 1999, the President made similar determinations for Croatia (Presidential Determination No. 99–21 of April 8, 1999); and the Organization for Security and Cooperation in Europe (Presidential Determination No. 99–31 of June 30, 1999; 64 F.R. 37033).

In 1997, the President made similar determinations for the Governments of Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, Russia, Ukraine, and Uzbekistan (Presidential Determination No. 97–19 of March 11, 1997; 62 F.R. 13531).

In 1995 and 1996, the President made similar determinations for Angola (Presidential Determination No. 95–32 of July 28, 1995; 60 F.R. 40255), Mongolia (Presidential Determination No. 95–38 of August 22, 1995; 60 F.R. 50069), Bosnia and Herzegovina (Presidential Determination No. 96–10 of February 23, 1996; 61 F.R. 8463), Slovenia, and the Former Yugoslav Republic of Macedonia (Presidential Determination No. 96–18 of March 8, 1996; 61 F.R. 11497).

[674] Par. (3) was added by sec. 112(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3138).

Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329–131), stipulated: "That, after September 30, 1989, none of the funds appropriated under this heading shall be made available for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961". This proviso was subsequently repealed by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268).

[675] The word "country" was inserted in lieu of the words "specified in section 504(a)(1) of this Act, within the dollar limitations of that section" by sec. 110(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1536).

solely to meet obligations of the recipient for payment for sales under that Act. Sales which are wholly paid from funds transferred under paragraph (3) or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act[676] shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard).[676]

(b) In addition to such other terms and conditions as the President may determine pursuant to subsection (a), defense articles may be loaned thereunder only if—

(1) there is a bona fide reason, other than the shortage of funds, for providing such articles on a loan basis rather than on a grant basis;

(2) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period unless the loan is then renewed;

(3) the loan period is of fixed duration not exceeding five years, during which such article may be recalled for any reason by the United States;

(4) the agency making the loan is reimbursed for the loan based on the amount charged to the appropriation for military assistance under subsection (c); and

(5)[677] the loan agreement provides that (A) if the defense article is damaged while on loan, the country or international organization to which it was loaned will reimburse the United States for the cost of restoring or replacing the defense article, and (B) if the defense article is lost or destroyed while on loan, the country or international organization to which it was loaned will pay to the United States an amount equal to the replacement cost (less any depreciation in the value) of the defense article.

(c)(1) In the case of any loan of a defense article or defense service made under this section, there shall be a charge to the appropriation for military assistance for any fiscal year while the article or service is on loan in an amount based on—

(A) the out-of-pocket expenses authorized to be incurred in connection with such loan during such fiscal year; and

(B) the depreciation which occurs during such year while such article is on loan.

(2) The provisions of this subsection shall not apply—

(A) to any particular defense article or defense service which the United States Government agreed, prior to the date of enactment of this subsection, to lend; and

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[676] The last sentence of par. (3) was added by sec. 123(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205). The language "or from funds * * * Act" and "(other than the Coast Guard)" was added by Sec. 586(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268), to become effective on October 1, 1989.

[677] Par. (5) was amended and restated by sec. 109(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1536). It formerly read as follows: "(5) arrangements are made with the agency making the loan to be reimbursed in the event such article is lost or destroyed while on loan, such reimbursement being made first out of any funds available to carry out this chapter and based on the depreciated value of the article at the time of loss or destruction.".

(B) to any defense article or defense service, or portion thereof, acquired with funds appropriated for military assistance under this Act.

Sec. 504.[678] **Authorization.**—(a)[679] (1) There are authorized to be appropriated to the President to carry out the purposes of this chapter $805,100,000 for the fiscal year 1986 and $805,100,000 for the fiscal year 1987.

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

(b) In order to make sure that a dollar spent on military assistance to foreign countries is as necessary as a dollar spent for the United States military establishment, the President shall establish procedures for programing and budgeting so that programs of military assistance come into direct competition for financial support with other activities and programs of the Department of Defense.

Sec. 505.[680] **Conditions of Eligibility.**—(a) In addition to such other provisions as the President may require, no defense articles or related training or other defense service[681] shall be furnished to any country on a grant basis unless it shall have agreed that—

(1) it will not, without the consent of the President—

(A) permit any use of such articles or related training or other defense service[681] by anyone not an officer, employee, or agent of that country,

(B) transfer, or permit any officer, employee, or agent of that country to transfer such articles or related training or other defense service[681] by gift, sale, or otherwise, or

(C) use or permit the use of such articles or related training or other defense service[681] for purposes other than those for which furnished;

(2) it will maintain the security of such articles or related training or other defense service,[681] and will provide substantially the same degree of security protection afforded to such articles or related training or other defense service[681] by the United States Government;

(3) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such articles or related training or other defense service;[681] and

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[678] 22 U.S.C. 2312.

[679] Subsec. (a) was amended and restated by sec. 103 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195).

Authorizations under sec. 504 in recent years included the following: fiscal year 1977—$235,000,000; fiscal year 1978—$228,900,000; fiscal year 1979—$133,500,000; fiscal year 1980—$110,200,000; fiscal year 1981—$106,100,000; fiscal year 1982—$238,500,000; fiscal year 1983—$238,500,000; fiscal year 1984—$639,700,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

Sec. 587(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1689), provided the following:

"(c) Of the funds made available (including earmarked funds) in Public Law 101–513 and prior Acts making appropriations for foreign operations, export financing, and related programs to carry out the provisions of section 23 of the Arms Export Control Act and section 503 of the Foreign Assistance Act of 1961, $45,750,000 are rescinded.".

[680] 22 U.S.C. 2314. Former sec. 506 was redesignated sec. 505 by sec. 201(e) of the FA Act of 1967.

[681] Sec. 203(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) added "or related training or other defense service".

(4) unless the President consents to other disposition, it will return to the United States Government for such use or disposition as the President considers in the best interests of the United States, such articles or related training or other defense service[681] which are no longer needed for the purposes for which furnished.

(b) No defense articles shall be furnished on a grant basis to any country at a cost in excess of $3,000,000 in any fiscal year unless the President determines—

(1) that such country conforms to the purposes and principles of the Charter of the United Nations;

(2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or[682] the defensive strength of the free world;

(3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and

(4) that the increased ability of such country to defend itself is important to the security of the United States.

(c)[683] The President shall regularly reduce and, with such deliberate speed as orderly procedure and other relevant considerations, including prior commitments, will permit, shall terminate all further grants of military equipment and supplies to any country having sufficient wealth to enable it, in the judgment of the President, to maintain and equip its own military forces at adequate strength, without undue burden to its economy.

(d)[683, 684] (1) Assistance and deliveries of assistance under this chapter to any country shall be terminated as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, the Mutual Security Act of 1954,[685] or any predecessor Foreign Assistance Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (A) by using such articles or services for a purpose not authorized under section 502 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 502, for a purpose not authorized under such agreement; (B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (C) by failing to maintain the security of such articles or services.

(2)(A) Assistance and deliveries of assistance shall be terminated pursuant to paragraph (1) of this subsection if the President so determines and so states in writing to the Congress, or if the Congress so finds by joint resolution.

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[682] Sec. 201(b) of the FA Act of 1971 substituted "or" in lieu of "and".

[683] Subsecs. (c) and (d) were added by sec. 201(a) of the FA Act of 1962.

[684] Sec. 304(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 751) amended subsec. (d) which formerly read as follows:

"(d) Any country which hereafter uses defense articles or defense services furnished such country under this Act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in substantial violation of the provisions of this chapter or any agreements entered into pursuant to any of such Acts shall be immediately ineligible for further assistance.".

[685] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

(B) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3) Assistance to a country shall remain terminated in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(4) The authority contained in section 614(a) of this Act may not be used to waive the provisions of this section with respect to further assistance under this chapter.

(e)[686] In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[687] In addition, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

(f)[686] Effective July 1, 1974, no defense article shall be furnished to any country on a grant basis unless such country shall have agreed that the net proceeds of sale received by such country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this chapter will be paid to the United States Government and shall be available to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.[688] In the case of items which were delivered prior to 1985,[689] the President may waive the requirement that such net proceeds be paid to the United States Government if he

[686] Former subsec. (e), which related to conditions of eligibility, was repealed by Public Law 92–226. New subsecs. (e) and (f) were added by sec. 12(3) of the FA Act of 1973.

[687] Sec. 204(b)(2) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) amended sec. 505(e) by striking out the following words after "country": ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred".

[688] For text, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. E.

[689] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1998), struck out "1975" and inserted in lieu thereof "1985".

determines that to do so is in the national interest of the United States.[690]

(g)[691] (1) It is the policy of the United States that no assistance under this chapter should be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex.

(2)(A) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(B) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(3) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any transaction in which any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the furnishing of assistance under this chapter, or education and training under chapter 5, to any foreign country. Such reports shall include (A) a description of the facts and circumstances of any such discrimination, (B) the response thereto on the part of the United States or any agency or employee thereof, and (C) the result of such response, if any.

(4)(A) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[692] of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor,[693] with respect to the country designated in such request, setting forth—

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[690] The last sentence of par. (f) was added by sec. 123(b) of the International Security Cooperation and Development Act of 1985 (Public Law 99–83; 99 Stat. 205).

[691] Subsec. (g) was added by sec. 302(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 751).

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

[693] Sec. 162(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), changed this title designation by striking "Human Rights and Humanitarian Affairs" and inserting lieu thereof "Democracy, Human Rights, and Labor". Previously, sec. 109(a)(4) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law

Continued

(i) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin, or sex, and prevent any such person from participating in a transaction involving the furnishing of any assistance under this chapter or any education and training under chapter 5;

(ii) the response of the United States thereto and the results of such response;

(iii) whether, in the opinion of the President, notwithstanding any such policies or practices—

(I) extraordinary circumstances exist which necessitate a continuation of such assistance or education and training transaction, and, if so, a description of such circumstances and the extent to which such assistance or education and training transaction should be continued (subject to such conditions as Congress may impose under this section), and

(II) on all the facts it is in the national interest of the United States to continue such assistance or education and training transaction; and

(iv) such other information as such committee may request.

(B) In the event a statement with respect to an assistance or training transaction is requested pursuant to subparagraph (A) of this paragraph but is not transmitted in accordance therewith within 60 days after receipt of such request, such assistance or training transaction shall be suspended unless and until such statement is transmitted.

(C)(i) In the event a statement with respect to an assistance or training transaction is transmitted under subparagraph (A) of this paragraph, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such assistance or training transaction.

(ii) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(iii) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under subparagraph (A) of this paragraph.

Sec. 506.[694] **Special Authority.**—(a)(1)[695] If the President determines and reports to the Congress in accordance with section 652 of this Act that—

95–105; 91 Stat. 846) changed the title designation from "Coordinator for Human Rights and Humanitarian Affairs" to "Assistant Secretary of State for Human Rights and Humanitarian Affairs".

[694] 22 U.S.C. 2318. Former sec. 510 was redesignated sec. 506 by sec. 201(j)(1) of the FA Act of 1967. Sec. 506, as amended by sec. 102 of Public Law 94–329, was further amended and restated by sec. 5(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 702).

[695] Sec. 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1236), inserted the designation "(1)" here, redesignated "(1)" and "(2)" as "(A)" and "(B)", and inserted a new "(2)(A)" and "(B)".

Pursuant to sec. 506(a)(1), on April 27, 2002, the President determined that:

"(1) assistance to Afghanistan is in the national interest of the United States; and

"(2) an unforeseen emergency exists that requires immediate military assistance to the Government of Afghanistan for purposes of training and equipping the Afghan national armed forces; and the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except section 506(a)(1) of the FAA [Foreign Assistance Act of 1961].

(A)[695] an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

(B)[695] the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed $100,000,000 in any fiscal year.[696]

(2)(A)[695] If the President determines and reports to the Congress in accordance with section 652 of this Act that it is in the national interest of the United States to draw down articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—[697]

(i) for the purposes and under the authorities of—

(I) chapter 8 of part I (relating to international narcotics control assistance);

(II) chapter 9 of part I (relating to international disaster assistance);[698]

(III) chapter 8 of part II (relating to antiterrorism assistance);

(IV) chapter 9 of part II (relating to nonproliferation assistance); or

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"Accordingly, I hereby waive section 512 of the FOAA [Foreign Operations Appropriations] and section 620(q) of the FAA with respect to Afghanistan. Further, I hereby direct the drawdown of up to $2 million of defense articles, services, and training from the inventory and resources of the Department of Defense for military assistance for Afghanistan." (Presidential Determination No. 02–18; 67 F.R. 31713).

Pursuant to sec. 506(a)(1) and sec. 614(a)(2), on May 30, 2002, the President determined that "it is vital to the national security interests of the United States to provide up to $4.5 million in fiscal year 1997 and 1998 Foreign Military Financing Funds for assistance to Georgia under section 23 of the Arms Export Control Act without regard to any provision of law that might otherwise restrict provision of such funds. I further determine that an unforeseen emergency exists requiring immediate military assistance for Georgia that cannot be met under the Arms Export Control Act or any other law, and hereby direct the drawdown of defense articles and services from the stocks of the Department of Defense, and military education and training of the aggregate value of $21 million to meet that emergency requirement. I hereby authorize the furnishing of this assistance." (Presidential Determination No. 02–20; 67 F.R. 39247).

Pursuant to sec. 506(a)(1), on June 28, 2002, the President determined that:

"(1) an unforeseen emergency exists that requires immediate military counterterrorism assistance to the Armed Forces of the Philippines; and

"(2) the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except [section] 506(a) of the Act.

"I therefore direct the drawdown of up to $10 million of defense articles and services from the inventory and resources of the Department of Defense to the Philippines for counterterrorism assistance." (Presidential Determination No. 02–24; 67 F.R. 46837).

[696] The aggregate value of this special authority was increased from $10 million to $50 million by sec. 112(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3139). It was subsequently increased from $50 million to $75 million by sec. 110(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526), and to $100 million from $75 million by sec. 103(a) of Public Law 104–164 (110 Stat. 1423).

[697] Sec. 103(b) of Public Law 104–164 (110 Stat. 1423) amended and restated the latter part of subpara. (A).

[698] Sec. 121(b) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 850) struck out "or" at the end of subclause (II), struck out subclause (III), which had referred to the Migration and Refugee Assistance Act of 1962 (restated in new subclause (V)), and added new subclauses (III), (IV), and (V).

(V) the Migration and Refugee Assistance Act of 1962; or

(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

(I) to support cooperative efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.

(B) An aggregate value of not to exceed[699] $200,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

(i) not more than $75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

(ii) not more than $75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and

(iii) not more than $15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph.

(b)(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs[692] of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress. In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 634A.[700]

(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section, including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquir-

[699] Sec. 103(b)(2) of Public Law 104–164 (110 Stat. 1424) struck out "$75,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph." and inserted in lieu thereof text from this point to the end of subpara. (B). Sec. 121(a) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 850) subsequently struck out "$150,000,000" and inserted in lieu thereof "$200,000,000".

[700] Sec. 103(b)(3) of Public Law 104–164 (110 Stat. 1424) added this sentence.

ing those services from United States Government transport assets.[701]

(c)[702] For the purposes of any provision of law that authorizes the drawdown of defense or other articles or commodities, or de-

[701] Sec. 576(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2433), added ", including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets.".

[702] Sec. 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2433), redesignated subsec. (c) as subsec. (d), and added a new subsec. (c).

Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 176), provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"(INCLUDING TRANSFER OF FUNDS)

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,072,000,000: *Provided,* That of the funds appropriated under this heading, not less than $2,100,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $550,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That except as provided in the following proviso, none of the funds appropriated by this paragraph may be made available for helicopters and related support costs for Colombia: *Provided further,* That up to $93,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading 'Andean Counterdrug Initiative' for helicopters, training and other assistance for the Colombian Armed Forces for security for the Cano Limon pipeline: *Provided further,* That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

"None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan and Liberia: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Guatemala: *Provided further,* That only those countries for which assistance was justified for the 'Foreign Military Sales Financing Program' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $38,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $356,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2003 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2003 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.".

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 577), provided the following:

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fense or other services from an agency of the United States Government, such drawdown may include the supply of commercial transportation and related services that are acquired by contract for the purposes of the drawdown in question if the cost to acquire such commercial transportation and related services is less than the cost to the United States Government of providing such services from existing agency assets.

(d)[702] There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

Sec. 507.[703] **Restrictions on Military Aid to Latin America.** * * * [Repealed—1973]

Sec. 508.[703] **Restrictions on Military Aid to Africa.** * * * [Repealed—1973]

Sec. 509.[703] **Certification of Recipient's Capability.** * * * [Repealed—1973]

Sec. 510.[704] **Restrictions on Training Foreign Military Students.** * * * [Repealed—1976]

Sec. 511.[705] **Considerations in Furnishing Military Assistance.**—Decisions to furnish military assistance made under this part shall take into account[706] whether such assistance will—

(1) contribute to an arms race;

(2) increase the possibility of outbreak or escalation of conflict; or

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"MILITARY ASSISTANCE

"FUNDS APPROPRIATED TO THE PRESIDENT

"FOREIGN MILITARY FINANCING PROGRAM

"For an additional amount for the 'Foreign Military Financing Program', $2,059,100,000: *Provided,* That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided further,* That of the funds appropriated under this heading, not less than $406,000,000 shall be made available for grants only for Jordan and not less than $1,000,000,000 shall be available for grants only for Israel: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed to by the United States and Israel, be available for advanced weapons systems, of which not less than $263,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That up to $20,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading "Andean Counterdrug Initiative" for aircraft, training, and other assistance for the Colombian Armed Forces: *Provided further,* That, except for Israel and Jordan, funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the commitment of funds: *Provided further,* That such notification shall be in the form of a report (in classified or unclassified form) which contains each country receiving assistance from funds aggregated under this heading, other than Israel and Jordan, the amount of assistance to be provided and a description of the equipment and other assistance being financed from such funds.".

[703] Sec. 12(b)(5) of the FA Act of 1973 repealed secs. 507, 508, and 509.

[704] Sec. 510 was repealed by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

[705] 22 U.S.C. 2321d. Sec. 511 was added by sec. 201(f) of the FA Act of 1971.

[706] Sec. 1225(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681) struck out "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to" and inserted in lieu thereof "take into account". Previously, sec. 150(c) of the Foreign Relations Authorization Act, Fiscal Year 1976 (Public Law 94–141) struck out the words "take into account" and inserted in lieu thereof "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to".

(3) prejudice the development of bilateral or multilateral arms control arrangements.

Sec. 512.[707] **Military Assistance Advisory Groups and Missions.** * * * [Repealed—1973]

Sec. 513.[708] **Military Assistance Authorizations for Thailand and Laos, and South Vietnam.** * * * [Repealed—1981]

Sec. 514.[709] **Stockpiling of Defense Articles for Foreign Countries.**—(a) No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this Act or the Arms Export Control Act, or any subsequent corresponding legislation, and the value of such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, "value" means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

(b)(1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization or in the implementation of agreements with

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[707] Sec. 12(5) of the FA Act of 1973 repealed sec. 512.

[708] Sec. 513, as added by sec. 20(f) of the FA Act of 1971 and amended by sec. 12(6)(B) of the FA Act of 1973, and sec. 12 of the FA Act of 1974, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Sec. 513 had prohibited military assistance for Thailand (after June 30, 1972), Laos (after June 30, 1974), and South Vietnam (after June 30, 1976) unless the assistance had been authorized under this Act or the Foreign Military Sales Act (now the Arms Export Control Act).

[709] 22 U.S.C. 2321h. The original sec. 514, which concerned special foreign country accounts, was added by sec. 201(f) of Public Law 92–226 (86 Stat. 26). This section was repealed by sec. 12(b) of Public Law 93–189 (87 Stat. 722). This new sec. 514, as added by sec. 15 of Public Law 93–559 (88 Stat. 1799), was amended by sec. 103 of the International Security Assistance and Arms Export Control Act of 1976. It formerly read:

"(a) Notwithstanding any other provision of law, no funds, other than funds made available under this chapter or section 401(a) of Public Law 89–367 (80 Stat. 37), or any subsequent corresponding legislation, may be obligated for the purpose of stockpiling any defense article or war reserve material, including the acquisition, storage, or maintenance of any war reserve equipment, secondary items, or munitions, if such article or material is set aside, reserved, or in any way earmarked or intended for future use by any foreign country under this Act or such section.

"(b) The cost of any such article or material set aside, reserved, or in any way earmarked or intended by the Department of Defense for future use by, for, or on behalf of the country referred to in section 401(a)(1) of Public Law 89–367 (80 Stat. 37) shall be charged against the limitation specified in such section or any subsequent corresponding legislation, for the fiscal year in which such article or material is set aside, reserved, or otherwise earmarked or intended; and the cost of any such article or material set aside, reserved or in any way earmarked or intended for future use by, for, or on behalf of any other foreign country shall be charged against funds authorized under this chapter or the fiscal year in which such article or material is set aside, reserved, or otherwise earmarked. No such article or material may be made available to or for use by any foreign country unless such article or material has been charged against the limitation specified in such section, or any subsequent corresponding legislation, or against funds authorized under this chapter, as appropriate.".

Section 1303(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1669) struck out subsec. (e) to this section. Subsec. (e) formerly read as follows:

"(e) The President shall promptly report to the Congress each new stockpile, or addition to an existing stockpile, described in this section of defense articles valued in excess of $10,000,000 in any fiscal year.".

See also sec. 112 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 850), in *Legislation on Foreign Relations Through 2002*, vol. I–B.

Israel)[710] in stockpiles located in foreign countries may not exceed in any fiscal year an amount that[711] is specified in security assistance authorizing legislation for that fiscal year.

(2)[712] (A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $100,000,000 for fiscal year 2003.

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[710] Sec. 531B(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 732), inserted "or in the implementation of agreements with Israel" after "North Atlantic Treaty Organization".

[711] Section 587(b)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1253), struck out "greater than" and inserted in lieu thereof "that" at this point.

[712] Sec. 1261 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) amended and restated para. (2). The para. previously had provided not to exceed $50 million for fiscal year 2001.

Previously, sec. 102(c)(1) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 845) amended and restated para. (2). The para. had provided not to exceed $60 million for fiscal year 2000 in subpara. (A), and not more than $40 million for stockpiles in the Republic of Korea and $20 million for stockpiles in Thailand in subpara. (B).

Previously, sec. 1231 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), amended and restated subsec. (b)(2), effectively striking out "$340,000,000 for fiscal year 1999 and" after "shall not exceed".

Sec. 584(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "$50,000,000 for each of the fiscal years 1996 and 1997, $60,000,000 for fiscal year 1998, and" after "shall not exceed" and inserted at the end of the sentence "and $60,000,000 for fiscal year 2000".

Previously, sec. 571(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (sec. 101(d) of Public Law 105–277; 112 Stat. 2681), struck out "and" after "1997", inserted in lieu thereof a comma, and added ", and $340,000,000 for fiscal year 1999" at the end of the sentence. Sec. 572(b) of that Act added at the end of subpara. (B) the following: "Of the amount specified in subparagraph (A) for fiscal year 1999, not more than $320,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand.".

Previously, sec. 575(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2433), added "and $60,000,000 for fiscal year 1998" at the end of para. (2); and sec. 575(b) of that Act added the fiscal year 1998 stockpile limits for Korea and Thailand in subpara. (B).

Previously, sec. 531B(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 732), amended and restated subsec. (b)(2) generally.

Previously, sec. 535 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1637), provided "a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995".

Previously, sec. 535 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87; 107 Stat. 955), decreased the stockpile for Israel to $200,000,000, and made available up to $72,000,000 for stockpiles in Korea, and up to $20,000,000 for stockpiles in Thailand.

Previously, sec. 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1681), increased the stockpile limit, included allocations for Israel, and added text pertaining to stockpile allocations for the Republic of Korea.

Previous to that, sec. 573(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2042), increased the stockpile limit and added text pertaining to allocations for Israel.

Figures for stockpile limits for recent years include the following: fiscal year 1976—$96,750,000; fiscal year 1977—$125,000,000; fiscal year 1978—$270,000,000; fiscal year 1979—$90,000,000; fiscal year 1980—$95,000,000; fiscal year 1981—$85,000,000; fiscal year 1982—$130,000,000; fiscal year 1983—$125,000,000; fiscal year 1984—$125,000,000; fiscal year 1985—$248,000,000; fiscal year 1986—$360,000,000; fiscal year 1987—$125,000,000; fiscal year 1988—$116,000,000; fiscal year 1989—$77,000,000; fiscal year 1990—$165,000,000; fiscal year 1991—$378,000,000; fiscal year 1992—$378,000,000; fiscal year 1993—$389,000,000; fiscal year 1994—$292,000,000; fiscal year 1995—$250,000,000; fiscal year 1996—$50,000,000; fiscal year 1997—$50,000,000; fiscal year 1998—$60,000,000; fiscal year 1999—$340,000,000; fiscal year 2000—$60,000,000; fiscal year 2001—$50,000,000; fiscal year 2003—$100,000,000.

(B)[713] Of the amount specified in subparagraph (A) for fiscal year 2003, not more than $100,000,000 may be made available for stockpiles in the State of Israel.

(c)[714] LOCATION OF STOCKPILES OF DEFENSE ARTICLES.—

(1) LIMITATION.—Except as provided in paragraph (2), no stockpile of defense articles may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to stockpiles of defense articles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the congressional committees specified in section 634A(a) in accordance with the procedures applicable to reprogramming notifications under that section.

(d) No defense article transferred from any stockpile which is made available to or for use by any foreign country may be considered an excess defense article for the purpose of determining the value thereof.

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[713] Sec. 1261 of the Security Assistance of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) amended and restated para. (2). Previously, subpara. (B) provided not more than $50 million for stockpiles in the Republic of Korea.

Previously, sec. 102(c)(1) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 845) amended and restated para. (2). It had provided not to exceed $60 million for fiscal year 2000 in subpara. (A), and not more than $40 million for stockpiles in the Republic of Korea and $20 million for stockpiles in Thailand in subpara. (B).

Previously, sec. 1231 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), amended and restated subsec. (b)(2), effectively striking out "Of the amount specified in subparagraph (A) for fiscal year 1999, not more than $320,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand." and the reference to fiscal year 2000 for the remaining text in subpara. (B).

Previously, sec. 584(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "Of the amount specified in subparagraph (A) for each of the fiscal years 1996 and 1997, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $10,000,000 may be made available for stockpiles in Thailand. Of the amount specified in subparagraph (A) for fiscal year 1998, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand." and inserted a sentence at the end of the subpara.

[714] Sec. 531B(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 732) amended and restated subsec. (c). It formerly read as follows:

"(c) Except for stockpiles in existence on the date of enactment of the International Security Assistance and Arms Export Control Act of 1976 and for stockpiles located in the Republic of Korea, Thailand, or countries which are members of the North Atlantic Treaty Organization, or major non-NATO allies, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.".

The reference to Thailand was first added by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–147). The reference to the Republic of Korea was first added by sec. 6(a)(2) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 703). Sec. 573(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2042), first added the reference to major non-NATO allies.

Sec. 515.[715] **Overseas Management of Assistance and Sales Programs.**—(a) In order to carry out his responsibilities for the management of international security assistance programs conducted under this chapter, chapter 5 of this part, and the Arms Export Control Act, the President may assign members of the Armed Forces of the United States to a foreign country to perform one or more of the following functions:

(1) equipment and services case management;

(2) training management;

(3) program monitoring;

(4) evaluation and planning of the host government's military capabilities and requirements;

(5) administrative support;

(6) promoting rationalization, standardization, interoperability, and other defense cooperation measures;[716] and

(7) liaison functions exclusive of advisory and training assistance.

(b) Advisory and training assistance conducted by military personnel assigned under this section shall be kept to an absolute minimum. It is the sense of the Congress that advising and training assistance in countries to which military personnel are assigned under this section shall be provided primarily by other personnel who are not assigned under this section and who are detailed for limited periods to perform specific tasks.

(c)(1) The number of members of the Armed Forces assigned to a foreign country under this section may not exceed six unless specifically authorized by the Congress. The President may waive this limitation if he determines and reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[692] of the House of Representatives, 30 days prior to the introduction of the additional military personnel, that United States national interests require that more than six members of the Armed Forces be assigned under this section to carry out international security assistance programs in a country not specified in this paragraph. Pakistan, Tunisia, El Salvador, Honduras, Colombia,[717] Indonesia, the Republic of Korea, the Philippines, Thailand, Egypt, Jordan, Morocco, Saudi Arabia, Greece, Portugal, Spain, and Turkey are authorized to have military personnel strengths larger than six under this section to carry out international security assistance programs.

(2) The total number of members of the Armed Forces assigned under this section to a foreign country in a fiscal year may not exceed the number justified to the Congress for that country in the congressional presentation materials for that fiscal year, unless the

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[715] 22 U.S.C. 2321i. Sec. 515, as amended by sec. 16 of FA Act of 1974, sec. 104 of Public Law 94–329, sec. 7(c) of Public Law 95–92, sec. 9 of Public Law 95–424, sec. 7 of Public Law 95–92, and sec. 114 of Public Law 96–533, was comprehensively amended and restated by sec. 112 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1527).

[716] Sec. 143 of Public Law 104–164 (110 Stat. 1434) struck out "among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand" after "measures".

[717] Sec. 125 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205), struck out "For the fiscal year 1982 and the fiscal year 1983" and inserted in lieu thereof "Pakistan, Tunisia, El Salvador, Honduras".

Sec. 4305(a) of Public Law 100–690 (102 Stat. 4273) added "Colombia" after "Honduras".

Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[692] of the House of Representatives are notified 30 days in advance of the introduction of the additional military personnel.

(d) Effective October 1, 1989,[718] the entire costs (excluding[719] salaries of the United States military personnel other than the Coast Guard)[719] of overseas management of international security assistance programs under this section shall be charged to or reimbursed from funds made available to carry out this chapter or the Arms Export Control Act,[720] other than any such costs which are either paid directly for such defense services under section 21(a) of the Arms Export Control Act or reimbursed from charges for services collected from foreign governments pursuant to section 21(e) and section 43(b) of that Act.

(e) Members of the Armed Forces assigned to a foreign country under this section shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission to that country.

(f) The President shall continue to instruct United States diplomatic and military personnel in the United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.

Sec. 516.[721] AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

(a) AUTHORIZATION.—The President is authorized to transfer excess defense articles under this section to countries for which re-

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[718] Section 9104(a) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) struck out "1982" and inserted in lieu thereof "1989".

[719] Section 9104 of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) struck out "including" and inserted in lieu thereof "excluding". Sec. 556(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1675), restated parentheses to make provision for the Coast Guard.

[720] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1213), added reference to the Arms Export Control Act at this point.

[721] 22 U.S.C. 2321j. Sec. 104(a) of Public Law 104–164 (110 Stat. 1424) amended and restated sec. 516.

The earlier form of sec. 516, relating to the modernization of defense capabilities of countries of NATO's southern flank, was added by sec. 1101 of Public Law 99–661 (100 Stat. 3960). Prior to that, sec. 516, added by sec. 105 of Public Law 94–329 and amended by sec. 7(b) of Public Law 95–384, sec. 5(c) of Public Law 96–92, and sec. 112(d) of Public Law 96–533, was repealed by sec. 110(d) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526). Sec. 516 had required the termination of authorities contained in this chapter (except for authorities in secs. 506, 514, and 515) as of September 30, 1982, except to the extent Congress might authorize military assistance in specified amounts for specified countries.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 2146), provided the following:

"NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

"SEC. 524. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Pro-*

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ceipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

(b) LIMITATIONS ON TRANSFERS.—(1) The President may transfer excess defense articles under this section only if—

(A) such articles are drawn from existing stocks of the Department of Defense;

(B) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

(C) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

(D) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

(E) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

(F) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 620C of this Act.

(2) Accordingly, for the four-year period beginning on October 1, 1996, and thereafter for the four-year period beginning on October 1, 2000,[722] the President shall ensure that excess defense articles offered to Greece and Turkey under this section will be made available consistent with the manner in which the President made available such excess defense articles during the four-year period that began on October 1, 1992, pursuant to section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.[723]

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vided further, That such Committees shall also be informed of the original acquisition cost of such defense articles.".

[722] Sec. 1211(b) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), inserted "and thereafter for the four-year period beginning on October 1, 2000," after "October 1, 1996,".

[723] Sec. 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; (103 Stat. 1246), read as follows:

"(e) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Cooperation Act of 1989, of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the three-year period beginning on October 1, 1989, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

"(i) the amount of foreign military financing provided for Turkey, to

(c) TERMS OF TRANSFERS.—

(1) NO COST TO RECIPIENT COUNTRY.—Excess defense articles may be transferred under this section without cost to the recipient country.

(2) PRIORITY.—Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO, to major non-NATO allies on such southern and southeastern flank, and to the Philippines [724] shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

(e) [725] TRANSPORTATION AND RELATED COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense may not be expended

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"(ii) the amount of foreign military financing provided for Greece.

"(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).".

[724] Sec. 1234 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433), struck out "and to major non-NATO allies on such southern and southeastern flank" and inserted in lieu thereof ", to major non-NATO allies on such southern and southeastern flank, and to the Philippines".

[725] Sec. 1231 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1432) provided the following:

"SEC. 1231. EXCESS DEFENSE ARTICLES FOR CERTAIN COUNTRIES.

"(a) AUTHORITY.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during the fiscal year 2003 funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the authority provided under this section should be utilized only for those countries demonstrating a genuine commitment to democracy and human rights.".

See also sec. 1701 of that Act (116 Stat. 1463), authorizing the transfer of naval vessels to certain countries.

Sec. 105 of Public Law 104–164 (110 Stat. 1427), as amended, provided the following:

"SEC. 105. EXCESS DEFENSE ARTICLES FOR CERTAIN EUROPEAN COUNTRIES.

"Notwithstanding section 516(e) of the Foreign Assistance Act of 1961, as added by this Act, during each of the fiscal years 2002 and 2003, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to countries that are eligible to participate in the Partnership for Peace and that are eligible for assistance under the Support for East European Democracy (SEED) Act of 1989.".

Sec. 589 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2174), provided the following:

"EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTHERN EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

"SEC. 589. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during each of the fiscal years 2002 and 2003, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: *Provided*, That section 105 of Public Law 104–164 is amended by striking '2000 and 2001' and inserting '2002 and 2003'.".

See also sec. 707 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 862), relating to excess defense articles for Mongolia, and sec. 1212(a) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), relating to Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Slovakia, Ukraine, and Uzbekistan, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

(2) EXCEPTION.—The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

(A) it is determined that it is in the national interest of the United States to do so;

(B) the recipient is a developing country receiving less than $10,000,000 of assistance under chapter 5 of this part of this Act (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

(C) the total weight of the transfer does not exceed 50,000[726] pounds; and

(D) such transportation is accomplished on a space available basis.

(f)[725, 727] ADVANCE NOTIFICATION TO CONGRESS FOR TRANSFER OF CERTAIN EXCESS DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 30 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

(2) CONTENTS.—Such notification shall include—

(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

(B) an assessment of the impact of the transfer on the military readiness of the United States;

(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

(D) a statement describing the current value of such article and the value of such article at acquisition.

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[726] Sec. 122 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851) struck out "25,000" and inserted in lieu thereof "50,000".

[727] Sec. 1212(b) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), provided the following:

"(b) CONTENT OF CONGRESSIONAL NOTIFICATION.—Each notification required to be submitted under section 516(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)) with respect to a proposed transfer of a defense article described in subsection (a) shall include an estimate of the amount of funds to be expended under subsection (a) with respect to that transfer.".

(g)[728] AGGREGATE ANNUAL LIMITATION.—

(1) IN GENERAL.—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed $425,000,000.[729]

(2) EFFECTIVE DATE.—The limitation contained in paragraph (1) shall apply only with respect to fiscal years beginning after fiscal year 1996.

(h) CONGRESSIONAL PRESENTATION DOCUMENTS.—Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

(i) EXCESS COAST GUARD PROPERTY.—For purposes of this section, the term "excess defense articles" shall be deemed to include excess property of the Coast Guard, and the term "Department of Defense" shall be deemed, with respect to such excess property, to include the Coast Guard.

Sec. 517.[730] * * * [Repealed—1996]

SEC. 517.[731] DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) NOTICE TO CONGRESS.—The President shall notify the Congress[732] in writing at least 30 days before—

(1) designating a country as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.); or

(2) terminating such a designation.

(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this sec-

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[728] Sec. 1271(a) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), provided the following:

"(a) INAPPLICABILITY OF AGGREGATE ANNUAL LIMITATION ON VALUE OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by section 1018(a) of the National Defense Authorization Act for Fiscal Year 2000 shall not be counted for the purposes of section 516(g) of the Foreign Assistance Act of 1961 in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.".

[729] Sec. 1213 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), struck out "$350,000,000" and inserted in lieu thereof "$425,000,000".

[730] Formerly at 22 U.S.C. 2321k. Sec. 104(b)(2)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 517, relating to the modernization of counternarcotics capabilities of certain countries. The section was originally added by sec. 5 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1957).

[731] 22 U.S.C. 2321k. Added by sec. 147(a)(1) of Public Law 104–164 (110 Stat. 1434).

[732] On November 12, 1996, the President notified Congress that he designated the Hashemite Kingdom of Jordan as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 97–4; 61 F.R. 59809).

On January 6, 1998, the President notified Congress that he designated the Republic of Argentina as a major non-NATO ally of the United States for purposes of the Foreign Assistance Act and the Arms Export Control Act (Presidential Determination No. 98–9; 63 F.R. 3635).

tion, and the President is not required to notify the Congress of such designation of those countries.

Sec. 518.[733] * * * [Repealed—1996]

Sec. 519.[734] * * * [Repealed—1996]

Sec. 520.[735] * * * [Repealed—1996]

Chapter 3—Foreign Military Sales [736]

Sec. 521.[737] **Administration of Sales Programs Involving Defense Articles and Services.** * * * [Repealed—1968]

Sec. 522.[737] **Sales from Stock.** * * * [Repealed—1968]

Sec. 523.[737] **Procurement of Sales.** * * * [Repealed—1968]

Sec. 524.[738] **Reimbursements.**—(a)[739] Whenever funds made available for use under this part have been or[740] are used to furnish military assistance on cash or credit terms, United States dollar repayments, including dollar proceeds derived from the sale of foreign currency repayments to any agency or program of the United States Government, receipts received from the disposition of evidences of indebtedness and charges (including fees and premiums) or interest collected[741] shall be credited to a separate fund account[742] and, shall be available until expended solely for the purposes of financing sales and guaranties, including the overhead costs thereof,[743] and, notwithstanding any provision of law relating to receipts and credits accruing to the United States Government, repayment in foreign currency may be used to carry out this part. Such amounts of the appropriations made available under this part (including unliquidated balances of funds heretofore obligated for financing sales and guarantees) as may be determined by the President shall be transferred to, and merged with the separate fund account.[744]

(b)(1) The special fund account established under subsection (a) of this section shall terminate as of the end of June 30, 1968, or on such earlier date as may be selected by the President.

(2) Upon the termination of such fund account pursuant to paragraph (1), all of the assets of such fund account (including loans

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[733] Formerly at 22 U.S.C. 2321*l*. Sec. 104(b)(2)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 518, relating to natural resources and wildlife management. The section was originally added by sec. 533(f) of Public Law 101–513 (104 Stat. 2015).

[734] Formerly at 22 U.S.C. 2321m. Sec. 104(b)(2)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 519, relating to modernization of military capabilities. The section was originally added by sec. 596 of Public Law 101–513 (104 Stat. 2061).

[735] Formerly at 22 U.S.C. 2321n. Sec. 104(b)92)(B) of Public Law 104–164 (110 Stat. 1427) repealed sec. 520, relating to transfers of excess defense articles for international peacekeeping operations. The section was originally added by sec. 408 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 452).

[736] The new chapter heading was added by sec. 201(o)(2) of the FA Act of 1967.

[737] Secs. 521, 522, and 523 were repealed by sec. 45(a) of the Foreign Military Sales Act (Public Law 90–629).

[738] 22 U.S.C. 2344. Former sec. 508 was redesignated sec. 524 by sec. 201(h)(1) of the FA Act of 1967.

[739] Subsection designation "(a)" and a new subsec. (b) were added by sec. 201(h)(2) of the FA Act of 1967.

[740] The words "have been or" were added by sec. 201(e)(1) of the FA Act of 1965.

[741] The words to this point, beginning with "receipts received from", were added by sec. 201(e)(2) of the FA Act of 1965.

[742] Sec. 201(e)(3) of the FA Act of 1965 inserted "a separate fund account" in lieu of "the current applicable appropriation".

[743] Sec. 201(e)(1) of the FA Act of 1965 inserted "financing sales and guaranties, including the overhead costs thereof" in lieu of "furnishing further military assistance on cash or credit terms".

[744] The last sentence was added by sec. 201(c) of the FA Act of 1966.

and other payments receivable) shall be transferred to a special account in the Treasury, which special account shall be available solely for the purpose of discharging outstanding liabilities and obligations of the United States arising out of credit sales agreements entered into, and guaranties issued, under this part, prior to June 30, 1968. Any moneys in such special account in excess of the aggregate United States dollar amount of such liabilities and obligations shall be transferred from time to time to the general fund of the Treasury.

(3)[745] * * * [Repealed—1968]

Sec. 525.[745] **Guaranties.** * * * [Repealed—1968]

Chapter 4—Economic Support Fund[746]

NOTE.—Section 202 of the Foreign Assistance Act of 1971 transferred the former chapter 4 of part I governing supporting assistance to its present location as chapter 4 of part II of the Act. Section 202(b) of the Foreign Assistance Act of 1971 provides as follows:

"Chapter 4 of part I of the Foreign Assistance Act of 1961 is hereby repealed. References to such chapter or any sections thereof shall hereafter be deemed to be references to chapter 4 of part II of the Foreign Assistance Act of 1961, as added by subsection (a) of this section, or to appropriate sections thereof. All references to part I of the Foreign Assistance Act of 1961 shall hereafter be deemed to be references also to chapter 4 of part II, and all references to part II of such Act shall be deemed not to include chapter 4 of such part II."

In changing the title of chapter 4 from Security Supporting Assistance to Economic Support Fund, sec. 10(b)(6) of the International Security Assistance Act of 1978 (92 Stat. 735) stated that, after September 30, 1978, any reference to security supporting assistance shall be deemed to be a reference to assistance provided under chapter 4 of part II of this Act.

[745] Par. (3) of sec. 524, and sec. 525 were repealed by sec. 45(a) of the Foreign Military Sales Act (Public Law 90–629). The subject matter of par. (3), relating to arms sales credits, is now covered in sec. 23 of the Arms Export Control Act.

[746] Chapter 4, as added by the FA Act of 1971, was titled "Security Supporting Assistance," was retitled "Economic Support Fund" and comprehensively amended and restated by sec. 10(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 733). Sec. 10(b)(6) of the same Act stated that, after September 30, 1978, any reference in any act to security supporting assistance shall be considered to be a reference to this chapter.

Sec. 201 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 210), replaced secs. 531 and 532, amended and redesignated secs. 535 as 533, and repealed all other sections regarding earmarking of funds for specific regions or purposes. See Public Law 99–83 (99 Stat. 210), relating to ESF for the Middle East, Cyprus, Portugal,

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Sec. 531.[747] **Authority.**—(a) The Congress recognizes that, under special economic, political, or security conditions, the national interests of the United States may require economic support for countries in amounts which could not be justified solely under chapter 1 of part I or, in the case of countries in sub-Saharan Africa, chapter 10 of part I.[748] In such cases, the President is authorized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. To the maximum extent feasible, the President shall provide assistance under this chapter consistent with the policy directions, purposes, and programs of part I of this Act.

(b) The Secretary of State shall be responsible for policy decisions and justifications for economic support programs under this chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator of the agency primarily responsible for administering part I of this Act.[749]

(c) As part of the annual presentation materials for foreign assistance submitted to the Congress, the agency primarily responsible for administering this part shall provide a detailed justification for the uses and the purposes of the funds provided under this chapter. Such material shall include, but not be limited to, information concerning the amounts and kinds of cash grant transfers, the amounts and kinds of budgetary and balance-of-payments support provided, and the amounts and kinds of project assistance provided with funds made available under this chapter.

(d)[750] * * * [Repealed—1998]

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agricultural commodities under commodity import programs, tied aid credit program, and restriction on use of funds for nuclear facilities.

See also secs. 644–647 of the Export-Import Bank Act Amendments of 1983 (title VI of Public Law 98–166) that established a tied aid credit program in the U.S. Export-Import Bank in order to promote U.S. exports. This program is carried out in cooperation with AID and permits the AID Administrator to draw on ESF allocated for Commodity Import Programs to finance a tied aid credit activity. See *Legislation on Foreign Relations Through 2000*, vol. III.

See also sec. 206 of the International Security and Development Cooperation Act of 1985, which authorized not less than $50 million in fiscal year 1986 and not less than $100 million in fiscal year 1987 out of the commodity import program portion of the Economic Support Fund for use in a tied aid credit program.

[747] 22 U.S.C. 2346.

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

[749] This responsibility, as it related to the Administrator, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[750] Sec. 533(a)(5) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), repealed subsec. (d) and sec. 609 of this Act. Subsec. (d) had read as follows:

"To the maximum extent feasible, funds made available pursuant to this chapter for commodity import programs or other program assistance shall be used to generate local currencies, not less than 50 percent of which shall be available to support activities consistent with the objectives of sections 103 through 106 of this Act, and administered by the agency primarily responsible for administering part I of this Act.".

Sec. 529 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 190), provided the following:

(e) Amounts appropriated to carry out this chapter shall be available for economic programs and may not be used for military or paramilitary purposes.

Sec. 532.[751, 752] **Authorizations of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter—

"SEPARATE ACCOUNTS

"SEC. 529. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

"(A) require that local currencies be deposited in a separate account established by that government;

"(B) enter into an agreement with that government which sets forth—

"(i) the amount of the local currencies to be generated; and

"(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

"(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

"(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

"(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

"(i) project and sector assistance activities; or

"(ii) debt and deficit financing; or

"(B) for the administrative requirements of the United States Government.

"(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

"(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

"(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

"(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

"(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

"(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

"(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.".

[751] 22 U.S.C. 2346a.

[752] Title V, subtitle B of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 855), as amended by sec. 1221 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430), provided the following authorization for assistance:

"SEC. 513. ASSISTANCE FOR ISRAEL.

"(a) DEFINITIONS.—In this section:

"(1) ESF ASSISTANCE.—The term 'ESF assistance' means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), relating to the economic support fund.

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"(2) FOREIGN MILITARY FINANCING PROGRAM.—The term 'Foreign Military Financing Program' means the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763).

"(b) ESF ASSISTANCE.—

"(1) IN GENERAL.—Of the amounts made available for each of the fiscal years 2002 and 2003 for ESF assistance, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available for Israel. Such funds are authorized to be made available on a grant basis as a cash transfer.

"(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

"(A) the amount made available for ESF assistance for Israel for the preceding fiscal year, minus

"(B) $120,000,000.

"(3) ADDITIONAL ESF ASSISTANCE FOR FISCAL YEAR 2003.—Only for fiscal year 2003, in addition to the amount computed under paragraph (2) for that fiscal year, an additional amount of $200,000,000 is authorized to be made available for ESF assistance for Israel, notwithstanding section 531(e) or 660(a) of the Foreign Assistance Act of 1961, for defensive, nonlethal, antiterrorism assistance, which amount shall be considered, for purposes of subsection (d), as an amount appropriated by an Act making supplemental appropriations.

"(c) FMF PROGRAM.—

"(1) IN GENERAL.—Of the amount made available for each of the fiscal years 2002 and 2003 for assistance under the Foreign Military Financing Program, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available on a grant basis for Israel.

"(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

"(A) the amount made available for assistance under the Foreign Military Financing Program for Israel for the preceding fiscal year, plus

"(B) $60,000,000.

"(3) DISBURSEMENT OF FUNDS.—Funds authorized to be available for Israel under subsection (b)(1) and paragraph (1) of this subsection for fiscal years 2002 and 2003 shall be disbursed not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or October 31 of the respective fiscal year, whichever is later.

"(4) AVAILABILITY OF FUNDS FOR ADVANCED WEAPONS SYSTEMS.—To the extent the Government of Israel requests that funds be used for such purposes, grants made available for Israel out of funds authorized to be available under paragraph (1) for Israel for fiscal years 2002 and 2003 shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $535,000,000 for fiscal year 2002 and not less than $550,000,000 for fiscal year 2003 shall be available for the procurement in Israel of defense articles and defense services, including research and development.

"(d) EXCLUSION OF RESCISSIONS AND SUPPLEMENTAL APPROPRIATIONS.—For purposes of this section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.

"SEC. 514. ASSISTANCE FOR EGYPT.

"(a) DEFINITIONS.—In this section:

"(1) ESF ASSISTANCE.—The term 'ESF assistance' means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), relating to the economic support fund.

"(2) FOREIGN MILITARY FINANCING PROGRAM.—The term 'Foreign Military Financing Program' means the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763).

"(b) ESF ASSISTANCE.—

"(1) IN GENERAL.—Of the amounts made available for each of the fiscal years 2002 and 2003 for ESF assistance, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available for Egypt.

"(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

"(A) the amount made available for ESF assistance for Egypt during the preceding fiscal year, minus

"(B) $40,000,000.

"(c) FMF PROGRAM.—Of the amount made available for each of the fiscal years 2002 and 2003 for assistance under the Foreign Military Financing Program, $1,300,000,000 is authorized to be made available on a grant basis for Egypt.

"(d) EXCLUSION OF RESCISSIONS AND SUPPLEMENTAL APPROPRIATIONS.—For purposes of this section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.

"(e) DISBURSEMENT OF FUNDS.—Funds estimated to be outlayed for Egypt under subsection (c) during fiscal years 2002 and 2003 shall be disbursed to an interest-bearing account for Egypt in the Federal Reserve Bank of New York not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making

appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or by October 31 of the respective fiscal year, whichever is later, provided that—

"(1) withdrawal of funds from such account shall be made only on authenticated instructions from the Defense Finance and Accounting Service of the Department of Defense;

"(2) in the event such account is closed, the balance of the account shall be transferred promptly to the appropriations account for the Foreign Military Financing Program.

"(3) none of the interest accrued by such account should be obligated unless the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives are notified.".

The Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1425) provides the following:

"SEC. 1222. SECURITY ASSISTANCE FOR GREECE AND TURKEY.

"(a) IN GENERAL.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

"(1) $1,120,000 for fiscal year 2003 is authorized to be available for Greece; and

"(2) $2,800,000 for fiscal year 2003 is authorized to be available for Turkey.

"(b) USE FOR PROFESSIONAL MILITARY EDUCATION.—Of the amounts available under paragraphs (1) and (2) of subsection (a) for fiscal year 2003, $500,000 of each such amount should be available for purposes of professional military education.

"(c) USE FOR JOINT TRAINING.—It is the sense of Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.

"(d) REPEAL.—Effective October 1, 2002, section 512 of the Security Assistance Act of 2000 (Public Law 106-280; 114 Stat. 856) is repealed.

"SEC. 1223. SECURITY ASSISTANCE FOR CERTAIN OTHER COUNTRIES.

"(a) FMF FOR CERTAIN OTHER COUNTRIES.—Of the total amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), the following amounts are authorized to be available on a grant basis for the following countries:

"(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $22,000,000.

"(2) BULGARIA.—For Bulgaria, $11,000,000.

"(3) THE CZECH REPUBLIC.—For the Czech Republic, $11,000,000.

"(4) GEORGIA.—For Georgia, $7,000,000.

"(5) HUNGARY.—For Hungary, $11,000,000.

"(6) JORDAN.—For Jordan, $198,000,000.

"(7) MALTA.—For Malta, $1,150,000.

"(8) THE PHILIPPINES.—For the Philippines, $25,000,000.

"(9) POLAND.—For Poland, $16,000,000.

"(10) ROMANIA.—For Romania, $12,000,000.

"(11) SLOVAKIA.—For Slovakia, $9,000,000.

"(12) SLOVENIA.—For Slovenia, $5,000,000.

"(b) IMET.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), the following amounts are authorized to be available for the following countries:

"(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $3,300,000.

"(2) BULGARIA.—For Bulgaria, $1,370,000.

"(3) THE CZECH REPUBLIC.—For the Czech Republic, $1,900,000.

"(4) GEORGIA.—For Georgia, $1,200,000.

"(5) HUNGARY.—For Hungary, $1,900,000.

"(6) JORDAN.—For Jordan, $4,000,000.

"(7) MALTA.—For Malta, $350,000.

"(8) THE PHILIPPINES.—For the Philippines, $2,000,000.

"(9) POLAND.—For Poland, $2,000,000.

"(10) ROMANIA.—For Romania, $1,500,000.

"(11) SLOVAKIA.—For Slovakia, $950,000.

"(12) SLOVENIA.—For Slovenia, $950,000.

"(c) REPEALS.—Sections 511 (a) and (b) and 515 of the Security Assistance Act of 2000 are repealed.

"SEC. 1224. ASSISTANCE TO LEBANON.

"(a) PROHIBITION.—Notwithstanding any other provision of law, $10,000,000 of the amounts made available for fiscal year 2003 or any subsequent fiscal year that are allocated for assistance to Lebanon under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund) may not be obligated unless and until the President certifies to the appropriate congressional committees that—

"(1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and

"(2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

"(b) REQUIREMENT RELATING TO FUNDS WITHHELD.—Notwithstanding any other provision of law, any funds withheld pursuant to subsection (a) may not be programmed in order to be used for a purpose other than for assistance to Lebanon until the last month of the fiscal year in which the authority to obligate such funds lapses.".

(1) $2,015,000,000 for the fiscal year 1986 and $2,015,000,000 for the fiscal year 1987 for the following countries signing the Camp David agreement: Israel and Egypt; and [753]

[753] The authorization under this chapter, incorporated into this law during recent years, included the following: fiscal year 1979—$1,902,000,000; fiscal year 1980—$1,935,000,000 (plus an $80,000,000 supplemental authorization for Central American Assistance); fiscal year 1981—$2,065,300,000; fiscal year 1982—$2,623,500,000; fiscal year 1983—$2,723,500,000; fiscal year 1984—$3,074,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization. See, however, recent Security Assistance Acts, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 166), provided the following:

"ECONOMIC SUPPORT FUND

"For necessary expenses to carry out the provisions of chapter 4 of part II, $2,270,000,000, to remain available until September 30, 2004: *Provided,* That of the funds appropriated under this heading, not less than $600,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That not less than $615,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: *Provided further,* That of the funds appropriated under this heading, $250,000,000 should be made available for assistance for Jordan: *Provided further,* That of the funds appropriated under this heading, up to $1,000,000 should be used to further legal reforms in the West Bank and Gaza, including judicial training on commercial disputes and ethics: *Provided further,* That not to exceed $200,000,000 of the funds appropriated under this heading in this Act may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: *Provided further,* That not to exceed $15,000,000 of the funds appropriated under this heading in Public Law 107–206, the Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States, FY 2002, may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Jordan: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further,* That not less than $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon to be used, among other programs, for scholarships and direct support of the American educational institutions in Lebanon: *Provided further,* That notwithstanding section 534(a) of this Act, funds appropriated under this heading that are made available for assistance for the Central Government of Lebanon shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the Government of Lebanon should enforce the custody and international pickup orders, issued during calendar year 2001, of Lebanon's civil courts regarding abducted American children in Lebanon: *Provided further,* That of the funds appropriated under this heading, $60,000,000 shall be made available for the United States Agency for International Development for assistance for Indonesia: *Provided further,* That of the funds appropriated under this heading, not less than $25,000,000 shall be made available for assistance for the Democratic Republic of Timor-Leste of which up to $1,000,000 may be available for administrative expenses of the United States Agency for International Development: *Provided further,* That of the funds appropriated under this heading, not less than $2,000,000 should be made available for assistance for countries to implement and enforce the Kimberley Process Certification Scheme: *Provided further,* That $3,000,000 should be made available for the international youth exchange program for secondary school students from countries with significant Muslim populations: *Provided further,* That funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That in the previous proviso, the term 'assistance' includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes: *Provided further,* That of the funds appropriated under this heading, not less than $10,000,000 should be made available during fiscal year 2003 for a contribution to the Special Court for Sierra Leone: *Provided further,* That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether

there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.".

See also title II in that Act, paragraph relating to Eastern Europe and the Baltic states (117 Stat. 168), and title V in that Act, including: sec. 515—Notification Requirements (117 Stat. 184); sec. 521—Definition of Program, Project, and Activity (117 Stat. 187); sec. 523—Afghanisan (117 Stat. 188); sec. 526—Democracy Programs (117 Stat. 189); sec. 536—Administration of Justice Activities (117 Stat. 195); sec. 549—Probition of Payment of Certain Expenses (117 Stat. 199); sec. 558—Burma (117 Stat. 202); sec. 560—Cambodia (117 Stat. 203); 567—Iraq (117 Stat. 206); sec. 568—West Bank and Gaza Program (117 Stat. 208); and sec. 584—Trade Capacity Building (117 Stat. 215).

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 574), provided the following:

"ECONOMIC SUPPORT FUND

"For an additional amount for 'Economic Support Fund', $2,422,000,000, of which:

"(1) not less than $700,000,000 shall be made available for assistance for Jordan;

"(2) $300,000,000, to remain available until September 30, 2005, shall be made available only for grants for Egypt: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made to Egypt, the principal amount, any part of which is to be guaranteed, shall not exceed $2,000,000,000: *Provided further,* That the Government of Egypt will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Egypt to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Egypt may be used by the Government of Egypt to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for full payment and performance of such obligations: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Egypt: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph;

"(3) not to exceed $1,000,000,000, to remain available until September 30, 2005, for grants for Turkey: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, direct loans or loan guarantees may be made to Turkey, the principal amount of direct loans or loans, any part of which is to be guaranteed, shall not exceed $8,500,000,000: *Provided further,* That the Government of Turkey will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loans or loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loans or loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Turkey to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Turkey may be used by the Government of Turkey to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That none of the funds made available by this paragraph may be made available for assistance for Turkey if the Secretary of State determines and reports to the Committees on Appropriations of the House and Senate, the Committee on Foreign Relations of the Senate and Committee on International Relations of the House that the Government of Turkey is not cooperating with the United States in Operation Iraqi Freedom, including the facilitation of humanitarian assistance to Iraq, or has unilaterally deployed troops into northern Iraq: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Turkey: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph: *Provided further,* That any balance of funds not made available to Turkey under this paragraph shall be transferred to, and merged with, funds appropriated for 'Iraq Relief and Reconstruction Fund';

"(4) not less than $30,000,000 for the Philippines to further prospects for peace in Mindanao, and not less than $167,000,000 for assistance for Afghanistan: *Provided,* That of the funds appropriated under this heading, $10,000,000 should be made available for investigations and research into allegations of war crimes, crimes against humanity, or genocide committed by Saddam Hussein or other Iraqis, and for a contribution to an international tribunal to bring these individuals to justice;

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(2) $1,785,000,000 for the fiscal year 1986 and $1,785,000,000 for the fiscal year 1987 for assistance under this chapter for recipients or purposes other than the countries referred to in paragraph (1).[753]

(b) Amounts appropriated to carry out this chapter are authorized to remain available until expended.

Sec. 533.[754] **Emergency Assistance.**—(a) Of the funds appropriated to carry out this chapter up to $75,000,000 for the fiscal year 1986 and up to $75,000,000 for the fiscal year 1987 may be made available for emergency use under this chapter when the national interests of the United States urgently require economic support to promote economic or political stability.

(b) Notwithstanding any provision of this chapter or of an appropriations act (including a joint resolution making continuing appropriations) which earmarks funds available to carry out this chapter for a specific country or purpose, up to 5 percent of each amount so earmarked may be used to carry out this section.

Sec. 534.[755, 756] **Administration of Justice.**—(a) The President may furnish assistance under this chapter to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in countries in Latin America and the Caribbean.

(b) Assistance under this section may only include—

(1) support for specialized professional training, scholarships, and exchanges for continuing legal education;

(2) programs to enhance prosecutorial and judicial capabilities and protection for participants in judicial cases;

(3)[757] notwithstanding section 660 of this Act—

"(5) regional funds made available under this heading for assistance that are not specified in paragraphs (1) through (4) shall be subject to the regular notification procedures of the Committees on Appropriations; and

"(6) unless otherwise specified herein, funds appropriated under this heading shall remain available until September 30, 2004.".

[754] 22 U.S.C. 2346b. Sec. 202 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1529) added sec. 535. Sec. 201(b) of the International Security and Development Cooperation Act of 1985 replaced the years "1982" and "1983" with "1986" and "1987".

[755] 22 U.S.C. 2346c. Sec. 534 was added by sec. 712 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 244).

[756] Sec. 536 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 195), provided the following:

"ADMINISTRATION OF JUSTICE ACTIVITIES

"SEC. 536. Of the funds appropriated or otherwise made available by this Act for 'Economic Support Fund', assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act. Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961.".

[757] Par. (3) was amended by sec. 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–181). It previously read as follows: "(3) notwithstanding section 660 of this Act, programs to enhance investigative capabilities, conducted under judicial or prosecutorial control".

Functions conferred upon the President in subpars. (A), (B), and (C) were delegated to the Assistant Administrator for Latin America and the Caribbean of the Agency for International Development in Department of State Delegation No. 189 of April 4, 1991 (56 F.R. 15127; April 15, 1991). The same delegation of authority further provided that activities covered by the subparagraphs "* * * shall be implemented in coordination with the International Criminal Investigative Training Assistance Program of the U.S. Department of Justice. Funds made available in any fiscal year for such assistance shall not exceed $500,000.". Department of State Delega-

(A) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

(B) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

(C) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; and

(D) programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders;

(4) strengthening professional organizations in order to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform;

(5) increasing the availability of legal materials and publications;

(6) seminars, conferences, and training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and internationally recognized human rights; and

(7) revision and modernization of legal codes and procedures.

(c)[756] Not more than $20,000,000 of the funds made available to carry out this chapter for any fiscal year shall be available to carry out this section, in addition to amounts otherwise available for such purposes.

(d) Funds may not be obligated for assistance under this section unless the Committee on Foreign Affairs[758] of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the amount and nature of the proposed assistance at least 15 days in advance in accordance with the procedures applicable to reprogrammings pursuant to section 634A of this Act.

(e)[756, 759] Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section. Of the funds made available to carry out this section, not more than $10,000,000 may be made available in fiscal year 1991[760] to carry out the provisions of sub-

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tion of Authority No. 145–17 of June 13, 2000 (65 F.R. 41745) amended the 1991 delegation of authority, stating this delegation anew but omitting the earlier sentence that limited funds.

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

[759] Subsec. (e) was substantively amended by sec. 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–181). Previously, it had an expiration date of September 30, 1987. The authority of this section was further extended from September 30, 1989, by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1206); and from September 30, 1990, by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1990). For fiscal year 1992, Public Law 102–145, as amended, waived the last sentence with certain provisos.

[760] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1990), struck out "fiscal year 1990" at this point and inserted "fiscal year 1991". Previously, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1206), struck out

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section (b)(3) of this section. The authority of this section shall expire on September 30, 1991.

Sec. 535.[761] **Economic Support for Disadvantaged South Africans.** * * * [Repealed—1993]

Chapter 5—International Military Education and Training[762]

Sec. 541.[763] **General Authority.**—The President is authorized to furnish, on such terms and conditions consistent with this Act as the President may determine (but whenever feasible on a reimbursable basis), military education and training to military and related civilian personnel of foreign countries. Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense, and may also include legislators[764] and individuals who are not members of the government,[765] if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, (iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv)[766] improve military justice systems and procedures in accordance with internationally recognized human rights.[767] Such training and education may be provided through—

(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

Sec. 542.[768] **Authorization.**—There are authorized to be appropriated to the President to carry out the purposes of this chapter $56,221,000 for the fiscal year 1986 and $56,221,000 for the fiscal year 1987.[769, 770]

"each of fiscal years 1988 and 1989" at this point and inserted "fiscal year 1990". Public Law 101–513 also amended the third sentence to extend the authority of this section to 1991.

Sec. 2(b)(6) of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3351), raised authorization from $7,000,000 to $10,000,000, and extended authorization to 1991, which was already extended by Public Law 101–513.

[761] Formerly at 22 U.S.C. 2346d. Sec. 535 was repealed by sec. 4(a)(3)(B) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505). It originally was added by sec. 511 of Public Law 99–440 (100 Stat. 411). Sec. 535 provided up to $40,000,000 in each fiscal year for or assistance for activities supporting disadvantaged South Africans, including scholarships, participation in trade unions, private enterprise, and alternative education and community development programs.

[762] Ch. 5 was added by sec. 106(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 732).

[763] 22 U.S.C. 2347.

[764] Sec. 10(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) inserted ", and may also include legislators," after "ministries of defense".

[765] Sec. 112(a) of Public Law 104–164 (110 Stat. 1427) added "and individuals who are not members of the government" after "legislators".

[766] Sec. 10(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) redesignated clause (iii) as (iv) and inserted clause (iii).

[767] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1997), added this sentence.

[768] 22 U.S.C. 2347a.

[769] The authorization figures for fiscal year 1986 and 1987 were added by sec. 104 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195).

Sec. 543.[771] **Purposes.**—Education and training activities conducted under this chapter shall be designed—

(1) to encourage effective and mutually beneficial relations and increased understanding between the United States and foreign countries in furtherance of the goals of international peace and security;

(2) to improve the ability of participating foreign countries to utilize their resources, including defense articles and defense services obtained by them from the United States, with maximum effectiveness, thereby contributing to greater self-reliance by such countries; and

(3)[772] to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.

Sec. 544.[773] **Exchange Training.**—(a)[774] In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States[775] (other than service academies)

Authorizations under sec. 542 during recent years included the following: fiscal year 1976—$27,000,000; fiscal year 1977—$30,200,000; fiscal year 1978—$31,000,000; fiscal year 1979—$31,800,000; fiscal year 1980—$31,800,000; fiscal year 1981—$34,000,000; fiscal year 1982—$42,000,000; fiscal year 1983—$42,000,000; fiscal year 1984—$56,452,000; fiscal year 1985—no authorization; fiscal years 1988 through 2000—no authorization; fiscal year 2001 (in Public Law 106–280)—$55,000,000; fiscal year 2002 (in Public Law 106–280)—$65,000,000; and fiscal year 2003 (in Public Law 107–228)—$85,000,000.

Authorization for fiscal year 2003 was enacted in sec. 1211 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1428), which provided the following:

"SEC. 1211. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the President $85,000,000 for fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training).".

Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 176), provided the following:

"INTERNATIONAL MILITARY EDUCATION AND TRAINING

"For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $80,000,000, of which up to $3,000,000 may remain available until expended: *Provided,* That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further,* That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training and funds made available for Algeria, Nigeria and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations.".

See also in that Act: sec. 505—Limitation on Representational Allowances (117 Stat. 180); 515—Notification Requirements (117 Stat. 184); sec. 549—Prohibition of Payment of Certain Expenses (117 Stat. 199); sec. 557—Nigeria (117 Stat. 202); and sec. 581—Training Program Evaluation (117 Stat. 213).

[770] Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) struck out the second sentence of sec. 542. This sentence had prohibited training under this section outside the United States after June 30, 1976, unless the President reported and justified such training to the Congress.

[771] 22 U.S.C. 2347b.

[772] Par. (3) was added by sec. 11(b)(3) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 736).

[773] 22 U.S.C. 2347c. Sec. 544 was added by sec. 126 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205).

[774] Sec. 112(b) of Public Law 104–164 (110 Stat. 1427) added subsec. designation "(a)" and added subsec. (b).

[775] Sec. 935 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 provided the following:

"(a) AUTHORITY.—The United States Army Russian Institute in Garmisch-Partenkirchen, Federal Republic of Germany, shall be treated for purposes of section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) as if it were located in the United States.

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without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

(b)[774] The President may provide for the attendance of foreign military and civilian defense personnel at flight training schools and programs (including test pilot schools) in the United States without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States flight training schools and programs (including test pilot schools) and comparable flight training schools and programs of foreign countries.

(c)[776] (1) The President is authorized to enter into cooperative arrangements providing for the participation of foreign and United States military and civilian defense personnel in post-undergraduate flying training and tactical leadership programs at training locations in Southwest Asia without charge to participating foreign countries, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act). Such training must satisfy common requirements with the United States for post-undergraduate flying and tactical leadership training.

(2) Cooperative arrangements under this subsection shall require an equitable contribution of support and services from each participating country. The President may waive the requirement for an equitable contribution of a participating foreign country if he determines that to do so is important to the national security interests of the United States.

(3) Costs incurred by the United States shall be charged to the current applicable appropriations accounts or funds of the participating United States Government agencies.

Sec. 545.[777] **Training in Maritime Skills.**—The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills.

SEC. 546.[778] **PROHIBITION ON GRANT ASSISTANCE FOR CERTAIN HIGH INCOME FOREIGN COUNTRIES.**

(a) IN GENERAL.—None of the funds made available for a fiscal year for assistance under this chapter may be made available for assistance on a grant basis for any of the high-income foreign coun-

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"(b) EXPIRATION OF AUTHORITY.—Subsection (a) shall cease to be in effect upon the enactment in foreign assistance authorizing legislation of an amendment to section 544 of the Foreign Assistance Act of 1961 that provides the same authority as is provided by subsection (a).".

[776] Sec. 1213 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added subsec. (c).

[777] 22 U.S.C. 2347d. Added by sec. 127(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 205).

[778] 22 U.S.C. 2347c. Added by sec. 112(c)(1) of Public Law 104–164 (110 Stat. 1427).

tries described in subsection (b) for military education and training of military and related civilian personnel of such country.

(b) HIGH-INCOME FOREIGN COUNTRIES DESCRIBED.—The high-income foreign countries described in this subsection are Austria, Finland, the Republic of Korea, Singapore, and Spain.

SEC. 547.[779] CONSULTATION REQUIREMENT.

The selection of foreign personnel for training under this chapter shall be made in consultation with the United States defense attache to the relevant country.

SEC. 548.[780] RECORDS REGARDING FOREIGN PARTICIPANTS.

(a) DEVELOPMENT AND MAINTENANCE OF DATABASE.—In [781] order to contribute most effectively to the development of military professionalism in foreign countries, the Secretary of Defense shall develop and maintain a database containing records on each foreign military or defense ministry civilian participant in education and training activities conducted under this chapter after December 31, 2000. This record shall include the type of instruction received, the dates of such instruction, whether such instruction was completed successfully, and, to the extent practicable, a record of the person's subsequent military or defense ministry career and current position and location.

(b) [782] ANNUAL LIST OF FOREIGN PERSONNEL.—For the purposes of preparing the report required pursuant to section 549 of this Act, the Secretary of State may annually request the Secretary of Defense to provide information contained in the database, with respect to a list submitted to the Secretary of Defense by the Secretary of State, that contains the names of foreign personnel or military units. To the extent practicable, the Secretary of Defense shall provide, and the Secretary of State may take into account, the information contained in the database, if any, relating to the Secretary of State's submission.

(c) [782] UPDATING OF DATABASE.—If the Secretary of State determines and reports to Congress under section 549 of this Act that a foreign person identified in the database maintained pursuant to this section was involved in a violation of internationally recognized human rights, the Secretary of Defense shall ensure that the database is updated to contain such fact and all relevant information.

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[779] 22 U.S.C. 2347f. Added by sec. 202 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851).

[780] 22 USC 2347g. Added by sec. 202 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851).

Sec. 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 213), provided the following:

"TRAINING PROGRAM EVALUATION

"SEC. 581. Not later than June 30, 2003, the Secretary of State, in consultation with the Secretary of Defense, shall submit a report to the Committees on Appropriations describing in detail the steps that the Departments of State and Defense are making to improve performance evaluation procedures for the International Military Education and Training (IMET) program and the progress that the Departments of State and Defense are making in implementing section 548 of the Foreign Assistance Act of 1961.".

[781] Sec. 1212(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1429) struck out "In" and inserted in lieu thereof "(a) DEVELOPMENT AND MAINTENANCE OF DATABASE.—In".

[782] Sec. 1212(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1429) added subsecs. (b) and (c).

SEC. 549.[783] **HUMAN RIGHTS REPORT.**

(a) IN GENERAL.—Not later than March 1 of each year, the Secretary of State shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing, to the extent practicable, any involvement of a foreign military or defense ministry civilian participant in education and training activities under this chapter in a violation of internationally recognized human rights reported under section 116(d) of this Act subsequent to such participation.

(b) FORM.—The report described in subsection (a) shall be in unclassified form, but may include a classified annex.

Chapter 6—Peacekeeping Operations[784]

Sec. 551.[785] **General Authority.**—The President is authorized to furnish assistance to friendly countries and international organizations, on such terms and conditions as he may determine, for peacekeeping operations and other programs carried out in furtherance of the national security interests of the United States. Such assistance may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945,[786] except that such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specifically authorized by this section.[787]

Sec. 552.[788] **Authorization of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $37,000,000 for the fiscal year 1986 and $37,000,000 for the fiscal year 1987.[789]

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[783] 22 U.S.C. 2347h. Added by sec. 1212(a) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1428).

[784] Ch. 6 was added by sec. 12(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 736).

[785] 22 U.S.C. 2348.

[786] For text, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. H.

[787] The final sentence in this section was added by sec. 10(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705).

[788] 22 U.S.C. 2348a.

[789] The authorization figures for fiscal years 1986 and 1987 were added by sec. 105(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195). Authorizations under sec. 552 during recent years included the following: fiscal year 1979—$30,900,000; fiscal year 1980—$21,100,000; fiscal year 1981—$25,000,000; fiscal year 1982—$19,000,000; fiscal year 1983—$19,000,000; fiscal year 1984—$46,200,000; fiscal year 1985—no authorization; fiscal years 1988 through 1997—no authorization; fiscal year 1998 (in Public Law 105–277)—$77,500,000; fiscal year 1999 (in Public Law 105–277)—$83,000,000; fiscal year 2000 (in Public Law 106–113)—$500,000,000 ; fiscal year 2001 (in Public Law 106–113)—"such funds as may be necessary"; fiscal year 2002—no authorization; and fiscal year 2003 (in Public Law 107–228)—$725,981,000.

For fiscal year 2003, sec. 113 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1358), provided the following:

"SEC. 107. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

"(a) * * *

"(b) CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—There is authorized to be appropriated under the heading 'Contributions for International Peacekeeping Activities' $725,981,000 for the fiscal year 2003 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and title III of that Act (at 117 Stat. 177) provided the following:

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

(c)[790] If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may (1) exercise the authority of section 610(a) of this Act to transfer funds available to carry out chapter 4 of this part for use under this chapter without regard to the 20–percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and[791] (2)[792] in the event the President also determines that such unforeseen emergency requires the immediate pro-

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"PEACEKEEPING OPERATIONS

"For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $115,000,000: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.".

See also in that Act: sec. 515—Notification Requirements (117 Stat. 184).

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 578), provided the following:

"PEACEKEEPING OPERATIONS

"For an additional amount for 'Peacekeeping Operations', $100,000,000, to remain available until September 30, 2004.

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"GENERAL PROVISIONS, THIS CHAPTER

"SEC. 1501. Any appropriation made available in this chapter under the headings 'International Disaster Assistance', 'United States Emergency Refugee and Migration Assistance Fund', 'Nonproliferation, Anti-Terrorism, Demining and Related Programs', 'Peacekeeping Operations', or 'Iraq Relief and Reconstruction Fund' may be transferred between such appropriations for use for any of the purposes for which the funds in such receiving account may be used: *Provided,* That the total amount transferred from funds appropriated under these headings shall not exceed $100,000,000: *Provided further,* That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority contained in this section: *Provided further,* That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 5 days in advance of the obligations of funds.".

Sec. 4(b)(1) of Public Law 97–132 (95 Stat. 1694) authorized an additional $125,000,000 to carry out this chapter during fiscal year 1982 for use in paying the U.S. contribution to the budget of the Multinational Force and Observers in Sinai. See *Legislation on Foreign Relations Through 2002,* vol. II, sec. G.

[790] Subsec. (c) was added by sec. 10(c) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705).

Sec. 546 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 198), provided the following:

"WAR CRIMES TRIBUNALS DRAWDOWN

"SEC. 546. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961, as amended, of up to $30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further*, That funds made available for tribunals other than Yugoslavia or Rwanda shall be made available subject to the regular notification procedures of the Committees on Appropriations.".

[791] Sec. 114(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1528) increased the amount which may be transferred in any fiscal year from $10,000,000 to $15,000,000 and deleted language prohibiting earmarked funds from being transferred.

[792] Subsec. (c), par. (2), and subsec. (d) were added by sec. 105(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195).

vision of assistance under this chapter, direct the drawdown of commodities and services from the inventory and resources of any agency of the United States Government of an aggregate value not to exceed $25,000,000 in any fiscal year.

(d)[792] There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under subsection (c)(2).

Sec. 553.[793] **Middle East Special Requirements Fund.** * * * [Repealed—1980]

Sec. 553.[794] **Administrative Authorities.**—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.

SEC. 554.[795] **DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.**

(a) UNITED STATES COSTS.—The President shall annually provide to the Secretary General of the United Nations data regarding all costs incurred by the United States Department of Defense during the preceding year in support of all United Nations Security Council resolutions as reported to the Congress pursuant to section 8079 of the Department of Defense Appropriations Act, 1998.

(b) UNITED NATIONS MEMBER COSTS.—The President shall request that the United Nations compile and publish information concerning costs incurred by United Nations members in support of such resolutions.

Chapter 7—Air Base Construction in Israel[796]

Sec. 561.[797] **General Authority.**—The President is authorized—

(1) to construct such air bases in Israel for the Government of Israel as may be agreed upon between the Government of Israel and the Government of the United States to replace the Israeli airbases located at Etzion and Etam on the Sinai peninsula that are to be evacuated by the Government of Israel; and

(2) for purposes of such construction, to furnish as a grant to the Government of Israel, on such terms and conditions as the President may determine, defense articles and defense services, which he may acquire from any source, of a value not to exceed the amount appropriated pursuant to section 562(a).

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[793] The Middle East Special Requirements Fund was originally added as sec. 903 of this Act by the FA Act of 1974 and moved to sec. 553 by the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737). Sec. 553 was repealed by sec. 116(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140).

[794] 22 U.S.C. 2348c. Originally added as sec. 554, was redesignated as sec. 553 by sec. 116(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140).

[795] 22 U.S.C. 2348d. Sec. 722 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added sec. 554.

[796] Ch. 7 was added by sec. 3 of the Special International Security Assistance Act of 1979 (Public Law 96–35; 93 Stat. 89).

[797] 22 U.S.C. 2349.

Sec. 562.[798] **Authorization and Utilization of Funds.**—(a) There is authorized to be appropriated to the President to carry out this chapter not to exceed $800,000,000, which may be made available until expended.[799]

(b) Upon agreement by the Government of Israel to provide to the Government of the United States funds equal to the difference between the amount required to complete the agreed construction work and the amount appropriated pursuant to subsection (a) of this section, and to make those funds available, in advance of the time when payments are due, in such amounts and at such times as may be required by the Government of the United States to meet those additional costs of construction, the President may incur obligations and enter into contracts to the extent necessary to complete the agreed construction work, except that this authority shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Funds made available by the Government of Israel pursuant to subsection (b) of this section may be credited to the appropriation account established to carry out the purposes of this section for the payment of obligations incurred and for refund to the Government of Israel if they are unnecessary for that purpose, as determined by the President. Credits and the proceeds of guaranteed loans made available to the Government of Israel pursuant to the Arms Export Control Act, as well as any other source of financing available to it, may be used by Israel to carry out its undertaking to provide such additional funds.

Sec. 563.[800] **Waiver Authorities.**—(a) It is the sense of the Congress that the President should take all necessary measures consistent with law to insure the efficient and timely completion of the construction authorized by this chapter, including the exercise of authority vested in him by section 633(a) of this Act.

(b) The provisions of paragraph (3) of section 636(a) of this Act shall be applicable to the use of funds available to carry out this chapter, except that no more than sixty persons may be engaged at any one time under that paragraph for purposes of this chapter.

Chapter 8—Antiterrorism Assistance[801]

Sec. 571.[802] **General Authority.**—Notwithstanding any other provision of law that restricts assistance to foreign countries (other

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[798] 22 U.S.C. 2349a.

[799] The Supplemental Appropriations Act, 1979 (Public Law 96–35; 93 Stat. 103), provided the following:

"For necessary expenses to carry out the provisions of chapter 7 of the Foreign Assistance Act of 1961, as amended, $800,000,000, to remain available until expended: *Provided,* That authority to enter into contracts may be exercised to the extent necessary to carry out the purposes of that chapter.".

[800] 22 U.S.C. 2349b. See also sec. 6 of Executive Order 11223 which pertains to the administration of this chapter, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[801] Ch. 8 was added by the International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972). Pursuant to Public Law 98–151, ch. 8 was enacted as contained in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983, except for sec. 575 (redesignated in 1996 as sec. 574), which was included in Public Law 98–151.

Sec. 122 of Public Law 104–164 (110 Stat. 1428) provided the following:

"SEC. 122. RESEARCH AND DEVELOPMENT EXPENSES.

"Funds made available for fiscal years 1996 and 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.; relating to antiterrorism assistance)

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than sections 502B and 620A of this Act),[803] the President is authorized to furnish, on such terms and conditions as the President may determine, assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

Sec. 572.[804] **Purposes.**—Activities conducted under this chapter shall be designed—

(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

Sec. 573.[805] **Limitations.**—(a) Whenever the President determines it to be consistent with and in furtherance of the purposes of this chapter, and on such terms and conditions consistent with this Act as he may determine, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 644(m)) in United States dollars by the foreign country. Credits and the proceeds of guaranteed loans made available to such countries pursuant to the Arms Export Control Act shall not be used for such payments. Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

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may be made available to the Technical Support Working Group of the Department of State for research and development expenses related to contraband detection technologies or for field demonstrations of such technologies (whether such field demonstrations take place in the United States or outside the United States).".

[802] 22 U.S.C. 2349aa. Delegation of Authority No. 145 (February 4, 1984) delegated the functions conferred upon the President by chapter 8 to the Director of the Office for Combating Terrorism.

[803] Sec. 121(a) of Public Law 104–164 (110 Stat. 1428) struck out "Subject to the provisions of this chapter", and inserted in lieu thereof "Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act)".

[804] 22 U.S.C. 2349aa–1.

[805] 22 U.S.C. 2349aa–2. Sec. 121(b)(1) of Public Law 104–164 (110 Stat. 1428) struck out "SPECIFIC AUTHORITIES AND" from the section heading. Sec. 121(b)(2) of that Public Law struck out subsec. (a) of this section and redesignated subsecs. (b) through (f) as subsecs. (a) through (e), respectively. Subsec. (f), however, had been struck out previously by Public Law 104–132 (see note below). Subsec. (a) had read as follows:

"(a) Notwithstanding section 660 of this Act, services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 644(m)) pursuant to section 632 of this Act from funds available to carry out this chapter.".

(b) The Assistant Secretary of State for Democracy, Human Rights, and Labor[806] shall be consulted in the[807] determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

(c)[808] (1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.

(d) This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

(f)[809] [Repealed—1996]

Sec. 574.[810] * * * [Repealed—1996]

Sec. 574.[811] **Authorizations of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out this

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[806] Sec. 163(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), amended the title designation by striking out "Human Rights and Humanitarian Affairs", and inserting in lieu thereof "Democracy, Human Rights, and Labor".

[807] Sec. 328(a)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257) struck out "development and implementation of the antiterrorism assistance program under this chapter, including" at this point.

[808] Subsec. (c), redesignated from subsec. (d) by sec. 121(b)(3) of Public Law 104–164 (110 Stat. 1428), was amended and restated by sec. 328(a)(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257). Portions were amended and restated earlier by sec. 213(b) of Public Law 101–604 (104 Stat. 3086), sec. 507 of Public Law 99–399 (100 Stat. 873).

In view of amendments to this subsection by Public Law 104–132, amendments contained in sec. 121(b)(4) of Public Law 104–164 (110 Stat. 1428) cannot be executed. Sec. 121(b)(4) of that Public Law required:

"(b) LIMITATIONS.—Section 573 of such Act (22 U.S.C. 2349aa–2) is amended—* * *

"(4) in subsection (c) (as redesignated)—

"(A) by striking paragraphs (1) and (2);

"(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

"(C) by amending paragraph (2) (as redesignated) to read as follows:

"(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

"(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

"(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.".

[809] Subsec. (f) was added by sec. 501(c) of Public Law 99–83 (99 Stat. 221), and struck out by sec. 328(a)(3) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257). It had read as follows:

"(f) Funds made available to carry out this chapter may not be used for personnel compensation or benefits.".

[810] Formerly at 22 U.S.C. 2349aa–3. Sec. 121(c) of Public Law 104–164 (110 Stat. 1428) repealed sec. 574, which had required reports to Congress on antiterrorism assistance.

[811] 22 U.S.C. 2349aa–4. Redesignated from sec. 575 to sec. 574 by sec. 121(d) of Public Law 104–164 (110 Stat. 1428). Sec. 1251 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added funding levels for fiscal year 2003. Previously, sec. 401 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 854) struck out funding levels of "$9,840,000 for the fiscal year 1986 and $14,680,000 for the fiscal year 1987" and inserted in lieu thereof "$72,000,000 for fiscal year 2001 and $73,000,000 for fiscal year 2002.". Authorization for fiscal year 1986 was enacted by sec. 501(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 219). The authorization for fiscal year 1987 of $14,680,000 was inserted in lieu of the amount of $9,840,000 (originally enacted by Public Law 99–83) by sec. 401 of Public Law 99–399 (100 Stat. 862). Previous authorizations include: fiscal year

Continued

chapter $72,000,000 for fiscal year 2001, $73,000,000 for fiscal year 2002, and $64,200,000 for fiscal year 2003.

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

Sec. 575.[812] **Administrative Authorities.**—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.

1984—$5,000,000; fiscal year 1985—no authorization; fiscal year 1986—$9,840,000; fiscal year 1987—$14,680,000; fiscal years 1988 through 2000—no authorization; fiscal year 2001—$72,000,000; fiscal year 2002—$73,000,000.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 175), provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $306,400,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), consistent with the provisions of section 562 of this Act, and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further,* That of this amount not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so following consultation with the appropriate committees of Congress: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That of the funds made available for demining and related activities, not to exceed $675,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That the Secretary of State is authorized to provide not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract.".

See also in that Act: sec. 506—Prohibition on Financing Nuclear Goods (117 Stat. 181); sec. 515—Notification Requirements (117 Stat. 184); sec. 517—Independent States of the Former Soviet Union (117 Stat. 185); and sec. 562—Korean Peninsula Energy Development Organization (117 Stat. 204).

Sec. 328(b) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257) provided the following:

"(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

"(A) to procure explosives detection devices and other counterterrorism technology; and

"(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

"(2) As used in this subsection, the term 'major non-NATO allies' means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

"(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

"(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

"(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.".

[812] 22 U.S.C. 2349aa–5. Redesignated from sec. 576 to sec. 575 by sec. 121(d) of Public Law 104–164 (110 Stat. 1428).

Sec. 577.[813] * * * [Repealed—1985]

CHAPTER 9—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE[814]

SEC. 581.[815] PURPOSES.

The purposes of assistance under this chapter are to halt the proliferation of nuclear, chemical, and biological weapons, and conventional weaponry, through support of activities designed—

(1) to enhance the nonproliferation and export control capabilities of friendly countries by providing training and equipment to detect, deter, monitor, interdict, and counter proliferation;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of vital national security interest;

(3) to accomplish the activities and objectives set forth in sections 503 and 504 of the FREEDOM Support Act (22 U.S.C. 5853, 5854), without regard to the limitation of those sections to the independent states of the former Soviet Union; and

(4) to promote multilateral activities, including cooperation with international organizations, relating to nonproliferation.

SEC. 582.[816] AUTHORIZATION OF ASSISTANCE.

Notwithstanding any other provision of law (other than section 502B or section 620A of this Act), the President is authorized to furnish, on such terms and conditions as the President may determine, assistance in order to carry out the purposes of this chapter. Such assistance may include training services and the provision of funds, equipment, and other commodities related to the detection, deterrence, monitoring, interdiction, and prevention or countering of proliferation, the establishment of effective nonproliferation laws and regulations, and the apprehension of those individuals involved in acts of proliferation of such weapons.

SEC. 583.[817] TRANSIT INTERDICTION.

(a) ALLOCATION OF FUNDS.—In providing assistance under this chapter, the President should ensure that not less than one-quarter of the total of such assistance is expended for the purpose of enhancing the capabilities of friendly countries to detect and interdict proliferation-related shipments of cargo that originate from, and are destined for, other countries.

(b) PRIORITY TO CERTAIN COUNTRIES.—Priority shall be given in the apportionment of the assistance described under subsection (a) to any friendly country that has been determined by the Secretary of State to be a country frequently transited by proliferation-related shipments of cargo.

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[813] Formerly at 22 U.S.C. 2349aa–6. Sec. 577 was repealed by sec. 501(d) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 220). The authorities under this chapter would have expired on September 30, 1985.

[814] Sec. 301 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 851) added chapter 9, secs. 581–585. Sec. 584 and 585 were subsequently redesignated as secs. 585 and 586, respectively, by sec. 1303 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436), which also added a new sec. 584.

[815] 22 U.S.C. 2349bb.

[816] 22 U.S.C. 2349bb–1.

[817] 22 U.S.C. 2349bb–2.

SEC. 584.[818] **INTERNATIONAL NONPROLIFERATION EXPORT CONTROL TRAINING.**

(a) GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this chapter (but whenever feasible on a reimbursable basis), education and training to appropriate military and civilian personnel of foreign countries for the purpose of enhancing the nonproliferation and export control capabilities of such personnel through their attendance in special courses of instruction conducted by the United States.

(b) ADMINISTRATION OF COURSES.—The Secretary of State shall have overall responsibility for the development and conduct of international nonproliferation education and training programs under this section, and may utilize other departments and agencies of the United States, as appropriate, to recommend personnel for the education and training and to administer specific courses of instruction.

(c) PURPOSES.—Education and training activities conducted under this section shall be—

(1) of a technical nature, emphasizing techniques for detecting, deterring, monitoring, interdicting, and countering proliferation;

(2) designed to encourage effective and mutually beneficial relations and increased understanding between the United States and friendly countries; and

(3) designed to improve the ability of friendly countries to utilize their resources with maximum effectiveness, thereby contributing to greater self-reliance by such countries.

(d) PRIORITY TO CERTAIN COUNTRIES.—In selecting personnel for education and training pursuant to this section, priority should be given to personnel from countries determined by the Secretary of State to be countries frequently transited by proliferation-related shipments of cargo.

SEC. 585.[819] **LIMITATIONS.**

The limitations contained in section 573(a) and (d) of this Act shall apply to this chapter.

[818] 22 U.S.C. 2349bb–2a. Sec. 1303 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436) redesignated secs. 584 and 585 as secs. 585 and 586, respectively, and added a new sec. 584.

[819] 22 U.S.C. 2349bb–3. Originally enacted as sec. 584; redesignated as sec. 585 by sec. 1303(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436).

SEC. 586.[820] **AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out this chapter $162,000,000 for fiscal year 2003.[821]

(b) AVAILABILITY OF FUNDS.—Funds made available under subsection (a) may be used notwithstanding any other provision of law (other than section 502B or 620A) and shall remain available until expended.

(c)[822] TREATMENT OF APPROPRIATIONS.—Amounts made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002,[822] under "Nonproliferation, Antiterrorism, Demining, and Related Programs" and "Assistance for the Independent States of the Former Soviet Union" accounts for the activities described in subsection (d) shall be considered to be made available pursuant to this chapter.

(d) COVERED ACTIVITIES.—The activities referred to in subsection (c) are—

(1) assistance under the Nonproliferation and Disarmament Fund;

(2) assistance for science and technology centers in the independent states of the former Soviet Union;

(3) export control assistance; and

(4) export control and border assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) or the FREEDOM Support Act (22 U.S.C. 5801 et seq.).

PART III

Chapter 1—General Provisions

Sec. 601.[823] **Encouragement of Free Enterprise and Private Participation.**—(a) The Congress of the United States recognizes the vital role of free enterprise in achieving rising levels of production and standards of living essential to economic progress and development. Accordingly, it is declared to be the policy of the United States to encourage the efforts of other countries to increase the flow of international trade, to foster private initiative and competi-

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[820] 22 U.S.C. 2349bb–4. Originally enacted as sec. 585; redesignated as sec. 586 by sec. 1303(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1436).

Sec. 1301(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) provided the following:

"(b) SUBALLOCATIONS.—Of the amount authorized to be appropriated to the President for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb-4)—

"(1) $2,000,000 is authorized to be available for such fiscal year for the purpose of carrying out section 584 of the Foreign Assistance Act of 1961, as added by section 1303 of this Act; and

"(2) $65,000,000 for fiscal year 2003 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.".

See also secs. 303 and 304 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 853), in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[821] Sec. 1301(a)(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1435) struck out "$129,000,000 for fiscal year 2001 and $142,000,000 for fiscal year 2002." and inserted in lieu thereof "$162,000,000 for fiscal year 2003.".

[822] Sec. 1301(a)(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1435) struck out "FISCAL YEAR 2001" in the subsec. heading; and in the text struck out "2001" and inserted in lieu thereof "2002".

[823] 22 U.S.C. 2351.

tion, to encourage the development and use of cooperatives, credit unions, and savings and loan associations, to discourage monopolistic practices, to improve the technical efficiency of their industry, agriculture, and commerce, and to strengthen free labor unions; and to encourage the contribution of United States enterprise toward economic strength of less developed friendly countries, through private trade and investment abroad, private participation in programs carried out under this Act (including the use of private trade channels to the maximum extent practicable in carrying out such programs), and exchange of ideas and technical information on the matters covered by this subsection.

(b) In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this Act, the President shall—

(1) make arrangements to find, and draw the attention of private enterprise to opportunities for investment and development in less developed countries and areas;

(2) establish an effective system for obtaining adequate information with respect to the activities of, and opportunities for, nongovernmental participation in the development process, and for utilizing such information in the planning, direction, and execution of programs carried out under this Act, and in the coordination of such programs with the ever-increasing developmental activities of nongovernmental United States institutions;

(3)[824] accelerate a program of negotiating treaties for commerce and trade, including tax treaties, which shall include provisions to encourage and facilitate the flow of private investment to, and its equitable treatment in, friendly countries and areas participating in programs under this Act;

(4)[824] seek, consistent with the national interest, compliance by other countries or areas with all treaties for commerce and trade and taxes, and take all reasonable measures under this Act or other authority to secure compliance therewith and to assist United States citizens in obtaining just compensation for losses sustained by them or payments exacted from them as a result of measures taken or imposed by any country or area thereof in violation of any such treaty;

(5)[824] to the maximum extent practicable[825] carry out programs of assistance through private channels and to the extent practicable in conjunction with local private or governmental participation, including loans under the authority of section 122[826] to any individual, corporation, or other body of persons;[825]

(6)[827] take appropriate steps to discourage nationalization, expropriation, confiscation, seizure of ownership or control of private investment and discriminatory or other actions, having

[824] Sec. 301(a)(2) of the FA Act of 1966 redesignated paras. (2), (3), (4), (5), and (6) as paras. (3), (4), (5), (6), and (7), respectively, and added a new para. (2).

[825] Sec. 301(a)(2) of the FA Act of 1963 inserted "to the maximum extent practicable" in lieu of "wherever appropriate", and inserted a semicolon for the period at the end of the paragraph.

[826] Sec. 102(g)(2)(B) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942) inserted "122" in lieu of "201".

[827] Pars. (6) and (7) were added by sec. 301(a)(3) of the FA Act of 1963. Originally added as pars. (5) and (6), they were redesignated by sec. 301(a)(2) of the FA Act of 1966.

the effect thereof, undertaken by countries receiving assistance under this Act, which divert available resources essential to create new wealth, employment, and productivity in those countries and otherwise impair the climate for new private investment essential to the stable economic growth and development of those countries;

(7)[827] utilize wherever practicable the services of United States private enterprise (including, but not limited to, the services of experts and consultants in technical fields such as engineering);

(8)[828] utilize wherever practicable the services of United States private enterprise on a cost-plus incentive fee contract basis to provide the necessary skills to develop and operate a specific project or program of assistance in a less developed friendly country or area in any case in which direct private investment is not readily encouraged, and provide where appropriate for the transfer of equity ownership in such project or program to private investors at the earliest feasible time.

(c)[829] (1) There is hereby established an International Private Investment Advisory Council on Foreign Aid to be composed of such number of leading American business specialists as may be selected, from time to time, by the Administrator of the Agency for International Development for the purpose of carrying out the provisions of this subsection.[830] The members of the Council shall serve at the pleasure of the Administrator, who shall designate one member to serve as Chairman.

(2) It shall be the duty of the Council, at the request of the Administrator, to make recommendations to the Administrator with respect to particular aspects of programs and activities under this Act where private enterprise can play a contributing role and to act as liaison for the Administrator to involve specific private enterprises in such programs and activities.[830]

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[828] Sec. 301(a)(3) of the FA Act of 1966 added par. (8).

[829] Subsec. (c) was amended by sec. 301(a)(4) of the FA Act of 1966. It formerly read as follows:

"(c)(1) There is hereby established an Advisory Committee on Private Enterprise in Foreign Aid. The Advisory Committee shall carry out studies and make recommendations for achieving the most effective utilization of the private enterprise provisions of this Act to the head of the Agency charged with administering the programs under part I of this Act, who shall appoint the Committee.

"(2) Members of the Advisory Committee shall represent the public interest and shall be selected from the business, labor and professional world, from the universities and foundations, and from among persons with extensive experience in government. The Advisory Committee shall consist of not more than nine members, and one of the members shall be designated as chairman.

"(3) Members of the Advisory Committee shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b2) for travel and other expenses incurred in attending meetings of the Advisory Committee.

"(4) The Advisory Committee shall, if possible, meet not less frequently than once each month, shall submit such interim reports as the Committee finds advisable, and shall submit a final report not later than June 30, 1965, whereupon the Committee shall cease to exist. Such reports shall be made available to the public and to the Congress.

"(5) The expenses of the Committee, which shall not exceed $50,000, shall be paid from funds otherwise available under this Act.".

[830] This function of the Administrator of AID was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

(3) The members of the Advisory Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 of the United States Code[831] for travel and other expenses incurred by them in the performance of their functions under this subsection.

(4) The expenses of the Advisory Council shall be paid by the Administrator from funds otherwise available under this Act.

(d)[832] It is the sense of Congress that the Agency for International Development should continue to encourage, to the maximum extent consistent with the national interest, the utilization of engineering and professional services of United States firms (including, but not limited to, any corporation, company, partnership, or other association) or by an affiliate of such United States firms in connection with capital projects financed by funds authorized under this Act.[833]

(e)[834] (1) The Congress finds that significantly greater effort must be made in carrying out programs under part I of this Act to award contracts on the basis of competitive selection procedures. All such contracts should be let on the basis of competitive selection procedures except in those limited cases in which the procurement regulations governing the agency primarily responsible for administering part I of this Act allow noncompetitive procedures to be used.

(2)[835] * * * [Repealed—1981]

Sec. 602.[836] **Small Business.**—(a) Insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of this Act, the President shall assist American small business to participate equitably in the furnishing of commodities, defense articles, and services (including defense services) financed with funds made available under this Act—

(1) by causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with such funds;

(2) by causing to be made available to prospective purchasers in the countries and areas receiving assistance under this Act information as to such commodities, articles, and services produced by small independent enterprises in the United States; and

(3) by providing for additional services to give small business better opportunities to participate in the furnishing of such commodities, articles, and services financed with such funds.

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[831] The words "5703 of title 5 of the United States Code" were inserted in lieu of "5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b2)" by sec. 301(a) of the FA Act of 1967.

[832] Subsec. (d) was added by sec. 301(b) of the FA Act of 1964.

[833] This responsibility of the agency and its Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[834] Subsec. (e) was added by sec. 501 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 956).

[835] Par. (2), which had required certain information to be supplied to Congress within the congressional presentation materials for development assistance in fiscal years 1980 and 1981 concerning contracts entered into by AID without competitive selection procedures, was struck out by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[836] 22 U.S.C. 2352.

(b) There shall be an Office of Small Business, headed by a Special Assistant for Small Business, in such agency of the United States Government as the President may direct, to assist in carrying out the provisions of subsection (a) of this section.

(c) The Secretary of Defense shall assure that there is made available to suppliers in the United States, and particularly to small independent enterprises, information with respect to purchases made by the Department of Defense pursuant to part II, such information to be furnished as far in advance as possible.

Sec. 603.[837] **Shipping on United States Vessels.**—The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954 as amended (7 U.S.C. 1691 et seq.), and transfers of fresh fruit and products thereof under this Act shall not be governed by the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241), or any other law relating to the ocean transportation of commodities on United States flag vessels.

Sec. 604.[838] **Procurement.**—(a)(1) LIMITATIONS ON PROCUREMENT OUTSIDE THE UNITED STATES.—Funds made available for assistance under this Act may be used by the President for procurement—

(A) only in the United States, the recipient country, or developing countries; or

(B) in any other country but only if—

(i) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in subparagraph (A); or

(ii) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(I) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in subparagraph (A); or

(II) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(2) For purposes of this subsection, the term "developing countries" shall not include advanced developing countries.

(b) No funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase,

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[837] 22 U.S.C. 2353.

[838] 22 U.S.C. 2354. Sec. 597 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1694), restated sec. 604(a), which formerly read as follows:

"Procurement.—(a) Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States, and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.".

adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(c)[839] In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954 as amended, for transfer by grant under this Act to any recipient country in accordance with its requirements, the President shall, insofar as practicable and when in furtherance of the purposes of this Act, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this Act.

(d) In providing assistance in the procurement of commodities in the United States, United States dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing prior to the outbreak of World War II: *Provided,* That in the event a participating country, by statute, decree, rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States, then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

(e)[840] No funds made available under this Act shall be used for the procurement of any agricultural commodity or product thereof outside the United States when the domestic price of such commodity is less than parity, unless the commodity to be financed could not reasonably be produced in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed.

(f)[841] No funds authorized to be made available to carry out part I of this Act shall be used under any commodity import program to make any payment to a supplier unless the supplier has certified to the agency primarily responsible for administering such part I, such information as such agency shall by regulation prescribe, including but not limited to, a description of the commodity supplied by him and its condition, and on the basis of such information such agency shall have approved such commodity as eligible and suitable for financing under this Act.

(g)[842] (1) None of the funds authorized to be appropriated or made available for obligation or expenditure under this Act may be made available for the procurement of construction or engineering services from advanced developing countries, eligible under the Ge-

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[839] Sec. 301(b)(1) of the FA Act of 1966 struck out the word "surplus" which appeared before the word "agricultural" in three places in this subsec. and inserted "or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended,". For text of the Agricultural Trade Development and Assistance Act, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[840] Subsec. (e) was added by sec. 301(b)(2) of the FA Act of 1966. The last phrase of subsec. (e), beginning with the words ", unless the commodity * * *", were added by sec. 705(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–593; 94 Stat. 3157).

[841] Subsec. (f) was added by sec. 301(a) of the FA Act of 1968.

[842] Subsec. (g) was added by sec. 705(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3158).

ographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services.

(2)[843] Paragraph (1) does not apply with respect to an advanced developing country which—

(A) is receiving direct economic assistance under chapter 1 of part I or chapter 4 of part II of this Act, and

(B) if the country has its own foreign assistance programs which finance the procurement of construction or engineering services, permits United States firms to compete for those services.

Sec. 605.[844] **Retention and Use of Certain Items and Funds.**—(a) Any commodities and defense articles procured to carry out this Act shall be retained by, or upon reimbursement, transferred to, and for the use of, such agency of the United States Government as the President may determine in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby or whenever such retention is called for by concurrent resolution. Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve the usefulness thereof. Funds realized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

(b) Whenever commodities are transferred to the United States Government as repayment of assistance under this Act, such commodities may be used in furtherance of the purposes and within the limitations of this Act.

(c)[845] Funds realized as a result of any failure of a transaction financed under authority of part I of this Act to conform to the requirements of this Act, or to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under authority of part I of this Act, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

(d)[845] Funds realized by the United States Government from the sale, transfer, or disposal of defense articles returned to the United States Government by a recipient country or international organization as no longer needed for the purpose for which furnished shall be credited to the respective appropriation, fund, or account used to procure such defense articles or to the appropriation, fund, or account currently available for the same general purpose.

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[843] Par. (2) was added by sec. 1207 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 278).

[844] 22 U.S.C. 2355. Sec. 301(a)(1) of the FA Act of 1965 inserted "Certain Items and Funds" for "Items" in the section heading.

[845] Subsecs. (c) and (d) were added by sec. 301(a)(2) of the FA Act of 1965.

Sec. 606.[846] **Patents and Technical Information.**—(a) Whenever, in connection with the furnishing of assistance under this Act—

(1) an invention or discovery covered by a patent issued by the United States Government is practiced within the United States without the authorization of the owner, or

(2) information, which is (A) protected by law, and (B) held by the United States Government subject to restrictions imposed by the owner, is disclosed by the United States Government or any of its officers, employees, or agents in violation of such restrictions,

the exclusive remedy of the owner, except as provided in subsection (b) of this section, is to sue the United States Government for reasonable and entire compensation for such practice or disclosure in the district court of the United States for the district in which such owner is a resident, or in the United States Court of Federal Claims[847] within six years after the cause of action arises. Any period during which the United States Government is in possession of a written claim under subsection (b) of this section before mailing a notice of denial of that claim does not count in computing the six years. In any such suit, the United States Government may plead any defense that may be pleaded by a private person in such an action. The last paragraph of section 1498(a) of title 28 of the United States Code shall apply to inventions and information covered by this section.

(b) Before suit against the United States Government has been instituted, the head of the agency of the United States Government concerned may settle and pay any claim arising under the circumstances described in subsection (a) of this section. No claim may be paid under this subsection unless the amount tendered is accepted by the claimant in full satisfaction.

(c) Funds appropriated pursuant to this Act shall not be expended by the United States Government for the acquisition of any drug product or pharmaceutical product manufactured outside the United States if the manufacture of such drug product or pharmaceutical product in the United States would involve the use of, or be covered by, an unexpired patent of the United States which has not previously been held invalid by an unappealed or unappealable judgment or decree of a court of competent jurisdiction, unless such manufacture is expressly authorized by the owner of such patent.

Sec. 607.[848] **Furnishing of Services and Commodities.**—(a) Whenever the President determines it to be consistent with and in furtherance of the purposes of part I and within the limitations of this Act, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or re-

[846] 22 U.S.C. 2356.

[847] Reference to the United States Claims Court was inserted in lieu of a reference to the Court of Claims by sec. 160(a)(6) of the Federal Courts Improvement Act (Public Law 97–164; 96 Stat. 48). Subsequently, sec. 902(b) of Public Law 102–572 (106 Stat. 4516) provided that any reference, in law or in Federal documents, to the United States Claim Court should be deemed to be a reference to the United States Court of Federal Claims.

[848] 22 U.S.C. 2357. Subsection designation "(a)" was added by sec. 301(b) of the FA Act of 1968. Presidential authority in sec. 607 was delegated to the Secretary of State and to the Administrator of the Agency for International Development, respectively, for matters within their respective areas of responsibility, pursuant to a Presidential memorandum of February 16, 1995 (60 F.R. 10793).

imbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Agency for International Development[849] (including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available).[850] Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

(1) Advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered.

(2) Advances or reimbursements received pursuant to agreements executed under this section in which reimbursement will not be completed within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered: *Provided,* That such agreements require the payment of interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526), and repayment of such principal and interest does not exceed a period of three years from the date of signing of the agreement to provide the service: *Provided further,* That funds available for this paragraph in any fiscal year shall not exceed $1,000,000 of the total funds authorized for use in such fiscal year by chapter 1 of part I of this Act, and shall be available only to the extent provided in appropriation Acts. Interest shall accrue as of the date of disbursement to the agency or organization providing such services.[851]

(b)[852] When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United

[849] The reference to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366).

[850] The parenthetical phrase was added by sec. 122(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541). Subsec. (b) of sec. 122 further instructed the President to issue regulations "governing registration with and approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit agencies.".

[851] Sec. 315 of Public Law 94–161 (89 Stat. 849) inserted the words to this point commencing with "Such advances or reimbursements may be credited * * *" in lieu of "Such advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered, may be credited to the current applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.".

[852] Sec. 522 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959) redesignated subsec. (b) (as added by FA Act of 1968) as subsec. (c) and added a new subsec. (b).

States Government for the purpose of any law administered by the Civil Service Commission.[853]

(c)[852] (1) Except as provided in subsection (d),[854] no Government-owned excess property shall be made available under this section, section 608, or otherwise in furtherance of the purposes of part I of this Act, unless, before the shipment of such property for use in a specified country (or transfer, if the property is already in such country), the agency administering such part I has approved such shipment (or transfer) and made a written determination—

(A)[854] that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(B)[854] as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(C)[854] that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

(d)[855] The Secretary of State, acting through the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, is authorized to transfer to any friendly country, international organization, the American Red Cross, or other voluntary nonprofit relief agency described in subsection (a), Government-owned excess property made available under this section or section 608 in order to support activities carried out under part I of this Act which are designed to enhance environmental protection in foreign countries if the Secretary of State makes a written determination—

(1) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(2) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(3) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

Sec. 608.[856] **Advance Acquisition of Property.**—(a) It is the sense of the Congress that in furnishing assistance under part I ex-

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[853] Sec. 102 of the Reorganization Plan No. 2 of 1978 (43 F.R. 36037; 92 Stat. 3783) transferred all functions vested by statute in the Civil Service Commission to the Director of the Office of Personnel Management.

[854] The words "except as provided in subsec. (d)," were added by sec. 129(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 419). Sec. 129(1)(A) of the Act also redesignated pars. (1), (2) and (3) as (A), (B) and (C).

[855] Subsec. (d) was added by sec. 129(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 419).

[856] 22 U.S.C. 2358. Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 172), provided the following:

cess personal property, or (if a substantial savings would occur) other property already owned by an agency of the United States Government, should be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States-assisted projects and programs.[857] The President is authorized to maintain in a separate account, which shall, notwithstanding section 1210 of the General Appropriation Act, 1951 (64 Stat. 765), be free from fiscal year limitations, $5,000,000 of funds made available under chapter 1 of part I,[858] which may be used to pay costs (including personnel costs)[859] of acquisition, storage, renovation and rehabilitation, packing, crating, handling transportation, and related costs of property classified as domestic or foreign excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), any property available from an agency of the United States Government[860] or other property, in advance of known requirements therefor for use in furtherance of the purposes of part I: *Provided,* That the amount of property classified as domestic excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended, held at any one time pursuant to this section shall not exceed $15,000,000 in total original acquisition cost. Property acquired pursuant to the preceding sentence may be furnished (1) pursuant to any provision of part I for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred, or (2) pursuant to section 607, in which case such separate account shall be repaid in accordance with the provisions of that section for all costs incurred.

(b) Property classified as domestic excess property under the Federal Property and Administrative Services Act of 1949, as amended, shall not be transferred to the agency primarily responsible for administering part I for use pursuant to the provisions of part I or section 607 unless (1) such property is transferred for use exclusively by an agency of the United States Government, or (2) it has been determined in the same manner as provided for surplus property in section 203(j) of the Federal Property and Administrative

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"DEPARTMENT OF STATE

"INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $197,000,000, to remain available until expended: *Provided*, That during fiscal year 2003, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: * * *.".

[857] This sentence was added by sec. 301(b) of the FA Act of 1967. The phrases within the sentence of "or (if substantial savings would occur) other property already owned by an agency of the United States Government," and "or supplementary to" were added by sec. 701(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544).

[858] The words "chapter 1 of part I" were inserted in lieu of "section 212" by sec. 102(g)(2)(C) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 942).

[859] The words "(including personnel costs)," were added by sec. 301(c) of the FA Act of 1966.

[860] The words "any property available from an agency of the United States Government," were added by sec. 701(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544).

Services Act of 1949, as amended, that such property is not needed for donation pursuant to that subsection. The foregoing restrictions shall not apply to the transfer in any fiscal year for use pursuant to the provisions of part I of amounts of such property with a total original acquisition cost to the United States Government not exceeding $45,000,000.

Sec. 609.[861] * * * [Repealed—1998]

Sec. 610.[862] **Transfer Between Accounts.**—(a) Whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 per centum of the funds made available for any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I or for section 23 of the Arms Export Control Act)[863] may be transferred to, and consolidated with, the funds

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[861] Formerly at 22 U.S.C. 2359. Sec. 533(a)(5) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681) repealed sec. 609, which had read as follows. See also footnote at sec. 531(d) of this Act.

"**Sec. 609. Special Account.**—(a) In cases where any commodity is to be furnished on a grant basis under chapter 4 of part I under arrangements which will result in the accrual of proceeds to the recipient country from the sale thereof, the President shall require the recipient country to establish a Special Account, and

"(1) deposit in the Special Account, under terms and conditions as may be agreed upon, currency of the recipient country in amounts equal to such proceeds;

"(2) make available to the United States Government such portion of the Special Account as may be determined by the President to be necessary for the requirements of the United States Government: *Provided,* That such portion shall not be less than 10 per centum in the case of any country to which such minimum requirement has been applicable under any Act repealed by this Act; and

"(3) utilize the remainder of the Special Account for programs agreed to by the United States Government to carry out the purposes for which new funds authorized by this Act would themselves be available: *Provided,* That whenever funds from such Special Account are used by a country to make loans, all funds received in repayment of such loans prior to termination of assistance to such country shall be reused only for such purposes as shall have been agreed to between the country and the United States Government.

"(b) Any unencumbered balances of funds which remain in the Account upon termination of assistance to such country under this Act shall be disposed of for such purposes as may, subject to approval by Act of the Congress, be agreed to between such country and the United States Government.".

[862] 22 U.S.C. 2360. Subsection designation "(a)" and subsec. (b) were added by sec. 301(a) of the FA Act of 1962.

Title V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 182), provided the following:

"TRANSFERS BETWEEN ACCOUNTS

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

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

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

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

[863] The parenthetical phrase was added by sec. 301 of the FA Act of 1969. Sec. 10(a) of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3356) inserted reference to sec. 23 of the Arms Export Control Act, but, in an enrolling error, this text was inserted inside the parenthesis. Should probably read "* * * for any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I) or for section 23 of the Arms Export Control Act may be transferred to * * *". Sec. 10 also struck out "other" at the place

made available for any[863] provision of this Act, (except funds made available under chapter 2 of part II of this Act)[864] and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision.

(b)[862] The authority contained in this section and in sections 451, 506,[865] and 614 shall not be used to augment appropriations made available pursuant to sections 636(g)(1) and 637 or used otherwise to finance activities which normally would be financed from appropriations for administrative expenses.[866]

(c)[867] Any funds which the President has notified Congress pursuant to section 653 that he intends to provide in military assistance to any country may be transferred to, and consolidated with, any other funds he has notified Congress pursuant to such section that he intends to provide to that country for development assistance purposes.

Sec. 611.[868] **Completion of Plans and Cost Estimates.**—(a) No agreement or grant which constitutes an obligation of the United States Government in excess of $500,000[869] under section 1501 of title 31, United States Code,[870] shall be made for any assistance authorized under chapter I of part I, title II of chapter 2 of part I, or chapter 4 of part II—[871]

(1) if such agreement or grant requires substantive technical or financial planning, until engineering, financial, and other plans necessary to carry out such assistance, and a reasonably firm estimate of the cost to the United States Government of providing such assistance, have been completed; and

(2) if such agreement or grant requires legislative action within the recipient country, unless such legislative action may reasonably be anticipated to be completed in time to permit the orderly accomplishment of the purposes of such agreement or grant.

(b) Plans required under subsection (a) of this section for any water or related land resource construction project or program shall include a computation of benefits and costs made insofar as practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning

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noted and provided that "(b) The amendments made by subsection (a) apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.".

[864] The parenthetical phrase was added by sec. 19(a)(1) of the FA Act of 1974.

[865] Sec. 301(c) of the FA Act of 1967 inserted "506" for "510".

[866] The final sentence of subsec. (b), which had been amended by the FA Act of 1966, was repealed by sec. 10(b)(2) of the International Security Assistance Act of 1978 (Public Law 95–424; 92 Stat. 735). It formerly read as follows:

"Not to exceed $9,000,000 of the funds appropriated under section 402 of this Act for any fiscal year may be transferred to and consolidated with appropriations made under section 637(a) of this Act for the same fiscal year, subject to the further limitation that funds so transferred shall be available solely for additional administrative expenses incurred in connection with programs in Vietnam.".

[867] Subsec. (c) was added by sec. 19(a)(2) of the FA Act of 1974.

[868] 22 U.S.C. 2361.

[869] Sec. 1208 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 278), raised this amount from $100,000.

[870] This reference to 31 U.S.C. 1501 replaced an earlier reference to 31 U.S.C. 200.

[871] The words "chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II" were inserted in lieu of "titles I, II, and VI of chapter 2 and chapter 4 of part I" by sec. 102(g)(2)(D) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943).

Act[872] (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto.

(c) To the maximum extent practicable, all contracts for construction outside the United States made in connection with any agreement or grant subject to subsection (a) of this section shall be made on a competitive basis.

(d) Subsection (a) of this section shall not apply to any assistance furnished for the sole purpose of preparation of engineering, financial, and other plans.

(e)[873] In addition to any other requirements of this section, no assistance authorized under chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II[874] shall be furnished with respect to any capital assistance project estimated to cost in excess of $1,000,000 until the head of the agency primarily responsible for administering part I of the Act has received and taken into consideration a certification from the principal officer of such agency in the country in which the project is located as to the capability of the country (both financial and human resources) to effectively maintain and utilize the project taking into account among other things the maintenance and utilization of projects in such country previously financed or assisted by the United States.

Sec. 612.[875] **Use of Foreign Currencies.**—(a) Except as otherwise provided in this Act or other Acts, foreign currencies received either (1) as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby and unobligated on the date prior to the effective date of this Act, or (2) on or after the effective date of this Act, as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, or (3) as a result of the furnishing of assistance under part I, which are in excess of the amounts reserved under authority of section 105(d) of the Mutual Educational and Cultural Exchange Act of 1961 or any other Act relating to educational and cultural exchanges, may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States, and the United States dollars received as reimbursement shall be deposited into miscellaneous receipts of the Treasury. Foreign currencies so received which are in excess of the amounts so reserved and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President, shall be available for the authorized purposes of

[872] The reference to this Act was added by sec. 1208(2) of Public Law 99–83 (99 Stat. 278), and replaced an earlier reference to a document entitled: "Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973.". The reference to the 1973 document was substituted in lieu of a reference of the "Memorandum of the President dated May 15, 1962" by sec. 117 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 365). Previously, sec. 301(c) of the FA Act of 1963 had substituted the reference to the 1962 memorandum in lieu of a reference to "circular A47 of the Bureau of the Budget.".

[873] Subsec. (e) was added by sec. 301(d) of the FA Act of 1967.

[874] The words "chapter 1 of part I, title 2 of chapter 2 of part I, or chapter 4 of part II" were inserted in lieu of "titles I, II, or VI of chapter 2 or chapter 4 of part I" by sec. 102(g)(2)(E) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943).

[875] 22 U.S.C. 2362. Subsection designation "(a)" in sec. 612 was added by sec. 301(d)(1) of the FA Act of 1963. See also sec. 529 of the Foreign Operations, Export Financing,and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 190; 22 U.S.C. 2362 note), relating to separate accounts.

part I in such amounts as may be specified from time to time in appropriation Acts.

(b)[876] Any Act of Congress making appropriations to carry out programs under this or any other Act for United States operations abroad is hereby authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

[877] As used in this subsection, the term "excess foreign currencies" means foreign currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the President to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits and are not prohibited from use under this subsection by an agreement entered into with the foreign country concerned.

The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available pursuant to this Act shall not be expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.[878]

(c)[879] In addition to funds otherwise available, excess foreign currencies, as defined in subsection (b), may be made available to friendly foreign governments and to private, nonprofit United States organizations to carry out voluntary family planning programs in countries which request such assistance. No such program shall be assisted unless the President has received assurances that in the administration of such program the recipient will take reasonable precautions to insure that no person receives any family planning assistance or supplies unless he desires such services. The excess foreign currencies made available under this subsection shall not, in any one year, exceed 5 per centum of the aggregate of all excess foreign currencies. As used in this subsection, the term "voluntary family planning program" includes, but is not limited to, demographic studies, medical and psychological research, personnel training, the construction and staffing of clinics and rural health centers, specialized training of doctors and paramedical personnel, the manufacture of medical supplies, and the dissemination of family planning information, medical assistance, and supplies to individuals who desire such assistance.

(d)[880] In furnishing assistance under this Act to the government of any country in which the United States owns excess foreign currencies as defined in subsection (b) of this section, except those cur-

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[876] Subsec. (b) was added by sec. 301(c) of the FA Act of 1964. Originally added as subsec. (c), it was redesignated by sec. 301(c) of the FA Act of 1964 and former subsec. (b) was redesignated as sec. 104(t) of Public Law 480 (the latter has subsequently been transferred in part to sec. 103(m) of Public Law 480).

[877] The first sentence of this paragraph was struck out by sec. 301(b) of the FA Act of 1965. It read as follows: "The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned excess foreign currencies are utilized in lieu of dollars.".

[878] This paragraph was added by sec. 301(b) of the FA Act of 1965.

[879] Subsec. (c) was added by sec. 301(e) of the FA Act of 1966.

[880] Subsec. (d) was added by sec. 302 of the FA Act of 1969.

rencies generated under the Agricultural Trade Development and Assistance Act of 1954, as amended,[881] the President shall endeavor to obtain from the recipient country an agreement for the release, on such terms and conditions as the President shall determine, of an amount of such currencies up to the equivalent of the dollar value of assistance furnished by the United States for programs as may be mutually agreed upon by the recipient country and the United States to carry out the purposes for which new funds authorized by this Act would themselves be available.

Sec. 613.[882] **Accounting, Valuation, Reporting, and Administration of Foreign Currencies.**[883]—(a) Under the direction of the President, the Secretary of the Treasury shall have responsibility for valuation and central accounting with respect to foreign credits (including currencies) owed to or owned by the United States. In order to carry out such responsibility the Secretary shall issue regulations binding upon all agencies of the Government.

(b) The Secretary of the Treasury shall have sole authority to establish for all foreign currencies or credits the exchange rates at which such currencies are to be reported by all agencies of the Government.

(c)[884] * * * [Repealed—1981]

(d)[885] In cases where assistance is to be furnished to any recipient country in furtherance of the purposes of this or any other Act on a basis which will result in the accrual of foreign currency proceeds to the United States, the Secretary of the Treasury shall issue regulations requiring that agreements, in respect of such assistance, include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositories: *Provided,* That whenever the Secretary of State determines it not to be in the national interest to conclude arrangements for the receipt of interest income he may waive the requirement thereof: *Provided further,* That the Secretary of State, or his delegate, shall promptly make a complete report to the Congress on each such determination and the reasons therefor.

Sec. 614.[886] **Special Authorities.**—(a)[887] (1) The President may authorize the furnishing of assistance under this Act without

[881] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[882] 22 U.S.C. 2363.

[883] Sec. 301(c)(1) of the FA Act of 1965 inserted "Accounting, Valuation, Reporting, and Administration of Foreign Currencies" for "Accounting, Valuation, and Reporting of Foreign Currencies".

[884] Subsec. (c), as amended by sec. 46 of Public Law 94–273, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Subsec. (c) had required a semiannual report to the Congress on the amount of all foreign currencies acquired without payment of dollars on hand for each foreign country. Such information is now required on an annual basis as part of the report required under sec. 634(a) of this Act.

[885] Subsec. (d) was added by sec. 301(c)(2) of the FA Act of 1965.

[886] 22 U.S.C. 2364.

[887] Subsec. (a), as amended by the FA Act of 1966 and the FA Act of 1967, was further amended and restated by sec. 117(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140), and by sec. 128 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 209). It formerly read as follows:

"(a) The President may authorize in each fiscal year the use of funds made available for use under this Act and the furnishing of assistance under section 506 in a total amount not to exceed $250,000,000 and the use of not to exceed $100,000,000 of foreign currencies accruing under this Act or any other law without regard to the requirements of this Act, any law relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.), in fur-

regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act, in furtherance of any of the purposes of this Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.[888]

(2) The President may make sales, extend credit, and issue guarantees under the Arms Export Control Act, without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States.

(3) Before exercising the authority granted in this subsection, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs[889] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(4)[890] (A) The authority of this subsection may not be used in any fiscal year to authorize—

(i) more than $750,000,000 in sales to be made under the Arms Export Control Act;

(ii) the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act; and

(iii) the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law.

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therance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year. The limitation contained in the preceding sentence shall not apply to any country which is a victim of active Communist or Communist-supported aggression. The authority of this section shall not be used to waive the limitations on transfers contained in section 610(a) of this Act.".

[888] Pursuant to sec. 506(a)(1) and sec. 614(a)(2), on May 30, 2002, the President determined that "it is vital to the national security interests of the United States to provide up to $4.5 million in fiscal year 1997 and 1998 Foreign Military Financing Funds for assistance to Georgia under section 23 of the Arms Export Control Act without regard to any provision of law that might otherwise restrict provision of such funds. I further determine that an unforeseen emergency exists requiring immediate military assistance for Georgia that cannot be met under the Arms Export Control Act or any other law, and hereby direct the drawdown of defense articles and services from the stocks of the Department of Defense, and military education and training of the aggregate value of $21 million to meet that emergency requirement. I hereby authorize the furnishing of this assistance." (Presidential Determination No. 02–20; 67 F.R. 39247).

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

[890] Subsec. (a)(4) was amended and restated by sec. 128 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 206). It formerly read as follows:

"(4) The authority of this subsection may not be used to authorize the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act, or the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law, in any fiscal year. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year, unless such country is a victim of active Communist or Communist-supported aggression.".

(B) If the authority of this subsection is used both to authorize a sale under the Arms Export Control Act and to authorize funds to be used under the Arms Export Control Act or under this Act with respect to the financing of that sale, then the use of the funds shall be counted against the limitation in subparagraph (A)(ii) and the portion, if any, of the sale which is not so financed shall be counted against the limitation in subparagraph (A)(i).

(C) Not more than $50,000,000 of the $250,000,000 limitation provided in subparagraph (A)(ii) may be allocated to any one country in any fiscal year unless that country is a victim of active[891] aggression, and not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in subparagraphs (A)(i) and (A)(ii) may be allocated to any one country in any fiscal year.

(5) The authority of this section may not be used to waive the limitations on transfers contained in section 610(a) of this Act.

(b) Whenever the President determines it to be important to the national interest, he may use funds available for the purposes of chapter 4 of part I in order to meet the responsibilities or objectives of the United States in Germany, including West Berlin, and without regard to such provisions of law as he determines should be disregarded to achieve this purpose.

(c) The President is authorized to use amounts not to exceed $50,000,000 of the funds made available under this Act pursuant to his certification that it is inadvisable to specify the nature of the use of such funds, which certification shall be deemed to be a sufficient voucher for such amounts.[892] The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs[889] of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.[893]

Sec. 615.[894] **Contract Authority.**—Provisions of this Act authorizing the appropriation of funds shall be construed to authorize the granting in any appropriation Act of authority to enter into contracts, within the amounts so authorized to be appropriated, creating obligations in advance of appropriations.

Sec. 616.[895] **Availability of Funds.**—Except as otherwise provided in this Act, funds shall be available to carry out the provisions of this Act as authorized and appropriated to the President each fiscal year.

SEC. 617.[896] **TERMINATION EXPENSES.**

(a) IN GENERAL.—Funds made available under this Act and the Arms Export Control Act, may remain available for obligation for

[891] Sec. 705(2) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Communist or Communist-supported" at this point.

[892] See also secs. 624(d)(7) [repealed—1978; see note] and 636(a)(8) of this Act.

[893] The last sentence was added by sec. 30(g) of the FA Act of 1966. This sentence was amended and restated by sec. 8 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899). It formerly read as follows: "The President shall promptly and fully inform the Speaker of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection.".

[894] 22 U.S.C. 2365.

[895] 22 U.S.C. 2366.

[896] 22 U.S.C. 2367. Sec. 302 of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 760) amended and restated sec. 617. It previously read, as amended, as follows:

a period not to exceed 8 months from the date of any termination of assistance under such Acts for the necessary expenses of winding up programs related to such termination and may remain available until expended. Funds obligated under the authority of such Acts prior to the effective date of the termination of assistance may remain available for expenditure for the necessary expenses of winding up programs related to such termination notwithstanding any provision of law restricting the expenditure of funds. In order to ensure the effectiveness of such assistance, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

(b) LIABILITY TO CONTRACTORS.—For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized to adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor that had been funded with assistance under such Acts prior to the termination of assistance.

(c) TERMINATION EXPENSES.—Amounts certified as having been obligated for assistance subsequently terminated by the President, or pursuant to any provision of law, shall continue to remain available and may be reobligated to meet any necessary expenses arising from the termination of such assistance.

(d) GUARANTY PROGRAMS.—Provisions of this or any other Act requiring the termination of assistance under this or any other Act shall not be construed to require the termination of guarantee commitments that were entered into prior to the effective date of the termination of assistance.

(e) RELATION TO OTHER PROVISIONS.—Unless specifically made inapplicable by another provision of law, the provisions of this section shall be applicable to the termination of assistance pursuant to any provision of law.

Sec. 618.[897] **Use of Settlement Receipts.** * * * [Repealed—1978]

Sec. 619.[897] **Assistance to Newly Independent Countries.** * * * [Repealed—1978]

"Sec. 617. Termination of Assistance.—Assistance under any provision of this Act may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed eight months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto. In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated. Such expenses for orderly termination of programs under the Arms Export Control Act may include the obligation and expenditure of funds to complete the training or studies outside the countries of origin of students whose course of study or training program began before assistance was terminated, as long as the origin country's termination was not a result of activities beyond default of financial responsibilities.".

[897] Secs. 618 and 619 were repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

Sec. 620.[898] **Prohibitions Against Furnishing Assistance.**[899]—(a)(1)[900] No assistance shall be furnished under this Act to the present government of Cuba.[901] As an additional means of implementing and carrying into effect the policy of the preceding

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[898] 22 U.S.C. 2370. Sec. 204 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 810; 22 U.S.C. 6064) provided the following:

"SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

"(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(1) that a transition government in Cuba is in power, the President, after consultation with the Congress, is authorized to take steps to suspend the economic embargo of Cuba and to suspend the right of action created in section 302 with respect to actions thereafter filed against the Cuban Government, to the extent that such steps contribute to a stable foundation for a democratically elected government in Cuba.

"(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

"(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

"(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with respect to the "Republic of Cuba";

"(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005);

"(4) section 902(c) of the Food Security Act of 1985; and

"(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

"(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba, including the restrictions under part 515 of title 31, Code of Federal Regulations.

"(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)(3)—

"(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

"(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

"(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005) are repealed; and

"(4) section 902(c) of the Food Security Act of 1985 is repealed.

"(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

"(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

"(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on _____.', with the blank space being filled with the appropriate date.

"(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

"(4) PROCEDURES.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6–month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6–month period thereafter.".

[899] Sec. 301(d)(1) of the FA Act of 1965 inserted "Prohibitions Against Furnishing Assistance.—" for "Prohibitions Against Furnishing Assistance to Cuba and Certain Other Countries.—".

[900] Sec. 301(e)(1)(A) of the FA Act of 1963 inserted "(1)" after subsec. (a).

[901] The phrase, "; nor shall any such assistance be furnished to any country which furnishes assistance to the present government of Cuba unless the President determines that such assistance is in the national interest of the United States", which formerly appeared at this point, was struck out by sec. 123(a)(1) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541).

sentence, the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba.

(2)[902] Except as may be deemed necessary by the President in the interest of the United States, no assistance shall be furnished under this Act to any government of Cuba, nor shall Cuba be entitled to receive any quota authorizing the importation of Cuban sugar into the United States or to receive any other benefit under any law of the United States, until the President determines that such government has taken appropriate steps according to international law standards to return to United States citizens, and to entities not less than 50 per centum beneficially owned by United States citizens, or to provide equitable compensation to such citizens and entities for property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.

(b)[903] * * * [Repealed—1981]

(c)[904] No assistance shall be provided under this Act to the government of any country which is indebted to any United States citizen or person for goods or services furnished or ordered where (i) such citizen or person has exhausted available legal remedies, which shall include arbitration, or (ii) the debt is not denied or contested by such government, or (iii) such indebtedness arises under an unconditional guaranty of payment given by such government, or any predecessor government, directly or indirectly, through any controlled entity: *Provided,* That the President does not find such action contrary to the national security.

(d) No assistance shall be furnished on a loan basis under chapter 1 of part I[905] of this Act for construction or operation of any productive enterprise in any country where such enterprise will compete with United States enterprise unless such country has agreed that it will establish appropriate procedures to prevent the exportation for use or consumption in the United States of more than 20 per centum of the annual production of such facility during the life of the loan. In case of failure to implement such agreement by the other contracting party, the President is authorized to establish necessary import controls to effectuate the agreement. The restrictions imposed by or pursuant to this subsection may be waived by the President where he determines that such waiver is in the national security interest.

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[902] Pars. (2) and (3) were added by sec. 301(e)(1)(B) of the FA Act of 1963. Paragraph (3), restricting shipments to Cuba, was subsequently repealed by sec. 123(a)(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541).

[903] Subsec. (b) was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It previously read as follows:

"(B) No assistance shall be furnished under this Act to the government of any country unless the President determines that such country is not dominated or controlled by the international Communist movement.".

[904] Subsec. (c) was amended by sec. 301(d)(2) of the FA Act of 1962. It formerly read as follows:

"(c) No assistance shall be provided under this Act to the government of any country which is indebted to any United States citizen for goods or services furnished, where such citizen has exhausted available legal remedies and the debt is not denied or contested by such government.".

[905] The words "on a loan basis under chapter 1 of part I" were inserted in lieu of "under section 201" by sec. 102(g)(2)(F) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943).

(e)[906] (1)[907] The President shall suspend assistance to the government of any country to which assistance is provided under this or any other Act when the government of such country or any government agency or subdivision within such country on or after January 1, 1962—

(A)[908] has nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(B)[908] has taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(C)[908] has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned,

and such country, government agency, or government subdivision fails within a reasonable time (not more than six months after such action, or, in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity, including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be; and such suspension shall continue until the President is satisfied that appropriate steps are being taken, and the provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interests of the United States. Such certification shall be reported immediately to Congress.[909]

Upon request of the President (within seventy days after such action referred to in subparagraphs (A), (B), or (C) of paragraph (1)[910] of this section), the Foreign Claims Settlement Commission of the United States (established pursuant to Reorganization Plan No. 1 of 1954, 68 Stat. 1279) is hereby authorized to evaluate expropriated property, determining the full value of any property nationalized, expropriated, or seized, or subject to discriminatory or

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[906] Subsec. (e) was added by sec. 301(d)(3) of the FA Act of 1962 and was amended by sec. 301(e)(2) of the FA Act of 1963 and by secs. 301(d)(1) and (2) of the FA Act of 1964.

[907] Subsec. (e)(1) is popularly referred to as the Hickenlooper amendment. Paragraph designation "(1)" was added by sec. 301(d)(1) of the FA Act of 1964.

Sec. 5(b) of the Africa Famine Relief and Recovery Act of 1985 (Public Law 99–8; 99 Stat. 22), permitted assistance with funds appropriated by the Act without regard to sec. 620(e)(1). For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[908] Sec. 301(d)(2) of the FA Act of 1964 redesignated subpars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively.

[909] The words to this point, beginning with "the provisions of this subsection * * *" were inserted in lieu of "no other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection," by sec. 15 of the FA Act of 1973.

[910] Sec. 301(d)(3) of the FA Act of 1964 inserted "subparagraphs (A), (B), or (C) of paragraph (1)" in lieu of "paragraphs (1), (2), or (3)".

other actions as aforesaid, for purposes of this subsection and to render an advisory report to the President within ninety days after such request. Unless authorized by the President, the Commission shall not publish its advisory report except to the citizen or entity owning such property. There is hereby authorized to be appropriated such amount, to remain available until expended, as may be necessary from time to time to enable the Commission to carry out expeditiously its functions under this subsection.

(2)[911] Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which claim of title or other right to property[912] is asserted by any party including a foreign state (or a party claiming through such state) based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law, including the principles of compensation and the other standards set out in this subsection: *Provided,* That this subparagraph shall not be applicable (1) in any case in which an act of a foreign state is not contrary to international law or with respect to a claim of title or other right to property acquired pursuant to an irrevocable letter of credit of not more than 180 days duration issued in good faith prior to the time of the confiscation or other taking, or (2) in any case with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to this effect is filed on his behalf in that case with the court.[913]

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[911] Par. (2) was added by sec. 301(d)(4) of the FA Act of 1964.

[912] Sec. 301(d)(2) of the FA Act of 1965 inserted the words "to property".

[913] The words ", or (3) in any case in which the proceedings are commenced after January 1, 1966", which appeared at this point, were struck out by sec. 301(d)(2) of the FA Act of 1965.

Sec. 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 22 U.S.C. 2370a), however, provided the following:

"SEC. 527. EXPROPRIATION OF UNITED STATES PROPERTY.

"(a) PROHIBITION.—None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described if subsection (d))—

"(1) has on or after January 1, 1956—

"(A) nationalized or expropriated the property of any United States person,

"(B) repudiated or nullified any contract with any United States person, or

"(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

"(2) has not, within the period specified in subsection (c), either—

"(A) returned the property,

"(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law,

"(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law, or

"(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes or other mutually agreeable binding international arbitration procedure.

"(b) OTHER ACTIONS.—The President shall instruct the United States Executive Directors of each multilateral development bank and international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country to which assistance is prohibited under subsection (a), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of that country.

"(c) PERIOD FOR SETTLEMENT OF CLAIMS.—The period of time described in subsection (a)(2) is the latest of the following—

Continued

(f)[914] (1)[915] No assistance shall be furnished under this Act, as amended (except section 214(b)), to any Communist country. This restriction may not be waived pursuant to any authority contained in this Act unless the President finds and promptly reports to Congress that: (A) such assistance is vital to the security of the United States; (B) the recipient country is not controlled by the international Communist conspiracy; and (C) such assistance will further promote the independence of the recipient country from international communism. For the purposes of this subsection, the phrase "Communist country" includes specifically, but is not limited to, the following countries:[916]

"(1) 3 years after the date on which a claim was filed,

"(2) in the case of a country that has a totalitarian or authoritarian government at the time of the action described in subsection (a)(1), 3 years after the date of installation of a democratically elected government, or

"(3) 90 days after the date of enactment of this Act.

"(d) EXCEPTED COUNTRIES AND TERRITORIES.—This section shall not apply to any country established by international mandate through the United Nations or to any territory recognized by the United States Government to be in dispute.

"(e) RESUMPTION OF ASSISTANCE.—A prohibition or termination of assistance under subsection (a) and an instruction to vote against loans under subsection (b) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate that such government has taken one of the steps described in subsection (a)(2).

"(f) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act and at the beginning of each fiscal year thereafter, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, a report containing the following:

"(1) A list of every country in which the United States Government is aware that a United States person has an outstanding expropriation claim.

"(2) The total number of such outstanding expropriation claims made by United States persons against each such country.

"(3) The period of time in which each such claim has been outstanding.

"(4) The status of each case and efforts made by the United States Government and the government of the country in which such claim has been made, to take one or more of the steps described in subsection (a)(2).

"(5) Each project a United States Executive Director voted against as a result of the action described in subsection (b).

"(g) WAIVER.—The President may waive the prohibitions in subsections (a) and (b) for a country, on an annual basis, if the President determines and so notifies Congress that it is in the national interest to do so.

"(h) DEFINITIONS.—For the purpose of this section, the term "United States person" means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.".

[914] Subsec. (f) was added by sec. 301(d)(3) of the FA Act of 1962.

Sec. 516 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), amended sec. 307 of this Act to include a reference to sec. 620(f).

[915] Sec. 1202 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276) redesignated clauses "(1)", "(2)" and "(3)" as "(A)", "(B)" and "(C)"; added the text of par. (2); and added the "(1)" designation immediately after subsec. (f).

The Secretary of State determined the following countries to be removed from the application of section 620(f)(2) pursuant to national interests of the United States: People's Republic of China and Tibet, removed December 11, 1985 (51 F.R. 1890; January 15, 1986); Yugoslavia, removed August 5, 1986 (51 F.R. 29662; August 19, 1986); Poland and Hungary, removed Sept. 7, 1989 (Department of State memoranda to Chairman, House Committee on Foreign Affairs, Sept. 7, 1989); Czech and Slovak Federal Republic, removed June 14, 1990 (55 F.R. 24335; June 15, 1990); German Democratic Republic, removed July 12, 1990 (55 F.R. 33996; August 20, 1990); Republic of Bulgaria, removed May 3, 1991 (56 F.R. 22747; May 16, 1991); Soviet Union, removed September 10, 1991 (56 F.R. 51734; October 15, 1991); Estonia, Latvia, and Lithuania, removed September 14, 1991 (56 F.R. 48600; September 25, 1991); Romania, removed August 15, 1991 (56 F.R. 63753; December 5, 1991); Laos, removed May 12, 1995 (60 F.R. 30148; June 7, 1995); Vietnam, removed sometime in 2000 (undated unpublished determination).

[916] Sec. 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1653), struck the Mongolian People's Republic from the list.

Previously, Sec. 901 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3355) struck the Czechoslovak Socialist Republic, Estonia, German Democratic Republic, Hungarian People's Republic, Latvia, Lithuania, People's Republic of Albania, People's Republic of Bulgaria, Polish People's Republic, Socialist Federal Republic of Yugoslavia, Socialist Republic of Roma-

Democratic People's Republic of Korea.
People's Republic of China.
Republic of Cuba.
Socialist Republic of Vietnam.
Tibet.

(2)[915] Notwithstanding the provisions of paragraph (1) of this subsection, the President may remove a country, for such period as the President determines, from the application of this subsection, and other provisions which reference this subsection, if the President determines and reports to the Congress that such action is important to the national interest of the United States. It is the sense of the Congress that when consideration is given to authorizing assistance to a country removed from the application of this subsection, one of the factors to be weighed, among others, is whether the country in question is giving evidence of fostering the establishment of a genuinely democratic system, with respect for internationally recognized human rights.

(g)[917] Notwithstanding any other provision of law, no monetary assistance shall be made available under this Act to any government or political subdivision or agency of such government which will be used to compensate owners for expropriated or nationalized property and, upon finding by the President that such assistance has been used by any government for such purpose, no further assistance under this Act shall be furnished to such government until appropriate reimbursement is made to the United States for sums so diverted. This prohibition shall not apply to monetary assistance made available for use by a government (or a political subdivision or agency of a government) to compensate nationals of that country in accordance with a land reform program, if the President determines that monetary assistance for such land reform program will further the national interests of the United States.[918]

(h)[917] The President shall adopt regulations and establish procedures to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of any country that is a Communist country for purposes of subsection (f).[919]

(i)[920] * * * [Repealed—1981]

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nia, and Union of Soviet Socialist Republics (including its captive constituent republics) from the list.

Previously, sec. 707 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1546) made technical changes to this sentence in subsec. (f) and to the list of countries.

[917] Subsecs. (g) and (h) were added by sec. 301(d)(3) of the FA Act of 1962.

[918] The last sentence of subsec. (g) was added by sec. 1203 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 277).

[919] Sec. 705(3) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "the Communist-bloc countries", and inserted in lieu thereof "any country that is a Communist country for purposes of subsection (f)".

[920] Subsec. (i), as added by sec. 301(e)(3) of the FA Act of 1963 and amended by sec. 301(h)(1) of the FA Act of 1966, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Formerly, subsec. (i) had prohibited any foreign assistance or sales under Public Law 480 to countries engaging in or preparing for aggressive military efforts or participating in an international conference involving the planning of insurrection or subversion directed against the United States or other nations receiving American foreign aid or Public Law 480 sales.

(j)[921] The President shall consider terminating assistance under this or any other Act to any country which permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, and fails to take appropriate measures to prevent a recurrence thereof and to provide adequate compensation for such damage or destruction.

(k)[922] Without the express approval of Congress, no assistance shall be furnished under this Act to any country for construction of any productive enterprise with respect to which the aggregate value of assistance to be furnished by the United States will exceed $100,000,000, except that this sentence does not apply with respect to assistance for construction of any productive enterprise in Egypt which is described in the presentation materials to Congress.[923] Except as otherwise provided in section 506,[924] no military assistance to be furnished beginning July 1, 1966, by the United States will exceed $100,000,000 unless such program has been included in the presentation to the Congress during its consideration of authorizations for appropriations under this Act or of appropriations pursuant to authorizations contained in this Act. No provision of this or any other Act shall be construed to authorize the President to waive the provisions of this subsection.

(l)[925] The President shall consider denying assistance under this Act to the government of any less developed country which, after December 31, 1966, has failed to enter into an agreement with the President to institute the investment guaranty program under section 234(a)(1) of this Act, providing protection against the specific risks of inconvertibility under subparagraph (A), and expropriation or confiscation under subparagraph (B), of such section 234(a)(1).

(m)[926] * * * [Repealed—1981]

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[921] Subsec. (j), which was added by sec. 301(e)(3) of the FA Act of 1963, was amended by sec. 301(f)(1) of the FA Act of 1967. It formerly read as follows: "No assistance under this Act shall be furnished to Indonesia unless the President determines that the furnishing of such assistance is essential to the national interest of the United States. The President shall keep the Foreign Relations Committee and the Appropriations Committee of the Senate and the Speaker of the House of Representatives fully and currently informed of any assistance furnished to Indonesia under this Act.".

[922] Subsec. (k), which was added by sec. 301(e)(3) of the FA Act of 1963, was amended by sec. 301(h)(2) of the FA Act of 1966. It formerly read as follows:

"(k) Until the enactment of the Foreign Assistance Act of the 1965 or other general legislation, during the calendar year 1965, authorizing additional appropriations to carry out programs of assistance under this Act, no assistance shall be furnished under this Act to any country for construction of any productive enterprise with respect to which the aggregate value of such assistance to be furnished by the United States will exceed $100,000,000. No other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection.".

[923] The words to this point beginning with ", except that this sentence does not apply" were added by sec. 606 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 757). A reference to fiscal years 1977, 1980, and 1981, which previously appeared at the end of this sentence (the latter two were added by sec. 203 of Public Law 96–533 (94 Stat. 3145)), was deleted by sec. 702 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544).

[924] Sec. 301(f)(2) of the FA Act of 1967 inserted "506" for "510".

[925] Subsec. (l), which was added by sec. 301(e)(3) of the FA Act of 1963, was amended by sec. 301(h)(3) of the FA Act of 1936. It formerly read as follows:

"(l) No assistance shall be provided under this Act after December 31, 1966, to the government of any less developed country which has failed to enter into an agreement with the President to institute the investment guaranty program under section 221(b)(1) of this Act, providing protection against the specific risks of inconvertibility under subparagraph (A), and expropriation or confiscation under subparagraph (B), of such section 221(b)(1).".

[926] Subsec. (m), prohibiting assistance on a grant basis to any economically developed nation with certain condition, added by sec. 301(e)(3) of the FA Act of 1963, amended by sec. 301(g) of the FA Act of 1964, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

(n)[927] * * * [Repealed—1977]

(o)[928] In determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against, any United States fishing vessel on account of its fishing activities in international waters. The provisions of this subsection shall not be applicable in any case governed by international agreement to which the United States is a party.

(p)[929] * * * [Repealed—1974]

(q)[930] No assistance shall be furnished under this Act to any country which is in default, during a period in excess of six calendar months, in payment to the United States of principal or interest on any loan made to such country under this Act, unless such country meets its obligations under the loan or unless the President determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

(r)[930] No recipient of a loan made under the authority of this Act, any part of which is outstanding on or after the date of enactment of this subsection, shall be relieved of liability for the repayment of any part of the principal of or interest on such loan.

(s)[931] (1) In order to restrain arms races and proliferation of sophisticated weapons, and to ensure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans or supporting assistance to any country under this Act, and before making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended:[932]

(A) the percentage of the recipient or purchasing country's budget which is devoted to military purposes; and

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[927] Subsec. (n), as added by sec. 301(d)(4) of the FA Act of 1965 and amended by the FA Act of 1966, 1967, and 1974, was repealed by sec. 123(b) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541). It formerly read as follows:

"(n) No loans, credits, guaranties, or grants or other assistance shall be furnished under this or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which sells or furnishes to North Vietnam, or which permits ships or aircraft under its registry to transport to or from North Vietnam, any equipment, materials, or commodities, so long as the regime in North Vietnam gives support to hostilities in South Vietnam, unless the President determines that such loans, credits, guaranties, grants, other assistance, or sales are in the national interest of the United States.".

[928] Subsec. (o) was added by sec. 301(d)(4) of the FA Act of 1965.

[929] Subsec. (p), as added by sec. 301(h)(5) of the FA Act of 1966, and related to assistance to the United Arab Republic, was repealed by Sec. 44 of the FA Act of 1974.

[930] Subsecs. (q) and (r) were added by sec. 301(h)(5) of the FA Act of 1966.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 183), provided the following:

"LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

"SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.".

[931] Subsec. (s), as added by sec. 301(f)(4) of the FA Act of 1967, was amended and restated by sec. 303(a) of the FA Act of 1969.

[932] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

(B) the degree to which the recipient or purchasing country is using its foreign exchange or other[933] resources to acquire military equipment.

(2)[934] The President shall report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this provision.

(t)[935] No assistance shall be furnished under this or any other Act and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, in or to any country which has severed or hereafter severs diplomatic relations with the United States or with which the United States has severed or hereafter severs diplomatic relations, unless (1) diplomatic relations have been resumed with such country and (2) agreements for the furnishing of such assistance or the making of such sales, as the case may be, have been negotiated and entered into after the resumption of diplomatic relations with such country.

(u)[935] In any decision to provide or continue to provide any program of assistance to any country under the Foreign Assistance Act of 1961, as amended, there shall be taken into account the status of the country with respect to its dues, assessments, and other obligations to the United Nations; and where such country is delinquent with respect to any such obligations for the purposes of the first sentence of Article 19 of the United Nations Charter, the President shall furnish the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report setting forth the assurance given by the government of the country concerned of paying all of its arrearages and of placing its payments of such obligations on a current basis, or a full explanation of the unusual or exceptional circumstances which render it economically incapable of giving such assurance.

(v)[936] * * * [Repealed—1974]

(w)[937] * * * [Repealed—1978]

(x)[938] (1) All military assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Turkey, shall be suspended on

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[933] Sec. 734(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560) added the words "or other" in subpar. (B) and repealed subpar. (C). Subpar. (C) formerly read as follows:

"(C) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country.".

[934] Sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", and is applicable to this paragraph.

[935] Subsecs. (t) and (u) were added by sec. 301(f)(4) of the FA Act of 1967.

[936] Subsec. (v) as added by sec. 301 of the FA Act of 1971 was repealed by sec. 24 of the FA Act of 1974. Former subsec. (v) concerned assistance to Greece.

[937] Subsec. (w), as added by the FA Act of 1971, concerning suspension of aid to Pakistan, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[938] Subsec. (x) was added by sec. 22 of the FA Act of 1974. Sec. 13(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737) specified that subsec. (x) would be of no further force and effect once the President had determined and certified to the Congress that resumption of aid to Turkey was in the national interest as well as in the interest of NATO and that Turkey was acting in good faith toward achieving a peaceful settlement of the Cyprus problem. The President made such a determination, dated September 26, 1978.

the date of enactment of this subsection unless and until the President determines and certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act,[939] and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus: *Provided,* That for the fiscal year 1978[940] the President may suspend the provisions of this subsection and of section 3(c) of the Arms Export Control Act with respect to cash sales and extensions of credits and guaranties under such Act for the procurement of such defense articles and defense services as the President determines are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, except that during the fiscal year 1978[941] the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $175,000,000.[942] Any such suspension shall be effective only so long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or its civilian population on Cyprus, and does not transfer to Cyprus any United States supplied arms, ammunition, or implements of war. The determination required by the proviso in the first sentence of this paragraph shall be made, on a case-by-case basis, with respect to each cash sale, each approval for use of credits, and each approval for use of a guaranty for Turkey. Each such determination shall be reported to the Congress and shall be accompanied by a full and complete statement of the reasons supporting the President's determination and a statement containing the information specified in clauses (A) through (D) of section 2(c)(4) of the Act of October 6, 1975 (Public Law 94–104).[943] In any case involving the sale of significant combat equipment on the United States Munitions List in which the congressional review provisions of section 36(b) of the Arms Export Control Act do not apply, the President may not issue the letter of offer or approve the use of the credits or guaranty, as the case may be, until the end of the thirty-day period beginning on the date on which the report required by the preceding sentence is submitted to the Congress.[944]

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[939] Renamed the Arms Export Control Act.

[940] Sec. 22(d)(1) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 624) struck out the references to fiscal years 1976 and 1977 and added the references to fiscal year 1978.

[941] Sec. 22(d)(2) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 624) added the words "during the fiscal year 1978", and struck out the following that had previously appeared at this point:

"(A) during the fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $125,000,000, and (B) during the fiscal year 1977.".

[942] The figure, "$175,000,000", was inserted in lieu of "$125,000,000" by sec. 22(d)(3) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 624).

[943] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[944] Sec. 403 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 757) amended sec. 620(x)(1) beginning with the words "*Provided,* That for the fiscal year * * *". Sec. 620(x)(1) formerly read as follows: *Provided,* That the President is authorized to suspend the provisions of this section and such acts if he determines that such suspension will further negotiations for a peaceful solution of the Cyprus conflict. Any such suspension shall be effective only until February 5, 1975, and only if, during that time, Turkey shall observe the ceasefire and shall neither increase its forces in Cyprus nor transfer to Cyprus any U.S. supplied implements of war.".

(2)[945] The President shall submit to the Congress within 60 days after the enactment of this paragraph[946] and at the end of such succeeding sixty-day period, a report on progress made during such period toward the conclusion of a negotiated solution of the Cyprus conflict.

(y)[947] (1) Except as provided in paragraph (2), the President shall withhold from amounts made available under this Act or any other Act and allocated for a country for a fiscal year an amount equal to the aggregate value of nuclear fuel and related assistance and credits provided by that country, or any entity of that country, to Cuba during the preceding fiscal year.

(2) The requirement to withhold assistance for a country for a fiscal year under paragraph (1) shall not apply if Cuba—

(A) has ratified the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty of Tlatelelco, and Cuba is in compliance with the requirements of either such Treaty;

(B) has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

(C) incorporates and is in compliance with internationally accepted nuclear safety standards.

(3) The Secretary of State shall prepare and submit to the Congress each year a report containing a description of the amount of nuclear fuel and related assistance and credits provided by any country, or any entity of a country, to Cuba during the preceding year, including the terms of each transfer of such fuel, assistance, or credits.

Sec. 620A.[948, 949] **Prohibition on Assistance to Governments Supporting International Terrorism.**

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[945] Par. (2) was added by sec. 2(a)(2) of Public Law 94–104.

[946] Par. (2) did not become effective until enactment of the International Security Assistance and Arms Export Control Act of 1976 on June 30, 1976. See sec. 2(c)(5) of Public Law 94–104, in *Legislation on Foreign Relations Through 2002*, vol. I–B, for explanation of the effective date of par. (2).

[947] Sec. 2810(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2861), added subsec. (y). Subsec. (b) of that section provided that the amendment "* * * shall apply with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act.".

[948] 22 U.S.C. 2371. Sec. 6(j) of the Export Administration Act (Public Law 96–72; 50 U.S.C. app. 2405(j)) similarly requires the Secretary of State to determine whenever a country is found to support acts of international terrorism. Most recently, in Department of State Public Notice 1878 of August 12, 1993, (58 F.R. 52523), the Secretary of State stated: "In accordance with section 6(j) of the Export Administration Act (50 U.S.C. App. 2405(j)), I hereby determine that Sudan is a country which has repeatedly provided support for acts of international terrorism. The list of 6(j) countries as of this time therefore includes Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.".

Sec. 40A of the Arms Export Control Act (Public Law 90–629; 22 U.S.C. 2781) requires the President to determine annually those countries not cooperating fully with United States antiterrorism efforts. Pursuant to that requirement, on May 15, 2003, the Deputy Secretary of State determined and certified, "that the following countries are not cooperating fully with United States antiterrorism efforts: Cuba; Iran; Libya; North Korea; Sudan; and Syria" (Department of State Public Notice No. 4369; 68 F.R. 28041).

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 579), provided the following:

"SEC. 1503. The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign

Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.".

[949] Section 620A was added by sec. 303 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 753). It was amended and restated by sec. 503(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 220). It was further amended and restated by sec. 5 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1897).

Section 10 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1900) provided the following in relation to the amendment of sec. 620A:

"SEC. 10. SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

"The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this Act.".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 190, 195, 197), provided the following:

"PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

"SEC. 527. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

"(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

"(2) otherwise supports international terrorism.

"(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

* * * * * * *

"ELIGIBILITY FOR ASSISTANCE

"SEC. 537. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided,* That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

"(b) PUBLIC LAW 480.—During fiscal year 2003, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

"(c) EXCEPTION.—This section shall not apply—

"(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

"(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

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Continued

(a)[950] PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

(b) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(c) RESCISSION.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism;

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(d) WAIVER.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 543. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.".

See also sec. 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2047), cited as the "Iraq Sanctions Act of 1990", in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[950] See also 18 U.S.C. 2332d, as added by sec. 321 of Public Law 104–132 (110 Stat. 1254), which provides that U.S. persons engaging in financial transactions with the government of a country designated as supporting international terrorism under sec. 6(j) of the Export Administration Act (50 U.S.C. App. 2405) shall be fined under title 18, imprisoned for not more than 10 years, or both.

(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act of 1945; and

(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs[951] of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

(A) the name of the recipient country;

(B) a description of the national security interests or humanitarian reasons which require the waiver;

(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of 1961 which is also prohibited by section 40 of the Arms Export Control Act.

Sec. 620B.[952] **Prohibition Against Assistance and Sales to Argentina.** * * * [Repealed—1981]

Sec. 620C.[953] **United States Policy Regarding the Eastern Mediterranean.**—(a) The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress further declares that any action of the United States with respect to section 620(x) of this Act shall not signify a lessening of the United States commitment to a just solution to the conflict on Cyprus but is authorized in the expectation that this action will be conducive to achievement of a Cyprus solution and a general improvement in relations among Greece, Turkey, and Cyprus and between those countries and the United States. The Congress finds that—

(1) a just settlement on Cyprus must involve the establishment of a free and independent government on Cyprus and

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

[952] Sec. 620B, as added by sec. 11 of Public Law 95–92 (91 Stat. 619) and amended by sec. 12(c)(1) of Public Law 95–384 (92 Stat. 737), was repealed by sec. 725(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1553). Sec. 620B had prohibited the furnishing of MAP, ESF, IMET, and Peacekeeping assistance under this Act, and the extension of credits, sales, or export licenses under the Arms Export Control Act for Argentina after September 30, 1978. Sec. 725(b) of Public Law 97–113, conditions on U.S. assistance and sales to Argentina, was repealed in 1989.

[953] 22 U.S.C. 2373. Sec. 620C was added by sec. 13(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737).

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 166), provided the following:

"ECONOMIC SUPPORT FUND

"* * * *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: * * *".

must guarantee that the human rights of all of the people of Cyprus are fully protected;

(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

(3) the guidelines for inter-communal talks agreed to in Nicosia in February 1977 and the United Nations resolutions regarding Cyprus provide a sound basis for negotiation of a just settlement on Cyprus;

(4) serious negotiations, under United Nations auspices, will be necessary to achieve agreement in, and implementation of, constitutional and territorial terms within such guidelines; and

(5) the recent proposals by both Cypriot communities regarding the return of the refugees to the city of New Famagusta (Varosha) constitute a positive step and the United States should actively support the efforts of the Secretary General of the United Nations with respect to this issue.

(b) United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

(1) The United States shall actively support the resolution of differences through negotiations and internationally established peaceful procedures, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

(2) The United States will accord full support and high priority to efforts, particularly those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this Act, the Arms Export Control Act, and the agreements under which those defense articles were furnished.

(4) The United States will furnish security assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength among countries of the region, including between Greece and Turkey, is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

(5) The United States shall use its influence to ensure the continuation of the ceasefire on Cyprus until an equitable negotiated settlement is reached.

(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

(c)[954] Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly. To facilitate such a review the President shall, within 60 days after the date of enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

(d) In order to ensure that United States assistance is furnished consistent with the policies established in this section, the President shall, whenever requesting any funds for security assistance under this Act or the Arms Export Control Act for Greece and Turkey, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate his certification, with a full explanation thereof, that the furnishing of such assistance will be consistent with the principles set forth in subsection (b). The President shall also submit such a certification with any notification to the Congress, pursuant to section 36(b) of the Arms Export Control Act, of a proposed sale of defense articles or services to Greece or Turkey.

(e)[955] (1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this provision shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.

Sec. 620D.[956] **Prohibition on Assistance to Afghanistan.**—(a) None of the funds authorized to be appropriated under this Act may be used to furnish assistance to Afghanistan nor may funds authorized to be appropriated under this Act before October 1, 1979, be expended for assistance to Afghanistan until the President certifies to the Congress that—

(1) the Government of Afghanistan has apologized officially and assumes responsibility for the death of Ambassador Adolph Dubs; and

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

[955] Subsec. (e) was added by sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329–171).

[956] 22 U.S.C. 2374. Sec. 620D was added by sec. 505 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 378).

(2) the Government of Afghanistan agrees to provide adequate protection for all personnel of the United States Government in Afghanistan.

(b) The provisions of subsection (a) shall not apply if the President determines that such assistance is in the national interest of the United States because of substantially changed circumstances in Afghanistan.[957]

Sec. 620E.[958] **Assistance to Pakistan.**—(a) The Congress recognizes that Soviet Forces occupying Afghanistan pose a security threat to Pakistan. The Congress also recognizes that an independent and democratic Pakistan with continued friendly ties with the United States is in the interest of both nations. The Congress finds that United States assistance will help Pakistan maintain its independence. Assistance to Pakistan is intended to benefit the people of Pakistan by helping them meet the burdens imposed by the presence of Soviet forces in Afghanistan and by promoting economic development. In authorizing assistance to Pakistan, it is the intent of Congress to promote the expeditious restoration of full civil liberties and representative government in Pakistan. The Congress further recognizes that it is in the mutual interest of Pakistan and the United States to avoid the profoundly destabilizing effects of the proliferation of nuclear explosive devices or the capacity to manufacture or otherwise acquire nuclear devices.

(b) The United States reaffirms the commitment made in its 1959 bilateral agreement with Pakistan relating to aggression from a Communist or Communist-dominated state.

(c) Security assistance for Pakistan shall be made available in order to assist Pakistan in dealing with the threat to its security posed by the Soviet presence in Afghanistan. The United States will take appropriate steps to ensure that defense articles provided by the United States to Pakistan are used for defensive purposes.

(d)[959] The President may waive the prohibitions of section 101 of the Arms Export Control Act with respect to any grounds for the prohibition of assistance under that section arising before the effective date of part B of the Nuclear Proliferation Prevention Act of

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[957] In a determination of October 7, 1992, directed to the Secretary of State, the President stated:

"By virtue of the authority vested in me by section 620D(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2374(b)), I hereby determine that furnishing assistance to Afghanistan with funds authorized to be appropriated under that Act is in the national interest of the United States because of substantially changed circumstances in Afghanistan.

"By virtue of the authority vested in me by section 2(b)(2)(C) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(2)(C)), I hereby determine that Afghanistan has ceased to be a Marxist-Leninist country within the definition of such term in subparagraph (B)(i) of section 2(b)(2) of that Act (12 U.S.C. 635(b)(2)(B)(i)).

"In accordance with section 118(c)(1) of Public Law 99–190 (99 Stat. 1319), I hereby provide notice of my intention to restore nondiscriminatory trade treatment to the products of Afghanistan no sooner than 30 days following receipt by the Congress of this memorandum." (Presidential Determination No. 93–3 of October 7, 1992; 57 F.R. 47557).

[958] 22 U.S.C. 2375. Sec. 620E was added by sec. 736 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1561). The President exercised his authority under subsec. (d) on Feb. 10, 1982 (Presidential Determination No. 82–7).

[959] Sec. 822(b)(2) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 507 at 512), amended and restated subsec. (d). The subsec. formerly read, as previously amended, as follows:

"(d) The President may waive the prohibitions of section 669 of this Act at any time during the period beginning on the date of enactment of this section and ending on September 30, 1994, to provide assistance to Pakistan during that period if he determines that to do so is in the national interest of the United States.".

See the next note relating to Presidential determinations.

1994 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.

(e)[960] (1)[961] No military assistance[962] shall be furnished to Pakistan and no military equipment or technology shall be sold or

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[960] Popularly referred to as the Pressler amendment. Subsec. (e) was added by sec. 902 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 268). Presidential Determinations No. 86–3 of November 25, 1985; No. 87–3 of October 27, 1986; No. 88–4 of December 17, 1987; 89–7 of November 18, 1988; and 90–1 of October 5, 1989, 54 F.R. 43797, certified that Pakistan does not have a nuclear explosive device and that U.S. assistance would reduce significantly the risk that Pakistan will possess a nuclear explosive device. The President did not certify for fiscal years 1991–1997.

On May 28 and 30, 1998, Pakistan tested nuclear explosive devices. On May 30, 1998, the President determined that such tests had transpired, and imposed a range of sanctions required pursuant to sec. 102(b) of the Arms Export Control Act (Presidential Determination No. 98–25; 63 F.R. 31881).

The India-Pakistan Relief Act, enacted as title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(a) of Public Law 105–277; 112 Stat. 2681), however, authorized the President to waive the application of sanctions against India and Pakistan for one year. The President issued such a determination as referred to in sec. 902 of the India-Pakistan Relief Act on December 1, 1998, that provided: "I hereby waive until October 21, 1999, the sanctions and prohibitions contained in section 101 and 102 of the Arms Export Control Act, section 620E(e) of the Foreign Assistance Act of 1961, and section 2(b)(4)of the Export-Import Bank Act of 1945, insofar as such sanctions and prohibitions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency with respect to Pakistan and India; assistance to Pakistan and India under the 'International Military Education and Training' program; the making of any loan or financial or technical assistance to Pakistan by any international financial institution in support of the assistance program that Pakistan is negotiating with the International Monetary Fund." (Presidential Determination No. 99–7; *Weekly Compilation of Presidential Documents,*vol. 34, no. 49, December 7, 1998, p. 2402).

The President extended the waiver on September 30, 1999 (Presidential Determination No. 99–44; 64 F.R. 54503).

Title IX of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1283), repealed the India-Pakistan Relief Act, effective October 21, 1999. In its place, title IX of that Act, as amended, provided the following:

"TITLE IX

"WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

"SEC. 9001. (a) WAIVER AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the President may waive, with respect to India and Pakistan, the application of any sanction contained in section 101 or 102 of the Arms Export Control Act (22 U.S.C. 2799aa or 22 U.S.C. 2799aa–1), section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)), or section 620E(e) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2375(e)).

"(b) EXCEPTION.—The authority to waive the application of a sanction or prohibition (or portion thereof) under subsection (a) shall not apply with respect to a sanction or prohibition contained in subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines, and so certifies to the Congress, that the application of the restriction would not be in the national security interests of the United States.

"(c) TERMINATION OF WAIVER.—The President may not exercise the authority of subsection (a), and any waiver previously issued under subsection (a) shall cease to apply, with respect to India or Pakistan, if that country detonates a nuclear explosive device after the date of the enactment of this Act or otherwise takes such action which would cause the President to report pursuant to section 102(b)(1) of the Arms Export Control Act.

"(d) TARGETED SANCTIONS.—

"(1) SENSE OF THE CONGRESS.—

"(A) it is the sense of the Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that this control list requires refinement; and

"(B) export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.

"(2) REPORTING REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit both a classified and unclassified report to the appropriate congressional committees listing those Indian and Pakistani entities whose activities contribute to missile programs or weapons of mass destruction programs.

"(e) CONGRESSIONAL NOTIFICATION.—The issuance of a license for export of a defense article, defense service, or technology under the authority of this section shall be subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), including the transmittal of information and the application of congressional review procedures. The application of these requirements shall be subject to the dollar amount thresholds specified in that section.

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transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which military assistance is to be furnished or military equipment or technology[963] is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States military assistance[964] program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

"(f) REPEAL.—The India-Pakistan Relief Act (title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, as contained in section 101(a) of Public Law 105–277) is repealed effective October 21, 1999.".

The President waived the application of sanctions under the new law on October 27, 1999 (Presidential Determination No. 2000–4; 64 F.R. 60649), to the following extent:

"(1) with respect to India, insofar as such sanctions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency; assistance under the 'International Military Education and Training' program; the making of any loan or the providing of any credit to the Government of India by any U.S. bank; assistance to the Asian elephant Conservation Fund, the Rhinoceros and Tiger conservation Fund, and the Indo-American Environmental Leadership program; and any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and

"(2) with respect to Pakistan, insofar as such sanctions would otherwise apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and the making of any loan or the providing of any credit to the Government of Pakistan by any U.S. bank." (Presidential Determination No. 2000–4; October 27, 1999; 64 F.R. 60649).

On September 22, 2001, the President lifted all nuclear test-related sanctions against India and Pakistan, under the authority granted him in the Defense Appropriations Act, FY 2000 (Presidential Determination No. 2001–28; 66 F.R. 50095).

On October 27, 2001, the President signed Public Law 107–57 (115 Stat. 403), authorizing the waiver of remaining sanctions imposed against Pakistan for debt arrearage and the military overthrow of its democratically elected government. This authority remains available through fiscal year 2003.

See also sec. 102 of the Arms Export Control Act, as amended by the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 166, 187), provides the following relating to Pakistan:

"ECONOMIC SUPPORT FUND

"* * * *Provided further,* That not to exceed $200,000,000 of the funds appropriated under this heading in this Act may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: * * *

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"SPECIAL NOTIFICATION REQUIREMENTS

"SEC. 520. None of the funds appropriated by this Act shall be obligated or expended for Colombia, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of the Congo except as provided through the regular notification procedures of the Committees on Appropriations.".

See also sec. 589 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2174), relating to the availability of excess defense articles for certain countries.

[961] Sec. 559(a)(1)(D) and (E) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), added para. designation "(1)", and added new paras. (2) through (4). These amendments are popularly collectively referred to as the "Brownback amendment."

[962] Popularly referred to as the Brown amendment. Sec. 559(a)(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), struck out "No assistance", and inserted in lieu thereof "No military assistance".

[963] Sec. 559(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), struck out "in which assistance is to be furnished or military equipment or technology" and inserted in lieu thereof "in which military assistance is to be furnished or military equipment or technology".

[964] Sec. 559(a)(1)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), struck out "the proposed United States assistance" and inserted in lieu thereof "the proposed United States military assistance".

(2)[961] The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

(A) International narcotics control (including chapter 8 of part I of this Act) or any provision of law available for providing assistance for counternarcotics purposes.

(B) Facilitating military-to-military contact, training (including chapter 5 of part II of this Act) and humanitarian and civic assistance projects.

(C) Peacekeeping and other multilateral operations (including chapter 6 of part II of this Act relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment provided under this subparagraph shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided.

(D) Antiterrorism assistance (including chapter 8 of part II of this Act relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes.

(3)[961] The restrictions of this subsection shall continue to apply to contracts for the delivery of F–16 aircraft to Pakistan.

(4)[961] Notwithstanding the restrictions contained in this subsection, military equipment, technology, or defense services, other than F–16 aircraft, may be transferred to Pakistan pursuant to contracts or cases entered into before October 1, 1990.

(f)[965] STORAGE COSTS.—The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amount paid, on such terms and conditions as the President may prescribe: *Provided,* That such payments have no budgetary impact.

(g)[965] INAPPLICABILITY OF RESTRICTIONS TO PREVIOUSLY OWNED ITEMS.—Section 620E(e) does not apply to broken, worn or unupgraded items or their equivalent which Pakistan paid for and took possession of prior to October 1, 1990 and which the Government of Pakistan sent to the United States for repair or upgrade. Such equipment or its equivalent may be returned to the Government of Pakistan: *Provided,* That the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States and that its total value does not exceed $25,000,000.

(h)[965] BALLISTIC MISSILE SANCTIONS NOT AFFECTED.—Nothing contained herein shall affect sanctions for transfers of missile equipment or technology required under section 11B of the Export Administration Act of 1979 or section 73 of the Arms Export Control Act.

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[965] Sec. 559(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743), added subsecs. (f), (g), and (h).

SEC. 620F.[966] **NUCLEAR NON-PROLIFERATION POLICY IN SOUTH ASIA.**

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of weapons of mass destruction remains one of the most serious threats to international peace and stability;

(2) South Asia, in particular, is an area where the threat of a regional nuclear exchange remains high due to continued Indo-Pakistani tensions over issues such as Kashmir;

(3) to date, United States efforts to halt proliferation in South Asia have failed;

(4) although global disarmament is a desirable goal which should be vigorously pursued, both regional and sub-regional security arrangements can serve to decrease tensions and promote non-proliferation in certain areas;

(5) thus far, there has been some success on a regional basis, such as the South Pacific Nuclear Weapons Free Zone and the Treaty of Tlatelolco in Latin America;

(6) in particular, in Latin America, the Treaty of Tlatelolco has been signed by all the nuclear powers;

(7) a critical part of this treaty is Protocol II which prohibits nuclear attacks by nuclear weapons states on signatories to the treaty;

(8) in 1991, a proposal was made for a regional conference on non-proliferation in South Asia which would include Pakistan, India, the People's Republic of China, the Soviet Union, and the United States; and

(9) thus far, Pakistan, China, Russia, and the United States have expressed interest in attending such a conference, whereas India has refused to attend.

(b) POLICY.—It is the sense of the Congress that the President should pursue a policy which seeks a regional negotiated solution to the issue of nuclear non-proliferation in South Asia at the earliest possible time, including a protocol to be signed by all nuclear weapons states, prohibiting nuclear attacks by nuclear weapons states on countries in the region. Such a policy should have as its ultimate goal concurrent accession by Pakistan and India to the Nuclear Non-Proliferation Treaty, and should also include as needed a phased approach to that goal through a series of agreements among the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities.

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[966] 22 U.S.C. 2376. Added by sec. 585(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1688).

Sec. 585(b) of that Act further provided:

"(b) REPORT ON SOUTH ASIAN NUCLEAR PROGRAMS.—Not later than six months after the enactment of this Act, the President shall submit a report with respect to the People's Republic of China, Pakistan, and India in writing to the Committees on Appropriations, the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, on those country's nuclear and ballistic missile programs, including, but not limited to—

"(1) a determination as to whether that country possesses a nuclear explosive device or whether it possesses all the components necessary for the assembly of such a device;

"(2) a complete report on the status of that country's missile development program, foreign assistance to that program, and foreign sales of missiles or missile components to that country and steps which the United States has taken in response to such sales; and

"(3) a report on whether that country has agreed to fully adhere, and is adhering, to all peaceful nuclear cooperation agreements with the United States and has formally agreed to place all United States-supplied nuclear materials under international safeguards in perpetuity.".

(c)[967] REPORT ON PROGRESS TOWARD REGIONAL NON-PROLIFERATION.—Not later than April 1 of each year,[968] the President shall submit a report to the Committees on Appropriations, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate, on nuclear proliferation in South Asia, including efforts taken by the United States to achieve a regional agreement on nuclear non-proliferation, and including a comprehensive list of the obstacles to concluding such a regional agreement.

SEC. 620G.[969] PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

(a) WITHHOLDING OF ASSISTANCE.—The President shall withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

(b) WAIVER.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

SEC. 620G.[970] DEPLETED URANIUM AMMUNITION.

(a) PROHIBITION.—Except as provided in subsection (b), none of the funds made available to carry out this Act or any other Act may be made available to facilitate in any way the sale of M–833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

(1) a country that is a member of the North Atlantic Treaty Organization;

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[967] In a memorandum of March 30, 1994, the President delegated the functions in subsec. (c) to the Secretary of State; stipulating that preparation of the report is to be coordinated with other agencies, as appropriate and the Assistant to the President for National Security Affairs (59 F.R. 17229).

[968] Sec. 2219 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of Division G of Public Law 105–277; 112 Stat. 2861), struck out "Not later than April 1, 1993, and every six months thereafter," and inserted in lieu thereof "Not later than April 1 of each year,".

[969] 22 U.S.C. 2377. Sec. 325 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256) added this sec. 620G.

Sec. 329 of that Act (110 Stat. 1258) defined assistance as follows:

"(1) the term 'assistance' means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

"(2) the term 'assistance' does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).".

Sec. 149 of Public Law 104–164 (110 Stat. 1436) also added a new sec. 620G, relating to depleted uranium ammunition.

[970] 22 U.S.C. 2378a. Sec. 149 of Public Law 104–164 (110 Stat. 1436) added this new sec. 620G. Sec. 325 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256) also added a new sec. 620G, prohibiting assistance to countries that aid terrorist states.

(2) a country that has been designated as a major non-NATO ally (as defined in section 644(q)); or

(3) Taiwan.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.

SEC. 620H.[971] PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

(a) PROHIBITION.—

(1) IN GENERAL.—The President shall withhold assistance under this Act to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.[972]

(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

SEC. 620I.[973, 974] PROHIBITION ON ASSISTANCE TO COUNTRIES THAT RESTRICT UNITED STATES HUMANITARIAN ASSISTANCE.—

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[971] 22 U.S.C. 2378. Sec. 326 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256) added sec. 620H. See also sec. 543 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 197).

On September 27, 1999, the State Department issued a determination that "the Acting Secretary of State has made a determination pursuant to section 620H of the Foreign Assistance Act, section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (Pub. L. 105–277) and the analogous provisions in prior year foreign operations, export financing, and related programs appropriations act. The Acting Secretary has concluded that publication of the determination would be harmful to the national security of the United States." (Department of State Public Notice 3129; 64 F.R. 53434). The State Department issued a similar determination on June 14, 2000 (Public Notice 3340; 65 F.R. 39219).

On December 9, 1999, the State Department found "that the Government of Kazakhstan has provided lethal military equipment to a country determined by the Secretary of State to be a state sponsor of terrorism. Also on November 17, 1999 * * * the United States Government determined furnishing assistance restricted by [cited provisions of law] to the Government of Kazakhstan, with the exceptions [of named entities] is important to the national interest of the United States * * *." (Department of State Public Notice 3175; 64 F.R. 70103).

[972] "[D]ate of enactment of this Act" probably refers to enactment of the amendment, April 24, 1996.

[973] 22 U.S.C. 2379. Added by sec. 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of Public Law 104–208; 110 Stat.

(a) IN GENERAL.—No assistance shall be furnished under this Act or the Arms Export Control Act to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) EXCEPTION.—Assistance may be furnished without regard to the restriction in subsection (a) if the President determines that to do so is in the national security interest of the United States.

(c) NOTICE.—Prior to making any determination under subsection (b), the President shall notify the Committee on International Relations, the Committee on Foreign Relations, and the Committees on Appropriations of the Senate and House of Representatives of his intention to make such a determination, the effective date of the determination, and the reasons for making the determination.

3009). Originally enacted as freestanding language in sec. 562 of Public Law 104–107 (110 Stat. 745).

[974] In a memorandum of May 23, 1997, for the Secretary of State, the President determined "that it is in the national security interest of the United States that assistance be furnished to Turkey without regard to the restriction in subsection (a) of section 620I." (Presidential Determination No. 97–24; 62 F.R. 30737).

Chapter 2—Administrative Provisions

Sec. 621.[975] **Exercise of Functions.**[976]—(a) The President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions to any of his subordinates. In providing technical assistance under this Act, the head of any such agency or such officer shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. In such fields as education, health, housing, or agriculture, the facilities and resources of other Federal agencies shall be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with

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[975] 22 U.S.C. 2381.

Sec. 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–54), provided the following:

"AGENCY FOR INTERNATIONAL DEVELOPMENT BUDGET JUSTIFICATION

"SEC. 576. The Agency for International Development shall submit to the Committees on Appropriations a detailed budget justification that is consistent with the requirements of section 515, for each fiscal year. The Agency shall submit to the Committees on Appropriations a proposed budget justification format no later than November 15, 2000, or 30 days after the enactment of this Act, whichever occurs later. The proposed format shall include how the Agency's budget justification will address: (1) estimated levels of obligations for the current fiscal year and actual levels for the 2 previous fiscal years; (2) the President's request for new budget authority and estimated carryover obligational authority for the budget year; (3) the disaggregation of budget data and staff levels by program and activity for each bureau, field mission, and central office; and (4) the need for a user-friendly, transparent budget narrative.".

Sec. 587 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681; 22 U.S.C. 2381 note), as amended by sec. 5002(b) of Public Law 106–31 (113 Stat. 109), provided the following:

"AID OFFICE OF SECURITY

"SEC. 587. (a) ESTABLISHMENT OF OFFICE.—There shall be established within the Office of the Administrator of the Agency for International Development, an Office of Security. Such Office of Security shall, notwithstanding any other provision of law except section 207 of the Foreign Service Act of 1980 and section 103 of Public Law 99–399, have the responsibility for the supervision, direction, and control of all security activities relating to the programs and operations of that Agency.

"(b) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—There are transferred to the Office of Security all security functions exercised by the Office of Inspector General of the Agency for International Development exercised before the date of enactment of this Act. The Administrator shall transfer from the Office of the Inspector General of such Agency to the Office of Security established by subsection (a), the personnel (including the Senior Executive Service position designated for the Assistant Inspector General for Security), assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, and other funds held, used, available to, or to be made available in connection with such functions. Unexpended balances of appropriations, and other funds made available or to be made available in connection with such functions, shall be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the Agency for International Development'.

"(c) TRANSFER OF EMPLOYEES.—Any employee in the career service who is transferred pursuant to this section shall be placed in a position in the Office of Security established by subsection (a) which is comparable to the position the employee held in the Office of the Inspector General of the Agency for International Development.".

Sec. 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1698), provided the following:

"The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Agency for International Development.".

[976] Sec. 302(a) of the FA Act of 1962 struck out subsection designation "(a)" and repealed subsecs. (b), (c), (d), and (e). Subsequently, new subsec. designation "(a)" and subsec. (b) were added by the sec. 302(a) of the FA Act of 1968.

private enterprise, and can be made available without interfering unduly with domestic programs.[977]

(b)[976] The President shall issue and enforce regulations determining the eligibility of any person to receive funds made available under this Act. A person may be suspended under such regulations for a temporary period pending the completion of an investigation and any resulting judicial or debarment proceedings, upon cause for belief that such person or an affiliate thereof probably has undertaken conduct which constitutes a cause for debarment; and, after an opportunity has been afforded to such person for a hearing, he may be debarred for an additional period, not to exceed three years. Among the causes for debarment shall be (1) offering or accepting a bribe or other illegal payment or credit in connection with any transaction financed with funds made available under this Act; or (2) committing a fraud in the procurement or performance of any contract financed with funds made available under this Act; or (3) acting in any other manner which shows a lack of integrity or honesty in connection with any transaction financed with funds made available under this Act. Reinstatement of eligibility in each particular case shall be subject to such conditions as the President shall direct. Each person whose eligibility is denied or suspended under this subsection shall, upon request, be entitled to a review of his eligibility not less often than once every two years.

Sec. 621A.[978] **Strengthened Management Practices.**—(a) The Congress believes that United States foreign aid funds could be utilized more effectively by the application of advanced management decisionmaking, information and analysis techniques such as systems analysis, automatic data processing, benefit-cost studies, and information retrieval.

(b) To meet this need, the President shall establish a management system that includes: the definition of objectives and programs for United States foreign assistance; the development of quantitative indicators of progress toward these objectives; the orderly consideration of alternative means for accomplishing such objectives; and the adoption of methods for comparing actual results of programs and projects with those anticipated when they were undertaken. The system should provide information to the agency and to Congress that relates agency resources, expenditures, and budget projections to such objectives and results in order to assist in the evaluation of program performance, the review of budgetary requests, and the setting of program priorities.

(c)[979] * * * [Repealed—1978]

Sec. 622.[980] **Coordination With Foreign Policy.**—(a) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(b) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Gov-

[977] Sec. 302(a) of the FA Act of 1963 inserted the last two sentences in lieu of a sentence that provided for the use of the technical expertise of Federal agencies with primary responsibilities in domestic programs.

[978] 22 U.S.C. 2381a. Sec. 621A was added by sec. 302(b) of the FA Act of 1968.

[979] Subsec. (c), which had called for an annual report from the President regarding the implementation of this section, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[980] 22 U.S.C. 2382.

ernment in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the Diplomatic Mission shall make sure that recommendations of such representatives pertaining to military assistance (including civic action) and military education and training programs[981] are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

(c)[982] Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

Sec. 623.[983] **The Secretary of Defense.**—(a) In the case of assistance under part II of this Act, the Secretary of Defense shall have primary responsibility for—

(1) the determination of military end-item requirements;

(2) the procurement of military equipment in a manner which permits its integration with service programs;

(3) the supervision of end-item use by the recipient countries;

(4) the supervision of the training of foreign military and related civilian[984] personnel;

(5) the movement and delivery of military end-items; and

(6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance, education and training.[985]

(b) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall be determined by the Secretary of Defense.

Sec. 624.[986] **Statutory Officers.**—(a) The President may appoint, by and with the advice and consent of the Senate, twelve officers[987] in the agency primarily responsible for administering part I, * * * [Repealed—1964]

(1) * * * [Repealed—1964]

(2) * * * [Repealed—1964]

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[981] Sec. 302(a)(1) of the FA Act of 1966 inserted "(including civic action) or sales programs" in lieu of "(including any civil action and sales program)". Sec. 45(b)(1) of the Foreign Military Sales Act (Public Law 90–629) struck out "or sales" which appeared before the word "programs". Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 added the words "and military education and training".

[982] Subsec. (c) was amended and restated by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

The responsibility of the Secretary of State under this subsection, insofar as it relates to development assistance, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[983] 22 U.S.C. 2383.

[984] The words "and related civilian" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

[985] The words ", education and training" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

[986] 22 U.S.C. 2384.

[987] Sec. 7 of Reorganization Plan No. 2 of 1979 stated:

"One of the positions that the President may appoint under section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a), 5 U.S.C. 5315(5)) is hereby abolished.".

(3) * * * [Repealed—1964][988] and in the selection of one of such persons due consideration shall be given to persons qualified as professional engineers.

(b) Within the limitations established by subsection (a) of this section, the President may fix the rate of compensation, and may designate the title of, any officer appointed pursuant to the authority contained in that subsection. The President may also fix the order of succession among the officers provided for in[989] subsection (a) of this section in the event of the absence, death, resignation, or disability of one or more of said officers.

(c) Any person who was appointed by and with the advice and consent of the Senate, to any statutory position authorized by any provision of law repealed by section 642(a) and who is serving in one of such positions at the time of transfer of functions pursuant to subsections (c) and (d) of section 621, may be appointed by the President to a comparable position authorized by subsection (a) of this section on the date of the establishment of the agency primarily responsible for administering part I, without further action by the Senate.

(d)[990] * * * [Repealed—1978]

(e)[991] In addition to the officers otherwise provided for in this section, the President shall appoint, by and with the advice and consent of the Senate, one officer for the purpose of coordinating security assistance programs.

(f)[992] * * * [Repealed—1994]

(g)[993] * * * [Repealed—1981]

Sec. 625.[994] **Employment of Personnel.**—(a) Any agency or officer of the United States Government carrying out functions under this Act is authorized to employ such personnel as the President

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[988] That part of sec. 624(a) to this point, beginning with the words "of whom—" was repealed by sec. 305(42) of the Government Employees Salary Reform Act of 1964 (Public Law 88–426). The repealed part provided for one Under Secretary, one Deputy Under Secretary, and ten Assistant Secretaries.

[989] Sec. 302(b)(1) of the FA Act of 1965 struck out the words "paragraph (3) of" which appeared at this point, and also substituted "or one or more of said officers" for "of the officers provided for in paragraphs (1) and (2) of that subsection".

[990] Subsec. (d), which concerned the office of Inspector General, Foreign Assistance, was repealed, effective July 1, 1978, by sec. 124(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541).

[991] Subsec. (e) was added by sec. 302 of the FA Act of 1971.

[992] Sec. 162(e)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405) struck out subsec. (f), which had established the Assistant Secretary of State for Human Rights and Humanitarian Affairs in the Department of State. The newly designated Assistant Secretary of State for Democracy, Human Rights, and Labor and the responsibilities assigned to that title may be found at section 1(c)(2) of the State Department Basic Authorities Act of 1956, as amended by sec. 161 of Public Law 103–236 (22 U.S.C. 2651a(1)(c)(2)).

Subsec. (f), as added originally by sec. 301(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 750), provided for the establishment of a Coordinator for Human Rights and Humanitarian Affairs. This title designation was upgraded to Assistant Secretary of State for Human Rights and Humanitarian Affairs by sec. 109(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105; 91 Stat. 846).

[993] Subsec. (g), as added by sec. 504 of Public Law 95–424 (92 Stat. 959) and amended by sec. 706 of Public Law 96–536 (94 Stat. 3158), was repealed by sec. 705(b)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1545). Former subsec. (g) concerned the responsibilities and duties of the Inspector General of AID. Similar language can now be found at sec. 8A of the Inspector General Act of 1978. See *Legislation on Foreign Relations Through 2002*, vol. IV, sec. N. for text.

[994] 22 U.S.C. 2385.

deems necessary to carry out the provisions and purposes of this Act.

(b) Of the personnel employed in the United States to carry out part I or coordinate part I and part II, not to exceed one hundred and ten[995] may be appointed, compensated or removed without regard to the provisions of any law, of whom not to exceed fifty-one may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5 of the United States Code,[996] but not in excess of the highest rate of grade 18 of such general schedule:[997] *Provided,* That, under such regulations as the President shall prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5 of the United States Code.[998]

(c) Of the personnel employed in the United States to carry out part II, or any Act superseding part II in whole or in part,[999] not to exceed eight may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5 of the United States Code, but not in excess of the highest rate of grade 18 of such general schedule.[1000] Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5 of the United States Code.[1001]

(d)[1002] For the purpose of performing functions under this Act outside the United States, the President may employ or assign individuals, or may authorize the employment or assignment of officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, or under chapter 53 of title 5, United States Code, or

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[995] Sec. 301(c)(1) of the FA Act of 1962 inserted "one hundred and ten" in lieu of "seventy-six".

[996] Sec. 302(b)(1) of the FA Act of 1967 inserted "Section 5332 of title 5 of the United States Code" in lieu of "the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.)".

[997] Sec. 1001(k)(1) of the Postal Service and Federal Employees Salary Act of 1962 (Public Law 87–793) inserted "but not in excess of the highest rate of grade 18 of such general schedule" in lieu of "and of these, not to exceed eight may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year".

[998] Sec. 302(b)(2) of the FA Act of 1967 inserted "5108 of title 5 of the United States Code" in lieu of "505 of the Classification Act of 1949, as amended".

[999] The words "or any Act superseding part II in whole or in part," were added by sec. 302(c) of the FA Act of 1968.

[1000] Sec. 302(c)(1) of the FA Act of 1967 inserted "section 5332 of title 5 of the United States Code" in lieu of "the Classification Act of 1949, as amended".

Sec. 1001(k)(2) of the Postal Service and Federal Employees Salary Act of 1962 (Public Law 87–793) substituted the words "but not in excess of the highest rate of grade 18 of such general schedule" in lieu of "and if these, not to exceed three may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year".

[1001] Sec. 302(c)(2) of the FA Act of 1967 inserted "5108 of title 5 of the United States Code" in lieu of "505 of the Classification Act of 1949, as amended".

[1002] Subsec. (d) was amended and restated by sec. 2203(a) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158). Subsec. (d) had previously been amended by the FA Act of 1962, the FA Act of 1964, the FA Act of 1967, and by the International Development and Food Assistance Act of 1977.

at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980.[1003] Individuals so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service.

(e)[1004] * * * [Repealed—1981]

(f)[1005] Funds provided for in agreements with foreign countries for the furnishing of services under this Act with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agencies primarily responsible for administering part I or part II of this Act) as well as personnel not employed by the United States Government.

(g)[1006] * * * [Repealed—1981]

(h) Notwithstanding any other provision of law, officers and employees of the United States Government performing functions under this Act shall not accept from any foreign country any compensation or other benefits. Arrangements may be made by the President with such countries for reimbursement to the United States Government or other sharing of the cost of performing such functions.

(i) To the maximum extent practicable officers and employees performing functions under this Act abroad shall be assigned to countries and positions for which they have special competence, such as appropriate language and practical experience.

(j)[1007] * * * [Repealed—1981]

(k)[1008] * * * [Repealed—1980]

Sec. 626.[1009] **Experts, Consultants, and Retired Officers.**—(a) Experts and consultants or organizations thereof may, as authorized by section 3109 of title 5 of the United States Code,[1010] be employed for the performance of functions under this Act, and individuals so employed may be compensated at rates not in excess of the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332

[1003] The references in this sentence to chapter 53 of title 5, U.S. Code, and "any other rate authorized by law" were added by sec. 703 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544).

[1004] Subsec. (e), which authorized the President to prescribe standards for maintaining adequate performance levels of specified personnel, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160).

[1005] Sec. 625(f) was amended and restated by sec. 302(c)(3) of the FA Act of 1962.

[1006] Subsec. (g), which concerned foreign language competence of personnel carrying out functions under this Act, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160).

[1007] Subsec. (j), as added by the FA Act of 1964 and which had concerned the Presidential appointment of U.S. representatives to the Inter-American Committee on the Alliance for Progress, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160).

[1008] Subsec. (k), as added by the FA Act of 1973 and which designated certain categories of personnel serving in the agency as being eligible to participate in the Foreign Service Retirement and Disability System, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160). While nearly all provisions of the Foreign Service Act of 1980 were not effective until Feb. 15, 1981, sec. 2203(d)(1) of such Act specified that the repeal of sec. 625(k) would be effective on the date of enactment of the Act (Oct. 17, 1980).

[1009] 22 U.S.C. 2386.

[1010] Sec. 302(e)(1) of the FA Act of 1967 inserted "3109 of title 5 of the United States Code" in lieu of "15 of the Act of August 22, 1946, as amended (5 U.S.C. 55a)".

of title 5, United States Code,[1011] and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended from time to time. Contracts for such employment with such organizations, employment of personnel as experts and consultants, not to exceed ten in number, contracts for such employment of retired military personnel with specialized research and development experience, not to exceed ten in number, and contracts for such employment of retired military personnel with specialized experience of a broad politico-military nature, not to exceed five in number, may be renewed annually.

(b)[1012] Service of an individual as an expert or consultant under subsection (a) of this section shall not[1013] be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a)[1014] of title 5 of the United States Code.

(c)[1015] Persons of outstanding experience and ability may be employed without compensation by any agency of the United States Government for the performance of functions under this Act in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160(b)), and regulations issued thereunder.

Sec. 627.[1016] **Detail of Personnel to Foreign Governments.**—Whenever the President determines it to be in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail or assign any officer or employee of his agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government or the acceptance of compensation or other benefits from any foreign country by such officer or employee.

Sec. 628.[1017] **Detail of Personnel to International Organizations.**—Whenever the President determines it to be consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available to any international organization any officer or employee of his agency to serve with, or as a member of, the international staff of such organization, or to render any

[1011] The words to this point beginning with "the daily equivalent of the highest rate" were inserted in lieu of "$100 per diem" by sec. 603 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 766).

[1012] Sec. 302(c)(1) of the FA Act of 1963 struck out the first sentence of this section, relating to employment compensation, since the subject matter was superseded by Public Law 87–849, approved Oct. 23, 1962.

[1013] The words "Service of an individual as an expert or consultant under subsection (a) of this section shall not" were inserted in lieu of "Nor shall such service" by sec. 302(c)(2) of the FA Act of 1963.

[1014] Sec. 126 of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 542) added the words "section 3323(a)" and struck out reference to secs. 3323(a) and 8344 of 5 USC, and sec. 872 of the Foreign Service Act of 1946.

[1015] Sec. 302(d) of the FA Act of 1965 redesignated subsec. (d) as subsec. (c). Former subsec. (c), which related to employment of retired officers, was repealed by the Dual Compensation Act (Public Law 88–448).

[1016] 22 U.S.C. 2387.

[1017] 22 U.S.C. 2388.

technical, scientific, or professional advice or service to, or in cooperation with, such organization.

Sec. 629.[1018] **Status of Personnel Detailed.**—(a) Any officer or employee, while assigned or detailed under section 627 or 628 of this Act, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this Act.

(b) Any officer or employee assigned, detailed, or appointed under section 627, 628, 631, or 624(d)[1019] of this Act is authorized to receive under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.[1020] The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5 of the United States Code.[1021]

Sec. 630.[1022] **Terms of Detail or Assignment.**—Details or assignments may be made under section 627 or 628 of this Act or section 408 of the Mutual Security Act of 1954, as amended—[1023]

(1) without reimbursement to the United States Government by the foreign government or international organization;

(2) upon agreement by the foreign government or international organization, to reimburse the United States Government for compensation, travel expenses, benefits,[1024] and allowances, or any part thereof, payable to the officer or employee concerned during the period of assignment or detail; and such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits,[1024] or allowances, or to the appropriation, fund, or account currently available for such purposes;

(3) upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act; and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization; or

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[1018] 22 U.S.C. 2389.

[1019] Sec. 302(d) of the FA Act of 1962 substituted "624(d)" for "624(e)".

[1020] The reference to sec. 905 of the Foreign Service Act of 1980 was inserted in lieu of a reference to sec. 901 of the Foreign Service Act of 1946 by sec. 2203(b) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158).

[1021] Sec. 302(f) of the FA Act of 1967 inserted "5536 of title 5 of the United States Code" in lieu of "1765 of the Revised Statutes (5 U.S.C. 70)".

[1022] 22 U.S.C. 2390.

[1023] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[1024] The word "benefits" was added by sec. 302(e) of the FA Act of 1965.

(4) subject to the receipt by the United States Government of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed or assigned, such credit to be based upon the compensations, travel expenses, benefits [1024] and allowances, or any part thereof, payable to such officer or employee during the period of detail or assignment in accordance with section 629.

Sec. 631.[1025] **Missions and Staffs Abroad.**—(a) The President may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out the purposes of this Act. Each such special mission or staff shall be under the direction of a chief.

(b) The chief and his deputy of each special mission or staff carrying out the purposes of part I shall be appointed by the President, and may, notwithstanding any other law, be removed by the President at his discretion. Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate.[1026]

(c) [1027] The President may appoint any United States citizen who is not an employee of the United States Government or may assign any United States citizen who is a United States Government employee to serve as Chairman of the Development Assistance Committee or any successor committee thereto of the Organization for Economic Cooperation and Development upon election thereto by members of said Committee, and, in his discretion, may terminate such appointment or assignment, notwithstanding any other provision of law. Such person may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate. Such person (if not a United States Government employee who is assigned to serve as Chairman) shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 87, and 89 of title 5, United States Code.[1028] Such person may also, in the President's discretion, receive any other benefits and perquisites available under this Act to chiefs of special missions or staffs outside the United States established under this section.

(d) [1029] Wherever practicable, especially in the case of the smaller programs, assistance under part I of this Act [1030] shall be adminis-

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[1025] 22 U.S.C. 2391.

[1026] This sentence was amended and restated by sec. 2203(c) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158). The former text made reference to the Foreign Service Act of 1946 which was repealed by the 1980 Act.

[1027] Subsec. (c) was added by sec. 302(d) of the FA Act of 1963.

[1028] This sentence was amended and restated by sec. 2203(d) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158). The former text made reference to the Foreign Service Act of 1946 which was repealed by the 1980 Act.

[1029] Subsec. (d) was added by sec. 302(f) of the FA Act of 1965.

[1030] The reference to "part I" was added by sec. 7(b)(1) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 617).

tered under the direction of the Chief of the United States Diplomatic Mission by the principal economic officer of the mission.[1031]

Sec. 632.[1032] **Allocation and Reimbursement Among Agencies.**—(a) The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act, including any advance to the United States Government by any country or international organization for the procurement of commodities, defense articles, military education and training,[1033] or services (including defense services). Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(b) Any officer of the United States Government carrying out functions under this Act may utilize the services (including defense services) and facilities of, or procure commodities, defense articles, or military education and training[1034] from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(c) In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out part I, reimbursement or repayment shall be made to such agency from funds available to carry out such part. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or, in the case of services procured from the Department of

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[1031] The words "in the case of assistance under part I, and by the senior military officer of the mission in the case of assistance under part II", which had previously appeared at this point, were struck out by sec. 7(b)(2) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 617).

[1032] 22 U.S.C. 2392. Sec. 509 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–11; 117 Stat. 182), provided the following:

"TRANSFERS BETWEEN ACCOUNTS

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

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

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

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

[1033] The words ", military education and training" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

[1034] The words ", defense articles, or military education and training" were inserted in lieu of "and defense articles" by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

Defense to carry out chapter 8 of part I, the amount of the additional costs incurred by the Department of Defense in providing such services,[1035] or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be deposited into the Treasury as miscellaneous receipts.

(d) Except as otherwise provided in section 506,[1036] reimbursement shall be made to any United States Government agency, from funds available for use under part II, for any assistance furnished under part II from, by, or through such agency. Such reimbursement shall be in an amount equal to the value (as defined in section 644(m)) of the defense articles or of the defense services (other than salaries of members of the Armed Forces of the United States), or other assistance furnished, plus expenses arising from or incident to operations under part II (other than salaries of the Armed Forces of the United States and unfunded estimated costs of civilian retirement and other benefits).[1037] The amount of such reimbursement shall be credited to the current applicable appropriations, funds, or accounts of such agency.

(e) In furnishing assistance under this Act, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States, (1) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the Assignment of Claims Act of 1940, as amended (second and third paragraphs of 31 U.S.C. 203 and 41 U.S.C. 15), and (2) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations, or persons upon presentation of contracts, invoices, or other appropriate documentation. Expenditure of funds which have been made available through accounts so established shall be accounted for on standard documentation required for expenditure of funds of the United States Government: *Provided,* That such expenditures for commodities, defense articles, military education and training services (including defense services), or facilities procured outside the United States may be accounted for exclusively on such certification as may be prescribed in regulations approved by the Comptroller General of the United States.

(f) Credits made by the Export-Import Bank of Washington with funds allocated thereto under subsection (a) of this section or under section 522(a) of the Mutual Security Act of 1954, as amended,

[1035] Sec. 4506 of Public Law 100–690 (102 Stat. 4286) added "or, in the case of * * *,".

[1036] Sec. 45(b)(3) of the Foreign Military Sales Act (Public Law 90–629) inserted "section 506" in lieu of secs. "506, 522, and 523,".

[1037] Section 9104(b)(2) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) inserted parenthetical language at end of sentence.

shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 7 of the Export-Import Bank Act of 1945,[1038] as amended (12 U.S.C. 635e).

(g) Any appropriation or account available to carry out provisions of part I may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are available in other appropriations or accounts under part I: *Provided,* That as of the end of such fiscal year such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes: *Provided further,* That such final charge to applicable appropriations or accounts shall not be required in the case of expenses (other than those provided for under section 637(a)) incurred in furnishing assistance by the agency primarily responsible for administering part I where it is determined that the accounting costs of identifying the applicable appropriation or account to which such expenses should be charged would be disproportionate to the advantage to be gained.

Sec. 633.[1039] **Waivers of Certain Laws.**—(a) Whenever the President determines it to be in furtherance of the purposes of this Act,[1040] the functions authorized under this Act may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.)), regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.[1041]

(b) The functions authorized under part II may be performed without regard to such provisions as the President may specify of the joint resolution of November 4, 1939 (54 Stat. 4), as amended.

(c) Notwithstanding the provisions of sections 3544(b) and 8544(b) of title 10 of the United States Code, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this Act. [Referenced sections repealed by Public Law 90–235. See 10 U.S.C. 973(b).]

Sec. 633A.[1042] **Furnishing Information.**—None of the funds made available pursuant to the provisions of this Act shall be used to carry out any provision of this Act in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations or expenditures under this Act, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, com-

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[1038] For text, see *Legislation on Foreign Relations Through 2002*, vol. III.

[1039] 22 U.S.C. 2393.

[1040] Sec. 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1675) amended subchapter IV of chapter 15 of title 31, U.S.C., to limit the availability of funds beyond the year in which such funds were appropriated, unless otherwise expressly stated, and canceled unobligated funds and pending obligated funds (see 31 U.S.C. 1551–1557, and related notes).

[1041] See Executive Order 11223 (30 F.R. 6635, signed May 12, 1965); amended by Executive Order 12163 (44 F.R. 56673, signed September 29, 1979); amended by Executive Order 12178 (44 F.R. 71807, signed December 10, 1979), amended by Executive Order 13118 (64 F.R. 16595, signed March 31, 1999), in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[1042] 22 U.S.C. 2393a. Sec. 502(a)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 957) added the section designated 633A.

munication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the General Accounting Office, or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or (2) a certification by the President that has forbidden the furnishing thereof pursuant to request and his reason for so doing.

Sec. 634.[1043] **Annual Report.**—(a) In order that the Congress and the American people may be better and more currently informed regarding American foreign policy and the effectiveness of assistance provided by the United States Government to other countries and to international organizations, the Chairman of the Development Coordination Committee shall prepare and transmit to the Congress, no later than February 1 of each year, as a part of the annual presentation materials for foreign assistance, a report as described in this subsection. This report shall include—[1044]

(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

(B) an assessment of the impact of such policies and programs on the well-being of the poor majority in developing countries in accordance with the policy objectives of chapter 1 of part I, including [1045] increasing life expectancy and literacy, lowering infant mortality and birth rates, and increasing food production and employment, such assessment to include an evaluation of the extent to which programs under chapter 1 of part I directly benefit the poor majority; and [1046]

(C) an assessment of the impact of such policies and programs on economic conditions in the United States, including but not limited to employment, wages, and working conditions;

(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

[1043] 22 U.S.C. 2394. Sec. 634 was amended and restated by sec. 502(a)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 957). Sec. 305(b) of Public Law 99–83 (99 Stat. 215) (concerning the promotion of immunization and oral rehydration) provided as follows:

"Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act.".

[1044] Sec. 733(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559) amended and restated subsec. (a) to this point.

[1045] The words "the progressive developing countries are making toward achieving those objectives which are indicative of improved well-being of the poor majority, which objectives shall include but not be limited to" which previously appeared at this point, were struck out by sec. 733(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559).

[1046] The language beginning with "such assessment to include" and ending with "the poor majority" was added by sec. 312(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 216).

(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

(B) as presented to Congress for the immediate preceding fiscal year;

(C) as obligated during the immediately preceding fiscal year;

(D) as planned for the fiscal year in which the report is presented;

(E) as proposed for the fiscal year following the year in which the report is presented; and

(F)[1047] of any contract in excess of $100,000 administered by the Agency for International Development which was entered into in the preceding fiscal year without competitive selection procedures, and the reasons for doing so;

(3) a summary of repayments, by country, to the United States from previous foreign assistance loans;

(4)[1048] the status of each sale of agricultural commodities on credit terms theretofore made under the Agricultural Trade Development and Assistance Act of 1954 with respect to which there remains outstanding any unpaid obligation; and the status of each transaction with respect to which a loan, contract or guarantee of insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945 with respect to which there remains outstanding any unpaid obligation or potential liability; except that such report shall include individually only any loan, contract, sale, extension of credit, or other transactions listed in this paragraph which is in excess of $1,000,000;

(5)(A) the status of the debt servicing capacity of each country receiving assistance under this Act;

(B) all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted; and

(C) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States;

(6)[1049] the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotic control assistance provided by each government of a country which is a member of

[1047] Subpar. (F) was added by sec. 733(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559).

[1048] Par. (4) was amended and restated by sec. 733(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1559). Previously, par. (4) also required information on loans and contracts concerning security assistance under this Act and credits for the procurement of defense articles under the Arms Export Control Act. This information is now required by sec. 25(a)(11) of the Arms Export Control Act.

[1049] Sec. 707 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3159) redesignated existing par. (6) as par. (8) and added new pars. (6) and (7). Sec. 733(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113,;95 Stat. 1559) struck out par. (8) (as redesignated) and inserted new pars. (8) through (12). Similar information required in each of the new pars. (8) through (12) had been previously required under other provisions as follows: par. (8)—sec. 613(c) of this Act (semiannually); par. (9)—sec. 640B(g) of this Act; par. (10)—sec. 657 of this Act; par. (11)—sec. 133(c)(6) of Public Law 95–88; and par. (12)—former par. (8) of this subsection.

the Organization for Economic Cooperation and Development or of the Organization of Petroleum Exporting Countries;

(7)[1049] the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6), and (B) the budget of the government of such country, as well as the per capita contribution for each country for each type of assistance described in paragraph (6);

(8)[1049] the amount of all foreign currencies acquired without payment of dollars on hand of each foreign country as of September 30 of the preceding fiscal year;

(9)[1049] the Development Coordination Committee's operations pursuant to section 640B(f) of this Act;

(10)[1049] the aggregate dollar value and quantity of grant military assistance, military education and training, and any other defense articles and services furnished under this Act by the United States to each foreign country and international organization for the preceding fiscal year;

(11)[1049] information concerning the activities of the Minority Resource Center during the preceding fiscal year; and

(12)[1049] other information appropriate to the conduct of the foreign assistance program of the United States Government.

(b) For purposes of this section—

(1) "foreign assistance" means any tangible or intangible item provided by the United States Government to a foreign country or international organization under this or any other Act, including but not limited to any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government; and

(2) "provided by the United States Government" includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty.

Sec. 634A.[1050] **Notification of Program Changes.**—(a)[1051] None of the funds appropriated to carry out the purposes of this Act (except for programs under title III or title IV of chapter 2 of part I, chapter 5 of part I, and programs of disaster relief and rehabilitation) or the Arms Export Control Act[1052] may be obligated for any activities, programs, projects, types of material assistance, countries, or other operations not justified, or in excess of the amount justified, to the Congress for obligation under this Act or the Arms Export Control Act[1052] for any fiscal year unless the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs[1053] of the House of Representatives, and the Com-

[1050] 22 U.S.C. 2394–1. Added originally as sec. 671 by the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 543), sec. 634A was redesignated as such and moved to this point by sec. 502(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[1051] Subsecs. (b) and (c) were added by sec. 1209(a)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat 278). Sec. 1209(a)(1) of the Act also inserted the designation for subsec. (a) of sec. 634A.

[1052] References to the Arms Export Control Act were added by sec. 1209(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 278).

[1053] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Com-

mittee on Appropriations of each House of the Congress are notified fifteen days in advance of such obligation. Whenever a proposed reprogramming exceeds $1,000,000 and the total amount proposed for obligation for a country under this Act in a fiscal year exceeds by more than $5,000,000 the amount specified for that country in the report required by section 653(a) of this Act, notifications of such proposed reprogrammings shall specify—

(1) the nature and purpose of such proposed obligation, and

(2) to the extent possible at the time of the proposed obligation, the country for which such funds would otherwise have been obligated.[1054]

(b)[1051] The notification requirement of this section does not apply to the reprogramming—

(1) of funds to be used for an activity, program, or project under chapter 1 of part I if the amounts to be obligated for that activity, program, or project for that fiscal year do not exceed by more than 10 percent the amount justified to the Congress for that activity, program, or project for that fiscal year; or

(2) of less than $25,000 to be used under chapter 8 of part I, or under chapter 5 of part II, for a country for which a program under that chapter for that fiscal year was justified to the Congress.

(c)[1051] The President shall notify the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs[1055] of the House of Representatives concerning any reprogramming of funds in the International Affairs Budget Function, the authorizations of appropriations for which are in their respective jurisdictions, to the same degree and with the same conditions as the President notifies the Committees on Appropriations. The requirements of this subsection are in addition to, and not in lieu of, other notification requirements.

Sec. 634B.[1056] **Classification of Reports.**—All information contained in any report transmitted under this Act shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time the report is transmitted.

Sec. 635.[1057] **General Authorities.**—(a) Except as otherwise specifically provided in this Act, assistance under this Act may be

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mittee on International Relations of the House of Representatives. Previously, sec. 9(a)(6) of Public Law 103–437 (108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

[1054] This final sentence in sec. 634A was added by sec. 704 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1544).

[1055] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[1056] 22 U.S.C. 23941a. Sec. 634B was added by sec. 502(c) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[1057] 22 U.S.C. 2395. Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 164), provided the following:

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furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this Act, and shall emphasize loans rather than grants wherever possible.

(b) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, friendly government or government agency, whether within or without the United States and international organizations in furtherance of the purposes and within the limitations of this Act.

(c) It is the sense of Congress that the President, in furthering the purposes of this Act, shall use to the maximum extent practicable the services and facilities of voluntary, nonprofit organizations registered with, and approved by, the Agency for International Development.[1058]

(d) The President may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

(e)(1)[1059] Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing technical information and assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

(2)[1059] Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their places of employment abroad for purposes of training or other official duties.

(f) Alien participants in any program of furnishing technical information and assistance under this Act may be admitted to the United States if otherwise qualified as nonimmigrants under sec-

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"DEVELOPMENT CREDIT AUTHORITY

"(INCLUDING TRANSFER OF FUNDS)

"For the cost of direct loans and loan guarantees, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading 'Assistance for Eastern Europe and the Baltic States': *Provided,* That such funds when added to the funds transferred pursuant to the authority contained under this heading in Public Law 107–115, shall not exceed $24,500,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading. In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $7,591,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided further,* That funds made available under this heading shall remain available until September 30, 2007.".

[1058] Reference to the Agency for International Development was inserted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366).

[1059] Sec. 302(i)(1) of the FA Act of 1967 added paragraph designation "(1)" and par. (2).

tion 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)), for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

(g) In making loans[1060] under this Act, the President—

(1) may issue letters of credit and letters of commitment;

(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and, as he may determine, refer any such obligations or rights to the Attorney General for suit or collection;

(3) may acquire and dispose of, upon such terms and conditions as he may determine, any property, including any instrument evidencing indebtedness or ownership (provided that equity securities may not be directly purchased although such securities may be acquired by other means such as by exercise of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness), and guarantee payment against any such instrument;

(4) may determine the character of, and necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

(5) shall cause to be maintained an integral set of accounts which shall be audited by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.).

(h) A contract or agreement which entails commitments for the expenditure of funds[1061] available under chapter 1[1062] (except development loans)[1063] and title II of chapter 2 of part I and under part II may, subject to any future action of the Congress, extend at any time for not more than five years.

(i) Claims arising as a result of investment guaranty operations may be settled, and disputes arising as the result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) The provisions of section 955 of title 18 of the United States Code shall not apply to prevent any person, including any individual, partnership, corporation, or association, from acting for, or participating in, any operation or transaction arising under this Act, or from acquiring any obligation issued in connection with any operation or transaction arising under this Act.

[1060] The words "and sales", which appeared at this point, were added by sec. 302(g) of the FA Act of 1965; then deleted by sec. 302(i)(2) of the FA Act of 1967, effective June 30, 1968.

[1061] Sec. 302(g) of the FA Act of 1962 deleted the word "made" which appeared after the word "funds".

[1062] Reference to chapter 1 was inserted in lieu of reference to titles V and VI by sec. 102(g)(2)(G) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943).

[1063] The words "(except development loans)" were added by sec. 302(d) of the FA Act of 1966.

(k)[1064] Any cost-type contract or agreement (including grants) entered into with a university, college, or other educational institution for the purpose of carrying out programs authorized by part I may provide for the payment of the reimbursable indirect costs of said university, college, or other educational institution on the basis of predetermined fixed-percentage rates applied to the total or an element thereof, of the reimbursable direct costs incurred.

(l)[1065] The Administrator of the agency primarily responsible for administering part I may use funds made available under that part to provide program and management oversight for activities that are funded under that part and that are conducted in countries in which the agency does not have a field mission or office.

(m)[1066] (1) There is established a working capital fund (in this subsection referred to as the "fund") for the United States Agency for International Development (in this subsection referred to as the "Agency") which shall be available without fiscal year limitation for the expenses of personal and nonpersonal services, equipment, and supplies for—

(A) International Cooperative Administrative Support Services; and

(B) rebates from the use of United States Government credit cards.

(2) The capital of the fund shall consist of—

(A) the fair and reasonable value of such supplies, equipment, and other assets pertaining to the functions of the fund as the Administrator determines,

(B) rebates from the use of United States Government credit cards, and

(C) any appropriations made available for the purpose of providing capital,

minus related liabilities.

(3) The fund shall be reimbursed or credited with advance payments for services, equipment, or supplies provided from the fund from applicable appropriations and funds of the Agency, other Federal agencies and other sources authorized by section 607 at rates that will recover total expenses of operation, including accrual of annual leave and depreciation. Receipts from the disposal of, or payments for the loss or damage to, property held in the fund, rebates, reimbursements, refunds and other credits applicable to the operation of the fund may be deposited in the fund.

(4) At the close of each fiscal year the Administrator of the Agency shall transfer out of the fund to the miscellaneous receipts account of the Treasury of the United States such amounts as the Administrator determines to be in excess of the needs of the fund.

(5) The fund may be charged with the current value of supplies and equipment returned to the working capital of the fund by a post, activity, or agency, and the proceeds shall he credited to current applicable appropriations.

[1064] Subsec. (k) was added by sec. 302(e) of the FA Act of 1963.

[1065] Sec. 301 of the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264; 114 Stat. 760) added subsec. (l).

[1066] Added by sec. 404 of the Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 (Public Law 106–309; 114 Stat. 1098).

Sec. 636.[1067] **Provisions on Uses of Funds.**—(a) Appropriations for the purposes of or pursuant to this Act (except for Part II), allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this Act, and funds made available for other purposes to the agency primarily responsible for administering part I, shall be available for:

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvements of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of such appropriations of this Act, including (notwithstanding the provisions of section 9 of Public Law 60328 (31 U.S.C. 673)) expenses in connection with meetings and persons whose employment is authorized by section 626;

(3) contracting with individuals for personal service abroad: *Provided,* That such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission;

(4) purchase, maintenance, operation, and hire of aircraft: *Provided,* That aircraft for administrative purposes may be purchased only as specifically provided for in an appropriation or other Act;

(5) purchase and hire of passenger motor vehicles: *Provided,* That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles and the cost, including exchange allowance, of each such replacement shall not exceed the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price)[1068] in the case of an automobile for the chief of any special mission or staff outside the United States established under section 631: *Provided further,* That passenger motor vehicles other than one for the official use[1069] of the head of the agency primarily responsible for administering part I, may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(6) entertainment (not to exceed $25,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act);

[1067] 22 U.S.C. 2396.

[1068] The words to this point beginning with "the current market price * * *" were inserted in lieu of "$3,500" by sec. 505 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 960).

[1069] Public Law 99–550 (100 Stat. 3067) deleted the following phrase: "(without regard to the limitations contained in section 5 of Public Law 63127, as amended (31 U.S.C. 638a(c)(2)), and section 201 of Public Law 85468 (31 U.S.C. 638(c))".

Similar provisions were deleted from sec. 48 of the Arms Control and Disarmament Act. See *Legislation on Foreign Relations Through 2002*, vol. II, sec. F, notes.

(7) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543) and loss by exchange;

(8) expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act) of a confidential character other than entertainment: *Provided,* That a certificate of the amount of such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the head of the agency primarily responsible for administering part I or such person as he may designate, and every such certificate shall be deemed a sufficient voucher for the amount therein specified; [1070]

(9) insurance of official motor vehicles or aircraft acquired for use in foreign countries;

(10) rent or lease outside the United States for not to exceed ten years of offices, buildings, grounds, and quarters, including living quarters to house personnel, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States; and costs of fuel, water, and utilities for such properties;

(11) expenses of preparing and transporting to their former homes, or, with respect to foreign participants engaged in any program under part I, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities carried out with funds covered by this subsection;

(12) purchase of uniforms;

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

(14) use in accordance with authorities of the Foreign Service Act of 1980 [1071] (22 U.S.C. 3901 et seq.) not otherwise provided for;

(15) ice and drinking water for use outside the United States;

(16) services of commissioned officers of the Environmental Science Services Administration and for the purposes of providing such services to the Environmental Science Services Administration [1072] may appoint not to exceed twenty commissioned officers in addition to those otherwise authorized;

(17) [1073] * * * [Repealed—2002]

[1070] See also sec. 614(c) of this Act.

[1071] Sec. 1211(b)(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) inserted reference to the 1980 Act which updated a reference to the 1946 version of the Act which had been repealed and replaced by the 1980 version.

[1072] Sec. 302(k) of the FA Act of 1967 inserted "Environmental Science Service Administration" in lieu of "Coast and Geodetic Survey".

[1073] Sec. 271(7) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (title II of Public Law 107–372; 116 Stat. 3094) repealed para. (17), which had provided as follows:

(b) Funds made available for the purposes of this Act may be used for compensation, allowances, and travel of personnel including Foreign Service personnel whose services are utilized primarily for the purposes of this Act, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government as may be necessary to accomplish the purposes of this Act.

(c)[1074] Notwithstanding any other law, not to exceed $6,000,000[1075] of the funds available for assistance under this Act[1076] may be used in any fiscal year (in addition to funds available for such use under other authorities in this Act) to construct or otherwise acquire outside the United States (1) essential living quarters, office space, and necessary supporting facilities for use of personnel carrying out activities authorized by this Act, and (2) schools (including dormitories and boarding facilities) and hospitals for use of personnel carrying out activities authorized by this Act, United States Government personnel, and their dependents. In addition, funds made available for assistance under this Act[1076] may be used, notwithstanding any other law, to equip, staff, operate, and maintain such schools and hospitals.

(d) Not to exceed $2,500,000[1077] of funds available for assistance under this Act[1076] may be used in any fiscal year to provide assistance, on such terms and conditions as are deemed appropriate, to schools established, or to be established, outside the United States whenever it is determined that such action would be more economical or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this Act and dependents of United States Gov-

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

[1074] Sec. 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2047), provided the following:

"SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.

"(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.".

[1075] The figure $6,000,000 was substituted in lieu of $3,000,000 by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329).

[1076] The words "(other than title I of chapter 2 of part I)", which previously appeared at this point, were struck by sec. 102(g)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943).

[1077] Sec. 302(1) of the FA Act of 1967 inserted "$2,500,000" in lieu of "$1,500,000".

ernment personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

(e) Funds available under this Act[1076] may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 625(d)(2) (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm; and the provisions of Public Law 84-918 (7 U.S.C. 1881 et seq.) may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in that Act. Such training shall not be considered employment or holding of office under section 5533 of title 5 of the United States Code,[1078] and any payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however,* That any such payments to any employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

(f) Funds made available under chapter 1 of part I[1079] may be used for expenses (other than those provided for under section 637(a)) to assist in carrying out functions under chapter 1[1080] of part I, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691 et seq.), and under the Latin American Development Act, as amended[1081] (22 U.S.C. 1942 et seq.), performed by the agency primarily responsible for administering part I or by the Corporation established under title IV of chapter 2 of part I with respect to loan activities which it carries out under the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended.[1082]

(g) Funds made available for the purposes of part II or the Arms Export Control Act[1083] shall be available for—

(1) administrative, extraordinary (not to exceed $300,000 in any fiscal year), and operating expenses incurred in furnishing defense articles, military education and training[1084] and de-

[1078] Sec. 302(m) of the FA Act of 1967 inserted "5533 of title 5 of the United States Code" in lieu of "301 of the Dual Compensation Act (5 U.S.C. 3105)".

[1079] The reference to chapter 1 of part I was inserted in lieu of a reference to sec. 212 by sec. 102(g)(2)(J) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943).

[1080] The reference to chapter 1 was inserted in lieu of a reference to title I of chapter 2 by sec. 102(g)(2)(J) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 943).

[1081] Sec. 302(h)(2) of the FA Act of 1965 inserted "Latin American Development Act, as amended" in lieu of "Act to provide for assistance in the development of Latin America and in the reconstruction of Chile, and for other purposes". For text of the Latin American Development Act, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[1082] The words to this point, beginning with "or by the Corporation", were added by sec. 306 of the FA Act of 1969. For text of the Agricultural Trade Development and Assistance Act of 1954, as amended, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[1083] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1214), added this reference to the Arms Export Control Act.

[1084] The words ", military education and training" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

fense services on a grant or sales basis by the agency primarily responsible for administering part II;[1085]

(2) reimbursement of actual expenses of military officers detailed or assigned as tour directors in connection with orientation visits of foreign military and related civilian personnel,[1086] in accordance with the provisions of section 5702(c) of title 5 of the United States Code,[1087] applicable to civilian officers and employees; and

(3) maintenance, repair, alteration, and furnishing of United States-owned facilities in the District of Columbia or elsewhere for the training of foreign military and related civilian personnel[1086] without regard to the provisions of section 3733 of the Revised Statutes (41 U.S.C. 12) or other provision of law requiring a specific authorization or specific appropriation for such public contracts.

(h)[1088] In carrying out programs under this Act, the President shall take all appropriate steps to assure that, to the maximum extent possible, (1) countries receiving assistance under this Act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such programs, and (2) foreign currencies owned by the United States are utilized to meet the costs of such contractual and other services.

(i)[1089] Notwithstanding section 640 or any other provision of this Act, none of the funds made available to carry out this Act shall be used to finance the purchase, sale, long-term lease, exchange, or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States. *Provided,* That where special circumstances exist the President is authorized to waive the provisions of this section in order to carry out the purposes of this Act.

Sec. 637.[1090] **Administrative Expenses.**—(a)[1091] * * * [Repealed—1978]

(b) There is hereby authorized to be appropriated[1092] such amounts as may be necessary from time to time for administrative expenses which are incurred for functions of the Department of State under this Act and unrepealed provisions of the Mutual Security Act of 1954, as amended, or for normal functions of the Department of State which relate to such functions.[1093]

Sec. 638.[1094] **Exclusions.**[1095]—(a) No provision of this Act shall be construed to prohibit assistance to any country pursuant to the Peace Corps Act, as amended; the Mutual Educational and Cul-

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[1085] The words to this point, beginning with "incurred in furnishing" (except as noted in footnote 1084) were added by sec. 302(d) of the FA Act of 1968.

[1086] The words "and related civilian personnel" were inserted in lieu of "personnel" by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

[1087] Sec. 302(n) of the FA Act of 1967 inserted "5702(c) of title 5 of the United States Code" in lieu of "3 of the Travel Expense Act of 1949, as amended (5 U.S.C. 836),".

[1088] Subsec. (h) was added by sec. 302(f) of the FA Act of 1963.

[1089] Subsec. (i) was added by sec. 302(o) of the FA Act of 1967.

[1090] 22 U.S.C. 2397.

[1091] Subsec. (a) was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1092] The words "to the Secretary of State", which appeared at this point, were deleted by sec. 302(h)(2) of the FA Act of 1962.

[1093] The FA Appropriation Act, 1975, appropriated $4,800,000, as authorized by this section.

[1094] 22 U.S.C. 2398. Sec. 638 was added by sec. 302(h) of the FA Act of 1963.

[1095] The word "Exclusions" was inserted in lieu of "Peace Corps Assistance" by sec. 19 of the FA Act of 1973.

tural Exchange Act of 1961, as amended; or the Export-Import Bank Act of 1945, as amended.[1096]

(b)[1097] No provision of this Act or any other provision of law shall be construed to prohibit assistance for any training activity which is funded under this Act for Brazil or Argentina as long as such country continues to have a democratically elected government and the assistance is otherwise consistent with sections 116, 502B, 620(f), 620A, and 660 of this Act.

Sec. 639.[1098] **Famine or Disaster Relief.** * * * [Repealed—1975]

Sec. 639A.[1099] **Disaster Relief Assistance.** * * * [Redesignated—1975]

Sec. 639B.[1100] **African Development Program.** * * * [Redesignated—1975]

Sec. 640.[1101] **Military Sales.** * * * [Repealed—1968]

Sec. 640A.[1102] **False Claims and Ineligible Commodities.**—(a) Any person who makes or causes to be made or presents or causes to be presented to any bank or other financial institution or to any officer, agent, or employee of any agency of the United States Government a claim for payment from funds made available under this Act for the purposes of furnishing assistance and who knows the claim to be false, fraudulent, or fictitious or to cover a commodity or commodity-related service determined by the President to be ineligible for payment from funds made available under this Act, or who uses to support his claim any certification, statement, or entry on any contract, bill of lading, Government or commercial invoice, or Government form, which he knows, or in the exercise of prudent business management should know, to contain false, fraudulent, or fictitious information, or who uses or engages in any other fraudulent trick, scheme, or device for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit or payment from funds so made available under this Act in connection with the negotiation, procurement, award, or performance of a contract financed with funds so made available under this Act, and any person who enters into an agreement, combination or conspiracy to do so, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any payment, compensation, loan, commission, or advance received as a result thereof, and (3) shall, in addition, pay to the United States for each such act (A) the sum of $2,000 and double the amount of any damage which the United

[1096] 12 U.S.C. 635. The words ": or famine or disaster relief, including such relief through voluntary agencies, under title II of the Agricultural Trade Development and Assistance Act of 1954, as amended", which appeared at this point, were struck out by sec. 202(j) of the FA Act of 1965.

[1097] Subsec. (b) was added by sec. 588 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988; Public Law 100–202; 101 Stat. 1329). Sec. 588 also provided that subsec. (b) not apply with respect to funds appropriated prior to the enactment of Public Law 100–202.

[1098] Sec. 639 was repealed by sec. 101(6) of Public Law 94–161 (89 Stat. 849).

[1099] Sec. 639A, as added by the FA Act of 1973, was redesignated as sec. 494A of this Act by sec. 101(5) of Public Law 94–161 (89 Stat. 849). It was subsequently repealed in 1978.

[1100] Sec. 639B, as added by sec. 20 of the FA Act of 1973, was redesignated as sec. 494B by sec. 101(5) of Public Law 94–161 (89 Stat. 849). It has subsequently been redesignated as sec. 120 of this Act.

[1101] Sec. 640 was repealed by sec. 45(a) of the Foreign Military Sales Act (Public Law 90–629).

[1102] 22 U.S.C. 2399. Sec. 640A was added by sec. 302(f) of the FA Act of 1968.

States may have sustained by reason thereof, or (B) an amount equal to 50 per centum of any such payment, compensation, loan, commission, or advance so received, whichever is the greater, together with the costs of suit.

(b) In order to secure recovery under this section, the President may, as he deems appropriate, (1) institute suit in the United States district court for any judicial district in which the person alleged to have performed or participated in an act described by this section may reside or may be found, and (2) upon posting by registered mail to such person a notice of claim describing the basis therefor and identifying the funds to be withheld, withhold from funds owed by any agency of the United States Government to such person an amount equal to the refund, damages, liquidated damages, and exemplary damages claimed by the United States under this section. Any such withholding of funds from any person shall constitute a final determination of the rights and liabilities of such person under this section with respect to the amount so withheld, unless within one year of receiving the notice of claim such person brings suit for recovery, which is hereby authorized, against the United States in any United States district court.

(c) For purposes of this section, the term "person" includes any individual, corporation, partnership, association, or other legal entity.

Sec. 640B.[1103] **Coordination.**—(a) The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with re-

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[1103] 22 U.S.C. 2399. Sec. 640B was added by sec. 21 of the FA Act of 1973. Sec. 1523 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–794; 22 U.S.C. 6593) provided the following:

"SEC. 1523. ASSISTANCE PROGRAMS COORDINATION AND OVERSIGHT.

"(a) AUTHORITY OF THE SECRETARY OF STATE.—

"(1) IN GENERAL.—Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

"(2) EXPORT PROMOTION ACTIVITIES.—Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

"(3) INTERNATIONAL ECONOMIC ACTIVITIES.—Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

"(4) AUTHORITIES AND POWERS OF THE SECRETARY OF STATE.—The powers and authorities of the Secretary provided in this chapter are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

"(b) COORDINATION ACTIVITIES.—Coordination activities of the Secretary of State under subsection (a) shall include—

"(1) approving an overall assistance and economic cooperation strategy;

"(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961, the Arms Export Control Act, and other relevant assistance Acts;

"(3) pursuing coordination with other countries and international organizations; and

"(4) resolving policy, program, and funding disputes among United States Government agencies.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

"(d) AUTHORITY TO PROVIDE PERSONNEL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development is authorized to detail to the Department of State on a nonreimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.".

spect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the head of the agency primarily responsible for administering part I, Chairman, and representatives of the Departments of State, Treasury, Commerce, Agriculture, Energy, and Labor, the Executive Office of the President and other executive departments and agencies, as the President shall designate.[1104] The Committee shall advise the President concerning the degree to which bilateral and multilateral development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.[1105]

(b) The President shall prescribe appropriate procedures to assure coordination among—

(1) the various departments and agencies of the United States Government having representatives in diplomatic missions abroad; and

(2) representatives of the United States Government in each country, under the direction of the Chief of the United States Diplomatic Mission.

The President shall keep the Congress advised of his actions under this subsection.

(c) Programs authorized by this Act shall be undertaken with the foreign policy guidance of the Secretary of State.

(d)[1106] * * * [Repealed—1978]

(e)[1107] The head of any of the departments or agencies referred to in subsection (a) may temporarily assign, upon the request of the Chairman, any employee from such department or agency to the staff of the Committee.

(f)[1107] To carry out the purposes of subsection (a), the Committee shall—

(1) prepare studies on various development problems;

(2) devise implementation strategies on developmental problems appropriate to each such department or agency;

(3) monitor and evaluate the results of the development activities of each such department or agency; and

(4) arrange for the exchange of information and studies between such agencies and departments.

[1104] Representatives from the Department of Energy were added to this list of Committee members by sec. 118 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 365). The function of the head of the agency primarily responsible for administering part I, as mentioned in this sentence, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 of 1979 ceased to be effective with enactment of the Foreign Affairs Reform and Restructuring Act of 1998, pursuant to sec. 1422(a)(1) (division G of Public Law 105–277; 112 Stat. 2681).

[1105] This sentence was added by sec. 127(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 542).

[1106] Subsec. (d), which had required an annual report from the President regarding U.S. actions affecting the development of less developed countries, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959). A similar report is now required under sec. 634 of this Act.

[1107] Subsecs. (e) and (f), were added by sec. 127(c) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 543).

(g)[1108] * * * [Repealed—1981]

Sec. 640C.[1109] **Shipping Differential.**—For the purposes of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), funds made available for the purposes of chapter 1 of part I or for purposes of chapter 4 of part II[1110] may be used to make grants to recipients to pay all or any portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

Chapter 3—Miscellaneous Provisions

Sec. 641.[1111] **Effective Date and Identification of Programs.**—This Act shall take effect on the date of its enactment. Programs under this Act shall be identified appropriately overseas as "American Aid".

Sec. 642. Statutes Repealed.—(a) There are hereby repealed—

(1) Reorganization Plan Numbered 7 of 1953;

(2) the Mutual Security Act of 1954, as amended (except sections[1112] 402, 408, 417, 502(a), 502(b), 514, 523(d) and 536;[1113, 1114]

(3) section 12 of the Mutual Security Act of 1955;

(4) sections 12, 13, and 14 of the Mutual Security Act of 1956;

(5) section 503 of the Mutual Security Act of 1958;

(6) section 108 of the Mutual Security Appropriation Act, 1959;

(7) section 501(a), chapter VI, and sections 702 and 703 of the Mutual Security Act of 1959, as amended; and

(8) section 604 and chapter VIII of the Mutual Security Act of 1960.

(b) References in law to the Acts, or provisions of such Acts, repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act.

[1108] Subsec. (g), as added by sec. 127(c) of Public Law 95–88 (91 Stat. 543) and amended by sec. 502(d)(2) of Public Law 95–424 (92 Stat. 959), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Formerly, subsec. (g) required an annual report to Congress on the Committee's operations. Such information is now required under sec. 634(a)(9) of this Act.

[1109] 22 U.S.C. 2399d. Sec. 640C was added by sec. 21 of the FA Act of 1973.

[1110] The reference to chapter 4 of part II was inserted in lieu of a reference to part V by sec. 708 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3159).

[1111] 22 U.S.C. 2401.

[1112] Sec. 303(a) of the FA Act of 1965 struck out sec. 143 of the Mutual Security Act of 1954 as amended, which was retained by the FA Act of 1961.

[1113] For retained provisions of the Mutual Security Act of 1954, see *Legislation on Foreign Relations Through 2002*, vol. I–B. Subsecs. (a), (c), and (d) of sec. 405 of the Mutual Security Act of 1954, as amended, and subsec. (c) of sec. 451, which were retained by the Foreign Assistance Act of 1961, were repealed by sec. 6 of the Migration and Refugee Assistance Act of 1962 (Public Law 87–510). Sec. 414 of the Mutual Security Act of 1954, as amended, was repealed by sec. 212(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329).

[1114] The words ": *Provided,* That until the enactment of legislation authorizing and appropriating funds for activities heretofore carried on pursuant to sections 405(a), 405(c), 405(d), and 451(c) of the Mutual Security Act of 1954, as amended, such activities may be continued with funds made available under section 451(a) of this Act", which appeared at this point, were struck out by sec. 303(a) of the FA Act of 1965.

(c) The repeal of the Acts listed in subsection (a) of this section shall not be deemed to affect amendments contained in such Acts to Acts not named in that subsection.

Sec. 643.[1115] **Saving Provisions.**—(a) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 642(a) and the Foreign Assistance Act of 1969[1116] shall continue in full force and effect until modified by appropriate authority.

(b) Wherever provisions of this Act establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this Act, compliance with, or satisfaction of, substantially similar conditions under Acts listed in section 642(a) and the Foreign Assistance Act of 1969 or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this Act.

(c) Funds made available pursuant to provisions of law repealed by section 642(a)(2) and the Foreign Assistance Act of 1969 shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

(d)[1117] * * * [Repealed—1962]

Sec. 644.[1118] **Definitions.**—As used in this Act—

(a) "Agency of the United States Government" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

(b) "Armed Forces" of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) "Commodity" includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance.

(d) "Defense article" includes—

(1) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

(2) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

(3) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing storage, construction, transportation, operation, or use of any article listed in this subsection; or

(4) any component or part of any article listed in this subsection; but

shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in

[1115] 22 U.S.C. 2402.

[1116] The words "and the Foreign Assistance Act of 1969" were added by sec. 308 of the FA Act of 1969.

[1117] Subsec. (d) was repealed by sec. 303(a) of the FA Act of 1962.

[1118] 22 U.S.C. 2403.

defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity),[1119] byproduct material, special nuclear material, production facilities,[1120] utilization facilities, or atomic weapons or articles involving Restricted Data.[1120]

(e) "Defense information" includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include Restricted Data as defined by the Atomic Energy Act of 1954, as amended, and data removed from the Restricted Data category under section 142d of that Act.[1121]

(f)[1122] "Defense service" includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but does not include military educational and training activities under chapter 5 of part II.

(g)[1123] "Excess defense articles" means the quantity of defense articles (other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)[1124] owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.

(h) "Function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(i)[1125] * * * [Repealed—1973]

(j) "Officer or employee" means civilian personnel and members of the Armed Forces of the United States Government.

[1119] The parenthetical phrase was added by sec. 22 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 710).

[1120] Sec. 303(a)(1) of the FA Act of 1967 added the words "production facilities, utilization facilities," and "or articles involving Restricted Data.".

[1121] Sec. 303(a)(2) of the FA Act of 1967 struck out the words "and formerly Restricted Data" which appeared after the words "Restricted Data," and added the words to this point beginning with ", and data removed".

[1122] Subsec. (f) was amended by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733). It formerly read as follows:

"'Defense service' includes any service, test, inspection, repair, training, publication, or technical or other assistance, or defense information used for the purposes of furnishing military assistance. 'Training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces.".

[1123] Sec. 22(1) of the FA Act of 1973 amended subsec. (g), which formerly read as follows:

"(g) 'Excess defense articles' means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the mobilization reserve at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.".

[1124] Sec. 9(b) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4934) inserted "(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)" after "articles".

[1125] Subsec. (i), which related to mobilization reserve, was repealed by sec. 22(2) of the FA Act of 1973.

(k) "Services" include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance.

(l) "Surplus agricultural commodity" means any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States either publicly or privately owned, which is in excess of domestic requirements, adequate carryover, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture.

(m)[1126] "Value" means—

(1) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 632(d) such actual value shall not be taken into account;

(2) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

(3) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this Act, the contract or production costs of such article;

(4) with respect to a defense service, the cost to the United States Government of such service; and

(5)[1127] with respect to military education and training or services provided under chapter 8 of part II of this Act, the additional costs that are incurred by the United States Government in furnishing such assistance.

(n)[1128] "Military education and training" includes formal or informal instruction of foreign students in the United States or over-

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[1126] Sec. 22(3) of the FA Act of 1973 amended subsec. (m), which formerly read as follows: "(m) 'Value' means, other than in section 657 of this Act—

"(1) with respect to excess defense articles, the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such articles;

"(2) with respect to nonexcess defense articles delivered from inventory to countries or international organizations under this Act, the standard price in effect at the time such articles are dropped from inventory by the supplying agency. Such standard price shall be the same price (including authorized reduced prices) used for transfers or sales of such articles in or between the Armed Forces of the United States Government, or, where such articles are not transferred or sold in or between the Armed Forces of the United States, the gross cost to the United States Government adjusted as appropriate for condition and market value; and

"(3) with respect to nonexcess defense articles delivered from new procurement to countries or international organizations under this Act, the contract or production costs of such articles.

"Military assistance programs and orders shall be based upon the best estimates of stock status and prevailing prices: reimbursements to the supplying agency shall be made on the basis of the stock status and prices determined pursuant to this section. Notwithstanding the foregoing provisions of this section, the Secretary of Defense may prescribe regulations authorizing reimbursements to the supplying agency based on negotiated prices for aircraft, vessels, plant equipment and such other major items as he may specify: *Provided,* That such articles are not excess at the time such prices are negotiated: *Provided further,* That such prices are negotiated at the time firm orders are placed with the supplying agency.".

[1127] Par. (5) was added by sec. 115(b)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3140). The reference to chapter 8 of part II was added by the International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972). Pursuant to Public Law 98–151, this amendment was enacted as contained in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983.

[1128] Subsec. (n) was added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 733).

seas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

(o)[1129] "Agriculture" includes aquaculture and fisheries.

(p)[1129] "Farmers" includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

(q)[1130] "Major non-NATO ally" means a country which is designated in accordance with section 517 as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

Sec. 645.[1131] **Unexpended Balances.**—Unexpended balances of funds made available pursuant to this Act, the Mutual Security Act of 1954, as amended, or the Latin American Development Act, as amended[1132] are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.

Sec. 646.[1133] **Construction.**—If any provision of this Act, or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the applicability of such provision to other circumstances or persons shall not be affected thereby.

Sec. 647.[1134] **Dependable Fuel Supply.**—It is of paramount importance that long-range economic plans take cognizance of the need for a dependable supply of fuels, which is necessary to orderly and stable development and growth, and that dependence not be placed upon sources which are inherently hostile to free countries and the ultimate well-being of economically underdeveloped countries and which might exploit such dependence for ultimate political domination. The agencies of government in the United States are directed to work with other countries in developing plans for basing development programs on the use of the large and stable supply of relatively low cost fuels available in the free world.

Sec. 648.[1135] **Special Authorization for Use of Foreign Currencies.**—Subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953,[1136] the President is authorized, as a demonstration of good will on the part of the people of the United States for the Polish and Italian people, to use foreign currencies

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[1129] Subsecs. (o) and (p) were added by sec. 103(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 945).

[1130] Sec. 147(a)(2) of Public Law 104–164 (110 Stat. 1435) added subsec. (q).

[1131] 22 U.S.C. 2404. Sec. 304 of the FA Act of 1963 amended sec. 645, which formerly read as follows: "Unexpended balances of funds made available pursuant to this Act or the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.".

[1132] Sec. 303(c) of the FA Act of 1965 inserted "the Latin American Development Act, as amended" in lieu of "Public Law 86–735".

[1133] 22 U.S.C. 2405.

[1134] 22 U.S.C. 2406.

[1135] 22 U.S.C. 2407. Sec. 648 was added by sec. 303, of the FA Act of 1964.

[1136] See 31 U.S.C. 1306.

accruing to the United States Government under this or any other Act, for assistance on such terms and conditions as he may specify, in the repair, rehabilitation, improvement, and maintenance of cemeteries in Italy serving as the burial place of members of the armed forces of Poland who died in combat in Italy during World War II.

Sec. 649.[1137] **Limitation on Aggregate Authorization for Use in Fiscal Year 1966.** * * * [Repealed—1978]

Sec. 650.[1138] **Use of United States Armed Forces.**—The furnishing of economic, military, or other assistance under this Act shall not be construed as creating a new commitment or as affecting any existing commitment to use Armed Forces of the United States for the defense of any foreign country.

Sec. 651.[1139] **Sale of Supersonic Planes to Israel.** * * * [Repealed—1978]

Sec. 652.[1140] **Limitation Upon Exercise of Special Authorities.**—The President shall not exercise any special authority granted to him under section 506(a), 552(c)(2),[1141] or 610(a)[1142] of this Act unless the President, before[1143] he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.

Sec. 653.[1144] **Change in Allocation of Foreign Assistance.**—(a)[1145] Not later than thirty days after the enactment of any law

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[1137] Sec. 649, which had been added by the FA Act of 1965, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1138] 22 U.S.C. 2409. Sec. 650 was added by sec. 302(b) of the FA Act of 1967.

[1139] Sec. 651, as added by the FA Act of 1968, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1140] 22 U.S.C. 2411. Sec. 304(a)(1) of the FA Act of 1971 amended sec. 652, which had been added by sec. 8 of the Special Foreign Assistance Act of 1971. Sec. 652 formerly read as follows:

"Sec. 652. Limitation Upon Additional Assistance to Cambodia.—The President shall not exercise any special authority granted to him under sections 506(a) and 614(a) of this Act for the purpose of providing additional assistance to Cambodia, unless the President, at least thirty days prior to the date he intends to exercise any such authority on behalf of Cambodia (or ten days prior to such date if the President certifies in writing that an emergency exists requiring immediate assistance to Cambodia), notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.".

[1141] The reference to sec. 552(c)(2) was added by sec. 105(b)(2) of Public Law 99–83; 99 Stat. 196.

[1142] A reference to sec. 614(a), which previously appeared at this point, was struck out by sec. 117(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3141).

[1143] Sec. 103(c) of Public Law 104–164 (110 Stat. 1424) struck out "prior to the date" and inserted in lieu thereof "before".

[1144] 22 U.S.C. 2413. Sec. 653 was added by sec. 304(b) of the FA Act of 1971.

[1145] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 187), provided the following:

"DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

"SEC. 521. For the purpose of this Act, 'program, project, and activity' shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, 'program, project, and activity' shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development 'program, project, and activity' shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees

appropriating funds to carry out any provision of this Act (other than section 451 or 637) or the Arms Export Control Act,[1146] the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each.[1147]

(b)[1148] The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

Sec. 654.[1149] **Presidential Findings and Determinations.**—(a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

(b) No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a de-

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on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.".

[1146] This reference to the Arms Export Control Act was added by sec. 1209(b)(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279).

[1147] Sec. 21(1) of the FA Act of 1974 struck the balance of subsection (a) at this point. The stricken part read as follows: "Notwithstanding any other provision of law the United States Government shall not provide to any foreign country or international organization any funds under that law which exceeds by 10 per centum the amount of military grant assistance or security supporting assistance, as the case may be, which the President notified the Congress that the United States Government intended to provide that country or organization under that law, unless the President (1) determines that it is in the security interests of the United States that such country or organization receive funds in excess of the amount included in such notification for that country or organization, and (2) reports to Congress at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of that per centum which are to be provided, and the justification for providing the additional assistance.".

[1148] Sec. 1209(b)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) redesignated this former subsec. (c) as subsec. (b), and struck out the former subsec. (b), which read as follows:

"(b) Notwithstanding any other provision of law, no military grant assistance, assistance under chapter 4 of part II of this Act, assistance under chapter 1 of part I of this Act, or assistance under chapter 6 of part II of this Act, may be furnished to any country or international organization in any fiscal year, if such assistance exceeds by 10 percent or more the amount of such military grant assistance, under chapter 4 of part II of this Act, assistance under chapter 1 of part I of this Act, or assistance under chapter 6 of part II of this Act, as the case may be, set forth in the report required by subsection (a) of this section, unless—

"(1) the President reports to the Congress, at least ten days prior to the date on which such excess funds are provided, the country or organization to be provided the excess funds, the amount and category of the excess funds, and the justification for providing the excess funds; and

"(2) in the case of military grant assistance or assistance under chapter 4 of part II of this Act or assistance under chapter 6 of part II, the President includes in the report under paragraph (1) his determination that it is in the security interest of the United States to provide the excess funds.

This subsection shall not apply if the excess funds provided in any fiscal year to any country or international organization for any category of assistance are less than $1,000,000.".

[1149] 22 U.S.C. 2414. Sec. 654 was added by sec. 304(b) of the FA Act of 1971.

termination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

SEC. 655.[1150] **ANNUAL MILITARY ASSISTANCE REPORT.**

(a) REPORT REQUIRED.—Not later than February 1 of each year, the President shall transmit to the Congress an annual report for the fiscal year ending the previous September 30.

(b)[1151] INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles), defense services, and international military education and training activities authorized by the United States and of such articles, services, and activities provided by the United States, excluding any activity that is reportable under title V of the National Security Act of 1947, to each foreign country and international organization. The report shall specify, by category, whether such defense articles—

(1) were furnished by grant under chapter 2 or chapter 5 of part II of this Act or under any other authority of law or by sale under chapter 2 of the Arms Export Control Act;

(2) were furnished with the financial assistance of the United States Government, including through loans and guarantees; or

(3) were licensed for export under section 38 of the Arms Export Control Act and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report,[1152] including, in the case of defense articles that are

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[1150] 22 U.S.C. 2415. Sec. 1324(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 481) added a new sec. 655, requiring an annual report on military assistance, military exports, and military imports for each of 1996 and 1997. Sec. 148 of Public Law 104–164 (110 Stat. 1435) amended and restated sec. 655, requiring a report annually for each fiscal year.

An earlier sec. 655—Limitations Upon Assistance to or for Cambodia—was added by the FA Act of 1971, and was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1151] Sec. 1306(a) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), amended and restated subsec. (b), which formerly read as follows:

"(b) INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles), defense services, and international military education and training authorized by the United States, excluding that which is pursuant to activities reportable under title V of the National Security Act of 1947, to each foreign country and international organization. The report shall specify, by category, whether such defense articles—

"(1) were furnished by grant under chapter 2 or chapter 5 of part II of this Act or under any other authority of law or by sale under chapter 2 of the Arms Export Control Act; or

"(2) were licensed for export under section 38 of the Arms Export Control Act.".

[1152] Sec. 702 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 861) added "and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report".

firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States Code, that were licensed for export during the period covered by the report.[1153]

(c)[1154] AVAILABILITY ON INTERNET.—All unclassified portions of such report shall be made available to the public on the Internet through the Department of State.

SEC. 656.[1155] ANNUAL FOREIGN MILITARY TRAINING REPORT.

(a)[1156] ANNUAL REPORT.

(1)[1156] IN GENERAL.—Not later than January 31 of each year, the Secretary of Defense and the Secretary of State shall jointly prepare and submit to the appropriate congressional committees a report on all military training provided to foreign military personnel by the Department of Defense and the Department of State during the previous fiscal year and all such training proposed for the current fiscal year.

(2)[1157] EXCEPTION FOR CERTAIN COUNTRIES.—Paragraph (1) does not apply to any NATO member, Australia, Japan, or New Zealand, unless one of the appropriate congressional committees has specifically requested, in writing, inclusion of such country in the report. Such request shall be made not later than 90 calendar days prior to the date on which the report is required to be transmitted.

(b) CONTENTS.—The report described in subsection (a) shall include the following:

(1) For each military training activity, the foreign policy justification and purpose for the activity, the number of foreign

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[1153] Sec. 1205(c) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added ", including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States Code, that were licensed for export during the period covered by the report".

[1154] Sec. 1306(b) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added this subsec. as subsec. (d). It was subsequently redesignated as subsec. (c) by sec. 1262(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434), which also struck former subsec. (c), which pertained to information relating to military imports.

[1155] 22 U.S.C. 2416. Sec. 1307 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added sec. 656. See also sec. 564 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2163).

An earlier sec. 656—Limitations on United States Personnel and Personnel Assisted by United States in Cambodia—was added by Public Law 92–226 (86 Stat. 20), and was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1156] Sec. 1262(a)(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) struck out "(a) ANNUAL REPORT.—Not" and inserted in lieu thereof the subsec. (a) heading, and para. designation and text "(1) IN GENERAL.—Not".

[1157] Sec. 1262(a)(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) added para. (2).

military personnel provided training and their units of operation, and the location of the training.

(2) For each country, the aggregate number of students trained and the aggregate cost of the military training activities.

(3) With respect to United States personnel, the operational benefits to United States forces derived from each military training activity and the United States military units involved in each activity.

(c) FORM.—The report described in subsection (a) shall be in unclassified form but may include a classified annex.

(d) AVAILABILITY ON INTERNET.—All unclassified portions of the report described in subsection (a) shall be made available to the public on the Internet through the Department of State.

(e) DEFINITION.—In this section, the term "appropriate congressional committees" means—

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

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

Sec. 657.[1158] **Annual Report on Military Assistance and Military Exports.** * * * [Repealed—1981]

Sec. 658.[1159] **Limitations on Use of Funds.** * * * [Repealed—1978]

Sec. 659.[1160] **Access to Certain Military Bases Abroad.** * * * [Repealed—1981]

Sec. 660.[1161] **Prohibiting Police Training.**—(a) On and after July 1, 1975, none of the funds made available to carry out this

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[1158] Sec. 657, as added by the FA Act of 1971, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959). Subsequently, sec. 14 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 739) added a new sec. 657. Sec. 657 was again repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Some of the information previously required annually under sec. 657 on military assistance and military exports is now required by sec. 634(a)(10) of this Act and sec. 25(a) of the Arms Export Control Act.

[1159] Sec. 658, as added by the FA Act of 1971, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1160] Sec. 659, as added by sec. 20(a) of the FA Act of 1974, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It formerly read as follows:

"Sec. 659. Access to Certain Military Bases Abroad.—None of the funds authorized to be appropriated for foreign assistance (including foreign military sales, credit sales, and guaranties) under this Act may be used to provide any kind of assistance to any foreign country in which a military base is located if—

"(1) such base was constructed or is being maintained or operated with funds furnished by the United States;

"(2) personnel of the United States carry out military operations from such base; and

"(3) unless and until the President has determined that the government of such country has, consistent with security, authorized access, on a regular basis, to bona fide news media correspondents of the United States to such military base.".

[1161] 22 U.S.C. 2420. Sec. 660 was added by sec. 30(a) of the FA Act of 1974.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 195, 214), provided the following:

"ADMINISTRATION OF JUSTICE ACTIVITIES

"SEC. 536. Of the funds appropriated or otherwise made available by this Act for 'Economic Support Fund', assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act. Funds made available pursuant to this section may be made available notwithstanding section

Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.

(b) Subsection (a) of this section shall not apply—

(1) with respect to assistance rendered under section 515(c) of the Omnibus Crime Control and Safe Streets Act of 1968 [1162] with respect to any authority of the Drug Enforcement Administration or the Federal Bureau of Investigation which relates to crimes of the nature which are unlawful under the laws of the United States, or with respect to assistance authorized under section 482 of this Act;

(2) to any contract entered into prior to the date of enactment of this section with any person, organization, or agency of the United States Government to provide personnel to conduct, or assist in conducting, any such program;

534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961.

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"COMMUNITY-BASED POLICE ASSISTANCE

"SEC. 582. (a) AUTHORITY.—Funds made available to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority in Jamaica and El Salvador through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict and foster improved police relations with the communities they serve.

"(b) REPORT.—

"(1) The Administrator of the United States Agency for International Development shall submit, at the time of submission of the agency's Congressional Budget Justification Document for fiscal year 2004, and annually thereafter, a report to the Committees on Appropriations describing the progress these programs are making toward improving police relations with the communities they serve and institutionalizing an effective community-based police program.

"(2) The requirements of paragraph (1) are in lieu of the requirements contains in section 587(b) of Public Law 107–115.

"(c) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.".

Sec. 104 of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447; 108 Stat. 4691; 22 U.S.C. 2420 note) provided the following exemption:

"SEC. 104. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEAR 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

"(a) EXEMPTION.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

"(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2321k);

"(2) funds made available for the 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

"(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

"(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

"(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).".

[1162] Public Law 90–351 (82 Stat. 197), approved June 19, 1968. Such sec. 515(c) was redesignated as sec. 515(b) by sec. 124 of Public Law 94–503.

(3)[1163] with respect to assistance, including training, in maritime law enforcement and other maritime skills;[1164]

(4)[1165] with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states; or[1164]

(5)[1164] with respect to assistance, including training, relating to sanctions monitoring and enforcement;

(6)[1164] with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure for the purposes of supporting a nation emerging from instability, and the provision of professional public safety training, to include training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy;[1166]

(7)[1166] with respect to assistance provided to customs authorities and personnel, including training, technical assistance and equipment, for customs law enforcement and the improvement of customs laws, systems and procedures.

Notwithstanding clause (2), subsection (a) shall apply to any renewal or extension of any contract referred to in such paragraph entered into on or after such date of enactment.

(c)[1167] Subsection (a) shall not apply with respect to a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d)[1167, 1168] Notwithstanding the prohibition contained in subsection (a), assistance may be provided to Honduras or El Salvador for fiscal years 1986 and 1987 if, at least 30 days before providing assistance, the President notifies the Committee on Foreign Affairs[1169] of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act, that he has determined that the government of the recipient country has made significant progress, during the preceding six months, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the non-violent expression of their political views, or prolonged detention without trial. Any such notification shall include a full de-

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[1163] Clause (3) was added by sec. 127(b) by Public Law 99–83 (99 Stat. 205).

[1164] Sec. 540A(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 737), struck out "; or" at the end of para. (3); added "; or" at the end of para. (4), and added new paras. (5) and (6).

[1165] Sec. 594 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2060), added paragraph (4).

[1166] Sec. 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out a period at the end of para. (6), inserted in lieu thereof a semicolon, and added a new para. (7).

[1167] Subsecs. (c) and (d) were added by sec. 711 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 244).

[1168] See Presidential Determination No. 86–2 of October 29, 1985 (50 F.R. 48073), in which the President delegated authority to the Secretary of State to provide any future report required by sec. 660(d).

[1169] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

scription of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

SEC. 661.[1170] **TRADE AND DEVELOPMENT AGENCY.**

(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries, with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment.[1171]

(b) AUTHORITY TO PROVIDE ASSISTANCE.—

(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

[1170] 22 U.S.C. 2421. Sec. 201 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3655) amended and restated sec. 661. It was originally added by sec. 31 of the FA Act of 1974, as "Reimbursable Development Programs".

[1171] Sec. 5(a) of the Export Enhancement Act of 1998 (Public Law 106–158; 113 Stat. 1746) inserted ", with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment".

(5)[1172] CONTRIBUTIONS TO COSTS.—The Trade and Development Agency shall, to the maximum extent practicable, require corporations and other entities to—

(A) share the costs of feasibility studies and other project planning services funded under this section; and

(B) reimburse the Trade and Development Agency those funds provided under this section, if the corporation or entity concerned succeeds in project implementation.

(c) DIRECTOR AND PERSONNEL.—

(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs[1173] of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

(e) AUDITS.—

(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in ac-

[1172] Sec. 5(b) of the Export Enhancement Act of 1998 (Public Law 106–158; 113 Stat. 1746) added para. (5).

[1173] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

cordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

(f) FUNDING.—

(1)[1174] AUTHORIZATION.—(A) There are authorized to be appropriated for purposes of this section, in addition to funds oth-

[1174] Sec. 201 of the Jobs Through Trade Expansion Act of 1994 (Public Law 103–392; 108 Stat. 4099) amended and restated para. (1) of subsec. (f), to add subpara. designations (A) and (B), and to state authorization levels for fiscal years 1995 and 1996. Sec. 5(c)(1) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out language establishing 1995–96 levels and inserted "$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter".

Authorizations under this section in recent years include: fiscal year 1977—$2,000,000; fiscal year 1978—$2,000,000; fiscal year 1979—$3,000,000; fiscal year 1980—$3,800,000; fiscal year 1981—$4,000,000; fiscal year 1982—$6,907,000; fiscal year 1983—$6,907,000; fiscal year 1984—$22,000,000; fiscal year 1985—no authorization; fiscal year 1986—$20,000,000; fiscal year 1987—$20,000,000; fiscal year 1988—no authorization; fiscal year 1989—no authorization; fiscal year 1990—no authorization; fiscal year 1991—no authorization; fiscal year 1992—no authorization; fiscal year 1993—$55,000,000; fiscal year 1994—$65,000,000; fiscal year 1995—$77,000,000; fiscal year 1996—"such sums as are necessary"; fiscal year 1997—$65,000,000; fiscal year 1998—no authorization; and fiscal year 2000—$48,000,000 ("and such sums as may be necessary for each fiscal year thereafter").

Titles I and V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 161, 215), provided the following:

"TRADE AND DEVELOPMENT AGENCY

"For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $44,512,000, to remain available until September 30, 2004.

"In addition, for an additional amount for 'Trade and Development Agency' for trade capacity building assistance, $2,500,000, to remain available until September 30, 2003: *Provided,* That any funds made available by this paragraph shall be made available subject to the regular notification procedures of the Committees on Appropriations.

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"TRADE CAPACITY BUILDING

"SEC. 584. Of the funds appropriated by this Act, under the headings 'Trade and Development Agency', 'Development Assistance', 'Transition Initiatives', 'Economic Support Fund', 'International Affairs Technical Assistance', and 'International Organizations and Programs', not less than $452,000,000 should be made available for trade capacity building assistance.".

See also paragraph relating to assistance for the new independent states of the former Soviet Union in title II of that Act (117 Stat. 169).

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erwise available for such purposes, $48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter.

(B) Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in carrying out its program, provide, as appropriate, funds[1175] to multilateral development banks for technical assistance grants.

(B) As used in subparagraph (A)—

(i) the term "technical assistance grants" means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

(ii) the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act.

Sec. 662.[1176] **Limitation on Intelligence Activities.** * * * [Repealed—1991]

Sec. 663.[1177] **Exchanges of Certain Materials.**—(a) Notwithstanding any other provision of law, whenever the President determines it is in the United States national interest, he shall furnish assistance under this Act or shall furnish defense articles or services under the Foreign Military Sales Act pursuant to an agreement with the recipient of such assistance, articles, or services which provides that such recipient may only obtain such assistance, articles, or services in exchange for any necessary or strategic raw material controlled by such recipient. For the purposes of this section, the term "necessary or strategic raw material" includes petroleum, other fossil fuels, metals, minerals, or any other natural

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Sec. 902(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 83) suspended any obligation of funds for new programs under the Trade and Development Agency to the People's Republic of China until the President reported to the Congress under subsec. (b) of that sec. that China had made certain political reforms, or that such assistance was in the national interest of the United States. For text of sec. 902, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. D.

See also the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1503), sec. 6(c) of which called on the Director of the Trade and Development Agency to provide additional funds for activities related to projects in South Africa, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[1175] Sec. 5(c)(2) of the Export Enhancement Act of 1999 (Public Law 106–158; 113 Stat. 1746) struck out "in fiscal years 1993 and 1994, substantially increase the amount of funds it provides" and inserted in lieu thereof "in carrying out its program, provide, as appropriate, funds".

[1176] Formerly 22 U.S.C. 2422. Sec. 601 of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 441), repealed sec. 662. The section, added by sec. 32 of the FA Act of 1974, had provided the following prohibition:

"**Sec. 662. Limitation on Intelligence Activities.**—No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947.".

Public Law 102–88 also amended and restated the relevant sections of the National Security Act of 1947 (50 U.S.C. 413 *et seq.*); see *Legislation on Foreign Relations Through 2002*, vol. IV.

[1177] 22 U.S.C. 2423. Sec. 663 was added by sec. 32 of the FA Act of 1974.

substance which the President determines is in short supply in the United States.

(b) The President shall allocate any necessary or strategic raw material transferred to the United States under this section to any appropriate agency of the United States Government for stockpiling, sale, transfer, disposal, or any other purpose authorized by law.

(c) Funds received from any disposal of materials under subsection (b) shall be deposited as miscellaneous receipts in the United States Treasury.

Sec. 664.[1178] **Waiver of Prohibition Against Assistance to Countries Engaging in Certain Trade.** * * * [Repealed—1977]

Sec. 665.[1179] **Transition Provisions for Interim Quarter.** * * * [Repealed—1978]

Sec. 666.[1180] **Discrimination Against United States Personnel.**—(a) The President shall not take into account, in assigning officers and employees of the United States to carry out any economic development assistance programs funded under this Act in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

(b) Effective six months after the date of enactment of the International Development and Food Assistance Act of 1975, or on such earlier date as the President may determine, none of the funds made available under this Act may be used to provide economic development assistance to any country which objects to the presence of any officer or employee of the United States who is present in such country for the purpose of carrying out any program of economic development assistance authorized by the provisions of this Act on the basis of the race, religion, national origin, or sex of such officer or employee.

(c) The Secretary of State shall promulgate such rules and regulations as he may deem necessary to carry out the provisions of this section.

Sec. 667.[1181] **Operating Expenses.**—(a) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(1) $387,000,000 for the fiscal year 1986 and $387,000,000 for the fiscal year 1987 [1182] for necessary operating expenses of

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[1178] 22 U.S.C. 2424. Sec. 664, as added by sec. 33 of the FA Act of 1974, was repealed by sec. 123(c) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 541). It formerly read as follows:

"SEC. 664. WAIVER OF PROHIBITION AGAINST ASSISTANCE TO COUNTRIES ENGAGING IN CERTAIN TRADE.—Any provision of this Act which prohibits assistance to a country because that country is engaging in trade with a designated country, or because that country permits ships or aircraft under its registry to transport any equipment, materials, or commodities to or from such designated country, may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress.".

[1179] Sec. 665, as added by Public Law 94–161 (89 Stat. 849), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 961).

[1180] 22 U.S.C. 2426. Sec. 666 was added by sec. 318 of Public Law 94–161 (89 Stat. 849).

[1181] 22 U.S.C. 2427. Sec. 667, as added by sec. 319 of Public Law 94–161 (89 Stat. 849), was amended and restated by sec. 129(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88; 91 Stat. 543).

[1182] The authorization figures for fiscal years 1986 and 1987 were added by sec. 406 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 219). Authorizations under this section during recent years include: fiscal year 1979—$261,000,000; fiscal year 1980—$263,000,000; fiscal year 1981—$293,800,000; fiscal year 1982—

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the agency primarily responsible for administering part I of this Act,[1183] of which $21,750,000 for the fiscal year 1987 is authorized for the necessary operating expenses of the Office of the Inspector General of the Agency for International Development and the remaining amount for the fiscal year is authorized for other necessary operating expenses of that agency and

(2) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

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

$335,600,000; fiscal year 1983—$335,600,000; fiscal year 1984—$370,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and title II of that Act (at 117 Stat. 165, 166) provided the following:

"OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

"For necessary expenses to carry out the provisions of section 667, $572,000,000: *Provided,* That none of the funds appropriated under this heading and under the heading 'Capital Investment Fund' may be made available to finance the construction (including architect and engineering services), purchase, or long term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further,* That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long term lease of offices does not exceed $1,000,000.

"CAPITAL INVESTMENT FUND

"For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667, $43,000,000, to remain available until expended: *Provided,* That this amount is in addition to funds otherwise available for such purposes: *Provided further,* That of the funds appropriated under this heading, up to $10,000,000 may be made available for costs related to the construction of temporary, secure facilities for United States Agency for International Development personnel in Afghanistan: *Provided further,* That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this account as an offsetting collection: *Provided further,* That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the assignment of United States Government employees or contractors to space in buildings constructed using funds appropriated under this heading shall be subject to the concurrence of the Administrator of the United States Agency for International Development: *Provided further,* That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

"OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

"For necessary expenses to carry out the provisions of section 667, $33,300,000, to remain available until September 30, 2004, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.".

See also sec. 511 of that Act (117 Stat. 182)—Availability of Funds; and sec. 534 (117 Stat. 193)—Special Authorities.

Title I, chapter 3 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 573), provided the following:

"OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"For an additional amount for 'Operating Expenses of the United States Agency for International Development', $24,500,000, of which not less than $3,500,000 may be transferred to and merged with "Operating Expenses of the United States Agency for International Development Office of Inspector General" for financial and program audits of the Iraq Relief and Reconstruction Fund and other assistance for Iraq.".

[1183] The words following "Act" were added by sec. 402 of Public Law 99–529 (100 Stat. 3010).

Sec. 668.[1184] **Report on Korea.** * * * [Repealed—1981]

Sec. 669.[1185] **Nuclear Enrichment Transfers.** * * * [Repealed—1994]

Sec. 670.[1186] **Nuclear Reprocessing Transfers, Illegal Exports for Nuclear Explosive Devices, Transfers of Nuclear Explosive Devices, and Nuclear Detonations.** * * * [Repealed—1994]

Sec. 671.[1187] **Notification of Program Changes.** * * * [Redesignated—1978]

PART IV—ENTERPRISE FOR THE AMERICAS INITIATIVE [1188]

SEC. 701.[1189] **PURPOSE.**

The purpose of this part is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this part for those countries with democratically elected governments that meet investment reforms and other policy conditions.

SEC. 702.[1190] **DEFINITIONS.**

For purposes of this part—

[1184] Sec. 668, as added by sec. 411 of Public Law 94–329 (90 Stat. 760), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). This report, which had been required on an annual basis, 1976–81, included information on progress made by Korea to modernize its armed forces, on the U.S. role in mutual security efforts in Korea, and on prospects for or implementation of phased reduction of U.S. Armed Forces assigned to duty in Korea. Similar information is now required under sec. 25(a)(9) of the Arms Export Control Act.

[1185] Formerly at 22 U.S.C. 2429. Sec. 669, popularly referred to as the Symington amendment, was added by sec. 305 of Public Law 94–329, amended and restated by sec. 12 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 620), further amended by secs. 10(b)(4) and 12 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 735, 737); further amended by sec. 737(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562).

Secs. 669 and 670 were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

[1186] Formerly at 22 U.S.C. 2429a. Sec. 670, popularly referred to as the Glenn amendment, was added by sec. 12 of Public Law 95–92 (91 Stat. 620); amended and restated by sec. 737(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562); and further amended by sec. 1204 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 277).

Secs. 669 and 670 were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

[1187] Sec. 671, as added by Public Law 95–88 (91 Stat. 543), was redesignated as sec. 634A of this Act by sec. 502(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 959).

[1188] Sec. 602(a) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3664) added Part IV—Enterprise for the Americas Initiative, secs. 701–710. See also footnote at Part V—Debt Reduction for Developing Countries with Tropical Forests.

Former Part IV, relating to amendments to other laws, was repealed by sec. 401 of the FA Act of 1962.

[1189] 22 U.S.C. 2430.

[1190] 22 U.S.C. 2430a.

(1) the term "administering body" means the entity provided for in section 708(c);

(2) the term "Americas Framework Agreement" means an Americas Framework Agreement provided for in section 708;

(3) the term "Americas Fund" means an Enterprise for the Americas Fund provided for in section 707(a);

(4) the term "appropriate congressional committees" means the Committee on Foreign Affairs[1191] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(5) the term "beneficiary country" means an eligible country with respect to which the authority of section 704(a)(1) is exercised;

(6) the term "eligible country" means a country designated by the President in accordance with section 703;

(7) the term "Enterprise for the Americas Board" or "Board" means the board established by section 610 of the Agricultural Trade Development and Assistance Act of 1954; and

(8) the term "Facility" means the Enterprise for the Americas Facility established in the Department of the Treasury by section 601 of that Act.

SEC. 703.[1192] ELIGIBILITY FOR BENEFITS.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this part, a country must be a Latin American or Caribbean country—

(1) whose government is democratically elected;

(2) whose government has not repeatedly provided support for acts of international terrorism;

(3) whose government is not failing to cooperate on international narcotics control matters;

(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and

[1191] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[1192] 22 U.S.C. 2430b.

Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATIONS.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

SEC. 704.[1193] **REDUCTION OF CERTAIN DEBT.**

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1992, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—(A) A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the agency primarily responsible for administering part I of this Act of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations

[1193] 22 U.S.C. 2430c. Sec. 594(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1692), enacted authorization for debt reduction as chapter 12, sec. 499 of this Act. That enactment, however, was repealed by sec. 602(b) of Public Law 102–549 (106 Stat. 3669), which also provided:

"Any exercise of the authorities provided in that chapter prior to its repeal by this subsection shall be deemed to be an exercise of the authorities of part IV of the Foreign Assistance Act of 1961 (as enacted by subsection (a) of this section) and shall be carried out, after the enactment of this section, in accordance with that part.".

shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

SEC. 705.[1194] **REPAYMENT OF PRINCIPAL.**

(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 704(b) shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

SEC. 706.[1195] **INTEREST ON NEW OBLIGATIONS.**

(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 704(b) shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT; DEPOSITS.—

(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Americas Framework Agreement, interest shall be paid in the local currency of the beneficiary country and deposited in an Americas Fund. Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 707(d). Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Americas Framework Agreement, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country.

SEC. 707.[1196] **ENTERPRISE FOR THE AMERICAS FUNDS.**

(a) ESTABLISHMENT.—Each beneficiary country that enters into an Americas Framework Agreement shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 706(b)(1).

(b) DEPOSITS.—Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

[1194] 22 U.S.C. 2430d.

[1195] 22 U.S.C. 2430e.

[1196] 22 U.S.C. 2430f. Title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 178), provided the following:

"CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

"For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $24,590,667, to remain available until expended.".

(c) INVESTMENT.—Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by the Congress.

(d) DISBURSEMENTS.—Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement.

SEC. 708.[1197] **AMERICAS FRAMEWORK AGREEMENTS.**

(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for that country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 709.

(b) CONTENTS OF AGREEMENTS.—An Americas Framework Agreement with an eligible country shall—

(1) require that country to establish an Americas Fund;

(2) require that country to make interest payments under section 706(b)(1) into an Americas Fund;

(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) ADMINISTERING BODY.—

(1) IN GENERAL.—Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) COMPOSITION.—The administering body shall consist of—

(A) one or more individuals appointed by the United States Government,

(B) one or more individuals appointed by the government of the beneficiary country, and

(C) individuals who represent a broad range of—

(i) environmental nongovernmental organizations of the beneficiary country,

(ii) child survival and child development nongovernmental organizations of the beneficiary country,

(iii) local community development nongovernmental organizations of the beneficiary country, and

(iv) scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

(3) RESPONSIBILITIES.—The administering body—

[1197] 22 U.S.C. 2430g.

(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

(D) shall be required to grant to representatives of the United States General Accounting Office such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

(d) ELIGIBLE ACTIVITIES.—Grants from an Americas Fund shall be used for—

(1) activities that link the conservation and sustainable use of natural resources with local community development; and

(2) child survival and other child development activities.

(e) GRANT RECIPIENTS.—Grants made from an Americas Fund shall be made to—

(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

(2) other appropriate local or regional entities; and

(3) in exceptional circumstances, the government of the beneficiary country.

(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 703(a), as determined by the President pursuant to section 703(b), then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 703(a).

SEC. 709.[1198] **ENTERPRISE FOR THE AMERICAS BOARD.**

For purposes of this part, the Enterprise for the Americas Board shall—

(1) advise the Secretary of State on the negotiations of Americas Framework Agreements;

[1198] 22 U.S.C. 2430h.

(2) ensure, in consultation with—

(A) the government of the beneficiary country,

(B) nongovernmental organizations of the beneficiary country,

(C) nongovernmental organizations of the region (if appropriate),

(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

(E) environmental, scientific, child survival and child development, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

(3) review the programs, operations, and fiscal audits of each administering body.

SEC. 710.[1199] **ANNUAL REPORTS TO THE CONGRESS.**

The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a description of each Americas Framework Agreement and a description of any grants that have been extended by administering bodies pursuant to an Americas Framework Agreement.

PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS [1200, 1201]

SEC. 801.[1202] **SHORT TITLE.**

This part may be cited as the "Tropical Forest Conservation Act of 1998".

[1199] 22 U.S.C. 2430i.

[1200] Sec. 1 of Public Law 105–214 (112 Stat. 885) added part V. An earlier part V, relating to Indochina Postwar Reconstruction, was repealed by sec. 413 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 761). For complete text of regulations governing determinations, authorizations, etc., and remaining funds under part V, see page 768. An earlier part VI, relating to assistance to the Middle East, had been added by the FA Act of 1974, and was repealed by sec. 12(b)(4) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 737).

[1201] Sec. 554 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 201), provided the following:

"PROTECTION OF BIODIVERSITY AND TROPICAL FORESTS

"SEC. 554. Of the funds appropriated under the heading 'Development Assistance', not less than $145,000,000 should be made available for programs and activities which directly protect biodiversity, including forests, in developing countries: *Provided,* That of the funds made available under this section, $50,000,000 shall be made available to carry out tropical forest conservation activities authorized by the Foreign Assistance Act of 1961, of which amount up to $40,000,000 may be made available for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, pursuant to the provisions of part V of such Act, the Tropical Forest Conservation Act of 1998.".

Title II of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2133), provided the following:

"DEBT RESTRUCTURING

"For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and

Continued

SEC. 802.[1203] **FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds the following:

(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

(2) Tropical forests provide a wide range of benefits to humankind by—

(A) harboring a major share of the Earth's biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past dec-

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Assistance Act of 1954, as amended, and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, $229,000,000, to remain available until expended: *Provided*, That not less than $5,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961, and up to $20,000,000 of unobligated balances of funds available under this heading from prior year appropriations acts should be made available to carry out such provisions: *Provided further*, That funds appropriated or otherwise made available under this heading in this Act may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: *Provided further*, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

"(1) the Inter-American Development Bank;

"(2) the African Development Fund;

"(3) the African Development Bank; and

"(4) the Central American Bank for Economic Integration:

"*Provided further*, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further*, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further*, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further*, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

"(a) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institution to export-oriented commercial projects that generate foreign exchange which are generally referred to as 'enclave' loans; and

"(b) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

"*Provided further*, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further*, That none of the funds made available under this heading in this or any other appropriations Acts shall be made available for Sudan or Burma unless the Secretary of Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.".

[1202] 22 U.S.C. 2151 note.

[1203] 22 U.S.C. 2431.

ade, but the rapid rate of tropical deforestation continues unabated.

(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

(b) PURPOSES.—The purposes of this part are—

(1) to recognize the values received by United States citizens from protection of tropical forests;

(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

(4) to rechannel existing resources to facilitate the protection of tropical forests.

SEC. 803.[1204] DEFINITIONS.

As used in this part:

(1) ADMINISTERING BODY.—The term "administering body" means the entity provided for in section 809(c).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

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

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

(3) BENEFICIARY COUNTRY.—The term "beneficiary country" means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

(4) BOARD.—The term "Board" means the board referred to in section 811.

(5) DEVELOPING COUNTRY WITH A TROPICAL FOREST.—The term "developing country with a tropical forest" means—

(A)(i) a country that has a per capita income of $725 or less in 1994 United States dollars (commonly referred to as "low-income country"), as determined and adjusted on

[1204] 22 U.S.C. 2431a.

an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

(ii) a country that has a per capita income of more than $725 but less than $8,956 in 1994 United States dollars (commonly referred to as "middle-income country"), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a regional, continental, or global scale.

(6) ELIGIBLE COUNTRY.—The term "eligible country" means a country designated by the President in accordance with section 805.

(7) TROPICAL FOREST AGREEMENT.—The term "Tropical Forest Agreement" or "Agreement" means a Tropical Forest Agreement provided for in section 809.

(8) TROPICAL FOREST FACILITY.—The term "Tropical Forest Facility" or "Facility" means the Tropical Forest Facility established in the Department of the Treasury by section 804.

(9) TROPICAL FOREST FUND.—The term "Tropical Forest Fund" or "Fund" means a Tropical Forest Fund provided for in section 810.

SEC. 804.[1205] ESTABLISHMENT OF THE FACILITY.

There is established in the Department of the Treasury an entity to be known as the "Tropical Forest Facility" for the purpose of providing for the administration of debt reduction in accordance with this part.

SEC. 805.[1206] ELIGIBILITY FOR BENEFITS.

(a) IN GENERAL.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a tropical forest—

(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act; and

(2) that has put in place[1207] investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

(b) ELIGIBILITY DETERMINATIONS.—

(1) IN GENERAL.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

[1205] 22 U.S.C. 2431b.
[1206] 22 U.S.C. 2431c.
[1207] Sec. 1 of Public Law 107–26 (115 Stat. 206) struck out "major" before "investment".

SEC. 806.[1208] **REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CONCESSIONAL LOANS UNDER THE FOREIGN ASSISTANCE ACT OF 1961.**

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

(2) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

(A) $25,000,000 for fiscal year 1999;

(B) $75,000,000 for fiscal year 2000; and

(C) $100,000,000 for fiscal year 2001.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—

(A) IN GENERAL.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) ADDITIONAL REQUIREMENT.—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—

(A) IN GENERAL.—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of this Act:

(1) The provisions relating to repayment of principal under section 705 of this Act.

[1208] 22 U.S.C. 2431d.

(2) The provisions relating to interest on new obligations under section 706 of this Act.

(d)[1209] AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS AFTER FISCAL YEAR 2001.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section or section 807, there are authorized to be appropriated to the President the following:

(1) $50,000,000 for fiscal year 2002.

(2) $75,000,000 for fiscal year 2003.

(3) $100,000,000 for fiscal year 2004.

SEC. 807.[1210] REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

(i) $25,000,000 for fiscal year 1999;

(ii) $50,000,000 for fiscal year 2000; and

(iii) $50,000,000 for fiscal year 2001.

(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—

(A) IN GENERAL.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agree-

[1209] Sec. 2(a) of Public Law 107–26 (115 Stat. 206) added subsec. (d).
[1210] 22 U.S.C. 2431e.

ment, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

(1) The provisions relating to repayment of principal under section 605 of such Act.

(2) The provisions relating to interest on new obligations under section 606 of such Act.

SEC. 808.[1211] AUTHORITY TO ENGAGE IN DEBT-FOR-NATURE SWAPS AND DEBT BUYBACKS.

(a) LOANS AND CREDITS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) DEBT-FOR-NATURE SWAPS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

(B) ELIGIBLE PURCHASER DESCRIBED.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

(C) CONSULTATION REQUIREMENT.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

(D) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to be appropriated under sections 806(a)(2), 807(a)(2), and 806(d)[1212] shall be made available for such reduction of debt pursuant to subparagraph (A).

[1211] 22 U.S.C. 2431f.

[1212] Sec. 2(b) of Public Law 107–26 (115 Stat. 206) struck out "to appropriated under sections 806(a)(2) and 807(a)(2)" and inserted in lieu thereof "to be appropriated under sections 806(a)(2), 807(a)(2), and 806(d)".

(2) DEBT BUYBACKS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than the lessor of 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to such paragraphs are made in advance.

(4) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

(5) ADMINISTRATION.—

(A) IN GENERAL.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

(B) ADDITIONAL REQUIREMENT.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

SEC. 809.[1213] TROPICAL FOREST AGREEMENT.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

(2) CONSULTATION.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

(b) CONTENTS OF AGREEMENT.—The requirements contained in section 708(b) of this Act (relating to contents of an agreement)

[1213] 22 U.S.C. 2431g.

shall apply to an Agreement in the same manner as such requirements apply to an Americas Framework Agreement.

(c) ADMINISTERING BODY.—

(1) IN GENERAL.—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) COMPOSITION.—

(A) IN GENERAL.—The administering body shall consist of—

(i) one or more individuals appointed by the United States Government;

(ii) one or more individuals appointed by the government of the beneficiary country; and

(iii) individuals who represent a broad range of—

(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

(II) local community development nongovernmental organizations of the beneficiary country; and

(III) scientific, academic, or forestry organizations of the beneficiary country.

(B) ADDITIONAL REQUIREMENT.—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

(3) RESPONSIBILITIES.—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

(d) ELIGIBLE ACTIVITIES.—Amounts deposited in a Fund shall be used only to provide grants to conserve, maintain, and restore the tropical forests in the beneficiary country, through one or more of the following activities:

(1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.

(2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.

(3) Training programs to increase the scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.

(4) Restoration, protection, or sustainable use of diverse animal and plant species.

(5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health related concerns.

(6) Development and support of the livelihoods of individuals living in or near a tropical forest in a manner consistent with protecting such tropical forest.

(e) GRANT RECIPIENTS.—

(1) IN GENERAL.—Grants made from a Fund shall be made to—

(A) nongovernmental environmental, forestry, conservation, and indigenous peoples organizations of, or active in, the beneficiary country;

(B) other appropriate local or regional entities of, or active in, the beneficiary country; or

(C) in exceptional circumstances, the government of the beneficiary country.

(2) PRIORITY.—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

SEC. 810.[1214] TROPICAL FOREST FUND.

(a) ESTABLISHMENT.—Each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest on new obligations undertaken by the beneficiary country under this part.

(b) REQUIREMENTS RELATING TO OPERATION OF FUND.—The following terms and conditions shall apply to the Fund in the same manner as such terms as conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

(1) The provision relating to deposits under subsection (b) of such section.

(2) The provision relating to investments under subsection (c) of such section.

(3) The provision relating to disbursements under subsection (d) of such section.

SEC. 811.[1215] BOARD.

(a) ENTERPRISE FOR THE AMERICAS BOARD.—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610(c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.

(b) ADDITIONAL MEMBERSHIP.—

(1) IN GENERAL.—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

[1214] 22 U.S.C. 2431h.
[1215] 22 U.S.C. 2431i.

(A) Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.

(B) Two representatives from private nongovernmental environmental, scientific, forestry, or academic organizations with experience and expertise in preservation, maintenance, sustainable uses, and restoration of tropical forests.

(2) CHAIRPERSON.—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President and shall be the representative from the Department of State appointed under section 610(b)(1)(A) of such Act".[1216]

(c) DUTIES.—The duties described in this subsection are as follows:

(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

(2) Ensure, in consultation with—

(A) the government of the beneficiary country;

(B) nongovernmental organizations of the beneficiary country;

(C) nongovernmental organizations of the region (if appropriate);

(D) environmental, scientific, forestry, and academic leaders of the beneficiary country; and

(E) environmental, scientific, forestry, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Fund.

(3) Review the programs, operations, and fiscal audits of each administering body.

SEC. 812.[1217] CONSULTATIONS WITH THE CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

SEC. 813.[1218] ANNUAL REPORTS TO THE CONGRESS.

(a) IN GENERAL.—Not later than December 31 of each year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Agreement entered into under this part;

(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

[1216] Sec. 3 of Public Law 107–26 (115 Stat. 206) struck out "from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection" and inserted in lieu thereof "and shall be the representative from the Department of State appointed under section 610(b)(1)(A) of such Act".

[1217] 22 U.S.C. 2431j.

[1218] 22 U.S.C. 2431k.

(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—Not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

b. The Arms Export Control Act

CONTENTS

	Page
Chapter 1—Foreign and National Security Policy Objectives and Restraints	389
Section 1—The Need for International Defense Cooperation and Military Export Controls	389
Section 2—Coordination With Foreign Policy	391
Section 3—Eligibility	392
Section 4—Purposes for Which Military Sales by the United States Are Authorized	400
Section 5—Prohibition Against Discrimination	400
Section 6—Foreign Intimidation and Harassment of Individuals in the United States	402
Chapter 2—Foreign Military Sales Authorizations	402
Section 21—Sales From Stocks	402
Section 22—Procurement for Cash Sales	411
Section 23—Credit Sales	413
Section 24—Guaranties	417
Section 25—Annual Estimate and Justification for Sales Program	418
Section 26—Security Assistance Surveys	421
Section 27—Authority of President to Enter into Cooperative Projects with Friendly Foreign Countries	421
Chapter 2A—Foreign Military Construction Sales	425
Section 29—Foreign Military Construction Sales	425
Chapter 2B—Sales to United States Companies for Incorporation Into End Items	425
Section 30—General Authority	425
Chapter 2C—Exchange of Training and Related Support	426
Section 30A—Exchange of Training and Related Support	426
Chapter 3—Military Export Controls	427
Section 31—Authorization and Aggregate Ceiling on Foreign Military Sales Credits	427
Section 33—Restraint in Arms Sales to Sub-Saharan Africa	430
Section 34—Foreign Military Sales Credit Standards	430
Section 35—Foreign Military Sales to Less Developed Countries	431
Section 36—Reports on Commercial and Governmental Military Exports; Congressional Action	431
Section 37—Fiscal Provisions Relating to Foreign Military Sales Credits	445
Section 38—Control of Arms Exports and Imports	445
Section 39—Fees of Military Sales Agents and Other Payments	456
Section 39A—Prohibition on Incentive Payments	457
Section 40—Transactions With Countries Supporting Acts of International Terrorism	459
Section 40A—Transactions With Countries Not Fully Cooperating With United States Antiterrorism Efforts	466
Chapter 3A—End-Use Monitoring of Defense Articles and Defense Services	466
Section 40A End-Use Monitoring of Defense Articles and Defense Services	466
Chapter 4—General, Administrative, and Miscellaneous Provisions	467
Section 41—Effective Date	467
Section 42—General Provisions	468
Section 43—Administrative Expenses	470
Section 44—Statutory Construction	470
Section 45—Statutes Repealed and Amended	470
Section 46—Savings Provisions	471
Section 47—Definitions	471
Chapter 5—Special Defense Acquisition Fund	473

Section 51—Special Defense Acquisition Fund 473
Section 52—Use and Transfer of Items Procured by the Fund 474
Chapter 6—Leases of Defense Articles and Loan Authority for Cooperative Research and Development Purposes 475
Section 61—Leasing Authority 475
Section 62—Reports to the Congress 477
Section 63—Legislative Review 478
Section 64—Application of Other Provisions of Law 479
Section 65—Loan of Materials, Supplies, and Equipment for Research and Development Purposes 479
Chapter 7—Control of Missiles and Missile Equipment Technology 480
Section 71—Licensing 480
Section 72—Denial of the Transfer of Missile Equipment or Technology by United States Persons 481
Section 73—Transfers of Missile Equipment or Technology by Foreign Persons 483
Section 73A—Notification of Admittance of MTCR Adherents 486
Section 73B—Authority Relating to MTCR Adherents 487
Section 74—Definitions 487
Chapter 8—Chemical or Biological Weapons Proliferation 488
Section 81—Sanctions Against Certain Foreign Persons 488
Chapter 9—Transfer of Certain CFE Treaty-Limited Equipment to NATO Members 492
Section 91—Purpose 492
Section 92—CFE Treaty Obligations 492
Section 93—Authorities 492
Section 94—Notifications and Reports to Congress 493
Section 95—Definitions 494
Chapter 10—Nuclear Nonproliferation Controls 494
Section 101—Nuclear Enrichment Transfers 494
Section 102—Nuclear Reprocessing Transfers, Illegal Exports for Nuclear Explosive Devices, Transfers of Nuclear Explosive Devices, and Nuclear Detonations 496
Section 103—Definition of Nuclear Explosive Device 502

b. The Arms Export Control Act

Public Law 90–629 [H.R. 15681], 82 Stat. 1320, approved October 22, 1968, as amended by Public Law 91–672 [H.R. 15628], 84 Stat. 2053, approved January 12, 1971; Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 32, approved February 7, 1972; Public Law 93–189 [Foreign Assistance Act of 1973, S. 1443], 87 Stat. 714, approved December 17, 1973; Public Law 93–559 [Foreign Assistance Act of 1974, S. 3394], 88 Stat. 1795, 1813, approved December 31, 1974; Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95–92 [International Security Assistance Act of 1977, H.R. 6884], 91 Stat. 614, approved August 4, 1977; Public Law 95–105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 846, approved August 17, 1977; Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730, approved September 26, 1978; Public Law 96–70 [Panama Canal Act of 1979; H.R. 111], 93 Stat. 452 at 499, approved September 27, 1979; Public Law 96–72 [Export Administration Act of 1979, S. 737], 93 Stat. 503 at 535, approved September 29, 1979; Public Law 96–92 [International Security Assistance Act of 1979; H.R. 3173], 93 Stat. 701, approved October 29, 1979; Public Law 96–533 [International Security and Development Cooperation Act of 1980; H.R. 6942], 94 Stat. 3131, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 97–392 [H.R. 6758], 96 Stat. 1962, approved December 29, 1982; Public Law 98–151 [Further Continuing Appropriations, 1984; H.J. Res. 413], 97 Stat. 964, approved November 14, 1983; Public Law 98–473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; Public Law 99–64 [Export Administration Amendments Act of 1985, S. 883], 99 Stat. 156, approved July 12, 1985; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99–139 [Act to amend Sec. 51(b) of the Arms Export Control Act, S. 1726], 99 Stat. 562, approved October 30, 1985; Public Law 99–247 [Act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law, S. 1831], 100 Stat. 9, approved February 12, 1986; Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99–433 [Department of Defense Reorganization Act of 1986, H.R. 3622], 100 Stat. 992, approved October 1, 1986; Public Law 99–591 [Continuing Appropriations Act, 1987; H.J. Res. 738], 100 Stat. 3341, approved October 30, 1986; Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987, S. 2638], 100 Stat. 3816, approved November 14, 1986; Public Law 100–71 [Supplemental Appropriations Act, 1987; H.R. 1827], 101 Stat. 391, approved July 11, 1987; Public Law 100–202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100–204 [Foreign Relations Authorization Act, 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100–456 [National Defense Authorization Act, 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 100–461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101–165 [Department of Defense Appropriations Act, 1990; H.R. 3072], 103 Stat. 1112, approved November 21, 1989; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101–222 [Anti-Terrorism and Arms Export Amendments Act of 1989, H.R. 91], 103 Stat. 1892, approved December 12, 1989; Public Law 101–231 [International Narcotics Control Act of 1989, H.R.

3611], 103 Stat. 1954, approved December 13, 1989; Public Law 101–510 [National Defense Authorization for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 102–25 [Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991; S. 725], 105 Stat. 75, approved April 6, 1991; Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102–182 [title III—Chemical and Biological Weapons Control and Warfare Elimination Act of 1991; H.R. 1724], 105 Stat. 1233 at 1245; approved December 4, 1991; sec. 545 of H.R. 2621 as passed by the House on June 19, 1991, enacted by reference in Public Law 102–145 [H.J. Res. 360; 105 Stat. 968, approved October 28, 1991; Public Law 102–228 [Conventional Forces in Europe Treaty Implementation Act of 1991; H.R. 3807], 105 Stat. 1691, approved December 12, 1991; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; Public Law 102–429 [Export Enhancement Act of 1992; H.R. 5739], 106 Stat. 2186, approved October 21, 1992; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103–87 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994; H.R. 2295], 107 Stat. 931, approved September 30, 1993; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 103–437 [United States Code Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in section 301 of H.R. 2880, 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 755, approved February 12, 1996; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104–164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997, H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105–194 [Agriculture Export Relief Act of 1998; S. 2282], 112 Stat. 627, approved July 14, 1998; Public Law 105–277 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999; and Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106–113 [Arms Control, Nonproliferation, and Security Assistance Act of 1999; division B of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Arms Control and Nonproliferation Act of 1999; title XI of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Security Assistance Act of 1999; title XII of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–113 [Defense Offsets Disclosure Act of 1999; subtitle D, title XII of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–280 [Security Assistance Act of 2000; H.R. 4919], 114 Stat. 845, approved October 6, 2000; and by Public Law 107–228 [For-

eign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To consolidate and revise foreign assistance legislation relating to reimbursable military exports.

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

Chapter 1—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

Section 1.[2] The Need for International Defense Cooperation and Military Export Controls.—As declared by the Congress in the Arms Control and Disarmament Act, an ultimate goal of the United States continues to be a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. In furtherance of that goal, it remains the policy of the United States to encourage regional arms control and disarmament agreements and to discourage arms races.

The Congress recognizes, however, that the United States and other free and independent countries continue to have valid requirements for effective and mutually beneficial defense relationships in order to maintain and foster the environment of international peace and security essential to social, economic, and political progress. Because of the growing cost and complexity of defense equipment, it is increasingly difficult and uneconomic for any country, particularly a developing country, to fill all of its legitimate defense requirements from its own design and production base. The need for international defense cooperation among the United States and those friendly countries to which it is allied by mutual defense treaties is especially important, since the effectiveness of their armed forces to act in concert to deter or defeat aggression is directly related to the operational compatibility of their defense equipment.

Accordingly, it remains the policy of the United States to facilitate the common defense by entering into international arrangements with friendly countries which further the objective of applying agreed resources of each country to programs and projects of cooperative exchange of data, research, development, production, procurement, and logistics support to achieve specific national de-

[1] The new title, "Arms Export Control Act," was added in lieu of "The Foreign Military Sales Act" by sec. 201 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 734). Sec. 201 further stated that "any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act.".

[2] 22 U.S.C. 2751. See also sec. 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845), establishing the Joint Committee for Review of Counterproliferation Programs of the United States; sec. 1503 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2916), relating to a report of the findings of the Counterproliferation Program Review Committee; sec. 154 of Public Law 104–164 (110 Stat. 1440), relating to Panama's eligibility under this Act, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

See also sec. 564 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 484) relating to prohibiting sales and leases to those participating in or supporting the Arab boycott of Israel, in *Legislation on Foreign Relations Through 2002*, vol. II.

fense requirements and objectives of mutual concern. To this end, this Act authorizes sales by the United States Government to friendly countries having sufficient wealth to maintain and equip their own military forces at adequate strength, or to assume progressively larger shares of the costs thereof, without undue burden to their economies, in accordance with the restraints and control measures specified herein and in furtherance of the security objectives of the United States and of the purposes and principles of the United Nations Charter.

It is the sense of the Congress that all such sales be approved only when they are consistent with the foreign policy interests of the United States, the purposes of the foreign assistance program of the United States as embodied in the Foreign Assistance Act of 1961, as amended, the extent and character of the military requirement, and the economic and financial capability of the recipient country, with particular regard being given, where appropriate, to proper balance among such sales, grant military assistance, and economic assistance as well as to the impact of the sales on programs of social and economic development and on existing or incipient arms races.[3]

It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction and to encourage regional arms control arrangements. In furtherance of this policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall consider measures to limit conventional arms transfers in the interest of international peace and stability.

It is the sense of the Congress that the aggregate value of defense articles and defense services—

(1) which are sold under section 21 or section 22 of this Act; or

[3] A paragraph, as amended by sec. 4 of Public Law 91–672 and which had previously appeared at this point, was repealed by sec. 734(a)(10) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It formerly read as follows:

"It is further the sense of Congress that sales and guaranties under sections 21, 22, 23, and 24, shall not be approved where they would have the effect of arming military dictators who are denying the growth of fundamental rights or social progress to their own people: *Provided,* That the President may waive this limitation when he determines it would be important to the security of the United States, and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations in the Senate.".

(2) which are licensed or approved for export under section 38 of this Act to, for the use, or for benefit of the armed forces, police, intelligence, or other internal security forces of a foreign country or international organization under a commercial sales contract;

in any fiscal year should not exceed current levels.[4]

It is the sense of the Congress that the President maintain adherence to a policy of restraint in conventional arms transfers and that, in implementing this policy worldwide, a balanced approach should be taken and full regard given to the security interests of the United States in all regions of the world and that particular attention should be paid to controlling the flow of conventional arms to the nations of the developing world. To this end, the President is encouraged to continue discussions with other arms suppliers in order to restrain the flow of conventional arms to less developed countries.[5]

Sec. 2.[6] **Coordination With Foreign Policy.**—(a) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(b)[7] Under the direction of the President, the Secretary of State (taking into account other United States activities abroad, such as military assistance, economic assistance, and food for peace program) shall be responsible for the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this Act, including, but not limited to, determining—

(1) whether there will be a sale to or financing for a country and the amount thereof;

(2) whether there will be a lease to a country;

(3) whether there will be a cooperative project and the scope thereof; and

(4) whether there will be delivery or other performance under the sale, lease, cooperative project, or export,

to the end that sales, financing, leases, cooperative projects, and exports will be integrated with other United States activities and to the end that the foreign policy of the United States would be best served thereby.

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[4] Sec. 202(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 734) amended sec. 1 by striking out the last paragraph and adding the language beginning with "It shall be the policy of the United States". The last paragraph of sec. 1 formerly read as follows: "In order to reduce the role of the United States Government in the furnishing of defense articles and defense services to foreign countries and international organizations, and return such transactions to commercial channels, the United States Government shall reduce its sales, credit sales, and guaranties of such articles, and defense services as soon as, and to the maximum extent, practicable.".

[5] This paragraph was added by sec. 15(a) of the International Security Assistance Act of 1978 (92 Stat. 739). Sec. 15(b) of the same Act required a report from the President to the Congress by December 31, 1979, concerning the implications of the multilateral discussions referred to in the paragraph.

[6] 22 U.S.C. 2752. See also Presidential determinations, in notes at section 38.

[7] Subsec. (b) was amended and restated by sec. 115(b) of Public Law 99–83 (99 Stat. 201). It previously read as follows:

"(b) Under the direction of the President, the Secretary of State, taking into account other United States activities abroad, such as military assistance, economic assistance, and food for freedom, shall be responsible for the continuous supervision and general direction of sales, leases, and exports under this Act, including, but not limited to, determining whether there shall be a sale to a country and the amount thereof, whether there shall be a lease to a country, and whether there shall be delivery or other performance under such sale, lease, or export, to the end that sales, leases, and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.".

(c) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to sales are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

Sec. 3.[8] **Eligibility.**—(a) No defense article or defense service shall be sold or leased[9] by the United States Government under this Act to any country or international organization,[10] and no agreement shall be entered into for a cooperative project (as defined in section 27 of this Act), unless—

(1)[11] the President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the United States and promote world peace;

(2) the country or international organization shall have agreed not to transfer title to, or possession of, any defense ar-

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[8] 22 U.S.C. 2753.

Sec. 551(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 200), provided the following:

"CARIBBEAN BASIN

"SEC. 551. (a) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.".

Sec. 906 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) provided the following:

"SEC. 906. ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES.

"(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

"(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

"(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act, or

"(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

"(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'defense article' has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

"(2) the term 'excess defense article' has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).".

[9] The words "or leased" were added by sec. 109(b)(2)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526).

[10] The words "and no agreement * * * of this Act)", were added by sec. 115(b)(2)(A) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 201).

[11] In 2003, to date, the President determined that the furnishing of defense articles and services to Serbia and Montenegro will strengthen the security of the United States and promote world peace (Presidential determination No. 2003–22 of May 6, 2003; 68 F.R. 25809).

In 2002, the President made similar determinations in relation to Palau, Kiribati, and Tuvalu (Presidential determination No. 2002–09 of March 12, 2002; 67 F.R. 13245); Armenia, Azerbaijan, and Tajikistan (Presidential determination No. 2002–15 of April 18, 2002; 67 F.R. 20429); and East Timor (Presidential determination No. 02–19 of May 27, 2002; 67 F.R. 39245).

The President made no determinations pursuant to this sec. in 1998–2001.

In 1997, the President made a similar determination in relation to Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, Russia, Ukraine, and Uzbekistan (Presidential Determination No. 97–19 of March 11, 1997; 62 F.R. 13531).

In 1995 and 1996, the President made similar determinations for Angola (Presidential Determination No. 95–32 of July 28, 1995; 60 F.R. 40255), Mongolia (Presidential Determination No. 95–38 of August 22, 1995; 60 F.R. 50069), Bosnia and Herzegovina (Presidential Determination No. 96–10 of February 23, 1996; 61 F.R. 8463), Slovenia, and the Former Yugoslav Republic of Macedonia (Presidential Determination No. 96–18 of March 8, 1996; 61 F.R. 11497).

ticle or related training or other defense service[12] so furnished to it, or produced in a cooperative project (as defined in section 27 of this Act),[13] to anyone not an officer, employee, or agent of that country or international organization (or the North Atlantic Treaty Organization or the specific member countries (other than the United States) in the case of a cooperative project)[14] and not to use or permit the use of such article or related training or other defense service[12] for purposes other than those for which furnished[15] unless the consent of the President has first been obtained;

(3)[16] the country or international organization shall have agreed that it will maintain the security of such article or service[17] and will provide substantially the same degree of security protection afforded to such article or service[17] by the United States Government; and

(4)[16] the country or international organization is otherwise eligible to purchase or lease[18] defense articles or defense services.

In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[19] In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.[20] The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of

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[12] Sec. 203(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) added the words "or related training or other defense service".

[13] Sec. 115(b)(2)(B)(i) of Public Law 99–83 (99 Stat. 201), added the words "or produced * * * of this Act".

[14] Sec. 115(b)(2)(B)(ii) of Public Law 99–83 (99 Stat. 201), added the words "(or the North Atlantic Treaty Organization or the specific member countries (other than the United States) in the case of a cooperative project)".

[15] Sec. 25(2) of the FA Act of 1973 struck out "and" at the end of par. (2) and added the words to this point beginning with "and not to use or permit".

[16] Sec. 25(2)(B) of the FA Act of 1973 added par. (3) and redesignated former par. (3) as par. (4).

[17] The words "or service" were added by sec. 115(b)(2)(c) of Public Law 99–83 (99 Stat. 201). Sec. 1102(3)(C) of Public Law 99–145 (99 Stat. 710) made this same amendment.

[18] The words "or lease" were added by sec. 109(b)(2)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526).

[19] Sec. 204(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 736) amended sec. 3 by striking out the following language after "country": ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred".

[20] The words to this point, beginning with "In considering a request for approval" were added by sec. 25(2)(C) of the FA Act of 1973.

the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

(b)[21] The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 505(a) of the Foreign Assistance Act of 1961 (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this Act if—

(1) such articles constitute components incorporated into foreign defense articles;

(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, or the Government of New Zealand;

(3) the recipient is not a country designated under section 620A of the Foreign Assistance Act of 1961;

(4) the United States-origin components are not—

(A) significant military equipment (as defined in section 47(9));

(B) defense articles for which notification to Congress is required under section 36(b); and

(C) identified by regulation as Missile Technology Control Regime items; and

(5) the foreign country or international organization provides notification of the transfer of the defense articles to the United States Government not later than 30 days after the date of such transfer.

(c)(1)(A)[22] No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4 for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense serv-

[21] Sec. 142 of Public Law 104–164 (110 Stat. 1433) inserted a new subsec. (b). Former subsec. (b), as amended by sec. 1 of Public Law 91–71, was repealed by sec. 15 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622). It had concerned U.S. military assistance to a country which had seized an American fishing vessel outside a 12–mile limit.

[22] Sec. 304(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 754) amended subsec. (c), which formerly read as follows:

"(c) Except as otherwise provided in subsection (d), any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, in substantial violation of any provision of this Act or any agreement entered into under this Act, shall be immediately ineligible for further cash sales, credits, or guarantees.".

ices furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3)(A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolution pursuant to subparagraph (A) of this paragraph with respect to such ineligibility.

(4) A country shall remain ineligible in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(d)[23] (1)[24] Subject to paragraph (5), the President may not[25] give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection, or under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at $50,000,000 or more,[26] unless[27] the President submits

[23] Sec. 204(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 735) added subsecs. (e) and (f). Sec. 304(b)(2) of the same Act repealed subsec. (d) and redesignated subsecs. (e) and (f) as (d) and (e). Previously, subsec. (d) read as follows:

"(d) A country shall remain ineligible in accordance with subsection (c) of this section until such time as the President determines that such violation has ceased, that the country concerned has given assurances satisfactory to the President that such violation will not recur, and that, if such violation involved the transfer of sophisticated weapons without the consent of the President, such weapons have been returned to the country concerned.".

[24] Sec. 16 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622) added the designation "(1)", redesignated former pars. (1) through (5) as subpars. (A) through (E), and added a new par. (2).

[25] Sec. 1405(a)(1)(A) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1456) struck out "The President may not" and inserted in lieu thereof "Subject to paragraph (5), the President may not".

[26] The words to this point beginning with "or under section 505(a)(1) * * *" were inserted in lieu of similar text by sec. 101(a)(1)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519). Previously, the President was required to submit a certification to Congress on all transfers of these items regardless of their value.

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to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A)[24] the name of the country or international organization proposing to make such transfer,

(B)[24, 28] a description of the article or service proposed to be transferred, including its acquisition cost,

(C)[24] the name of the proposed recipient of such article or service,[29]

(D)[24] the reasons for such proposed transfer, and

(E)[24] the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this paragraph shall be unclassified, except that information regarding the dollar value and number of articles or services[29] proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2)[24] (A) Except as provided in subparagraph (B),[30] unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact,[31] within such 30-day period, a joint resolution[32] prohibiting the proposed transfer.

(B)[30] In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Con-

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[27] The words ", 30 days prior to giving such consent,", which previously appeared at this point were struck out by sec. 16(1) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622).

[28] Subpar. (B) was amended and restated by sec. 101(a)(1)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519). It formerly read as follows:

"(B) a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service".

[29] The words "defense" and "related training or other defense", which formerly appeared before the words "article" and "service", respectively, were deleted by sec. 101(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519).

[30] Sec. 102(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520) inserted the subpar. (A) designation, added the words to this point in subpar. (A), and added a new subpar. (B).

[31] Public Law 99–247 (100 Stat. 9) replaced the language "adopt * * * concurrent resolution disapproving" with the current text.

[32] Sec. 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268–45), struck out "law" and inserted in lieu thereof "joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act". Sec. 141(a)(1) of Public Law 104–164 (110 Stat. 1430) subsequently struck out "as provided for in sections 36(b)(2) and 36(b)(3) of this Act".

gress does not enact,[31] within such fifteen-day period, a joint resolution[33] prohibiting the proposed transfer.

(C)[34] If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

(D)[34] (i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(3)[35] (A)[36] Subject to paragraph (5), the President may not[37] give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, the export of which has been licensed or approved under section 38 of this Act,[38] unless[39] before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a certification[40] containing the information specified in subparagraphs (A) through (E) of paragraph (1). Such certification shall be submitted—[41]

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[33] Sec. 141(a)(2) of Public Law 104–164 (110 Stat. 1430) struck out "law" and inserted in lieu thereof "joint resolution".

[34] Sec. 141(a)(3) of Public Law 104–164 (110 Stat. 1430) added subparas. (C) and (D).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[35] Sec. 101(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3131) redesignated existing par. (3) as par. (4) and added this new par. (3). Par. (4) was originally added as par. (3) by sec. 17 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622).

[36] Sec. 141(b)(1) of Public Law 104–164 (110 Stat. 1431) added subpara. (A) designation.

[37] Sec. 1405(a)(1)(A) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1456) struck out "The President may not" and inserted in lieu thereof "Subject to paragraph (5), the President may not".

[38] The value of the items listed in this sentence was increased from $7,000,000 and $25,000,000 to $14,000,000 and $50,000,000, respectively, by sec. 101(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1519).

[39] Sec. 141(b)(2)(A) of Public Law 104–164 (110 Stat. 1431) struck out "at least 30 calendar days" after "unless".

[40] Sec. 141(b)(2)(B) of Public Law 104–164 (110 Stat. 1431) struck out "report" and inserted in lieu thereof "certification".

[41] Sec. 141(b)(3) of Public Law 104–164 (110 Stat. 1431) struck out a sentence after "paragraph (1).", which read : "Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.", and inserted in lieu thereof the text beginning with "Such certification shall be submitted—". The former text had been added by sec. 577 of Public Law 100–461 (102 Stat. 2268–45).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4)[35] This subsection shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C)[42] to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

(i) for cooperative cross servicing, or

(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 36(b) of this Act with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.

[42] Subpar. (C) was amended and restated by sec. 11 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705). It formerly read as follows:

"(C) to cooperative cross servicing arrangements among members of the North Atlantic Treaty Organization.".

(D)[43] * * * [Repealed—1981]

(5)[44] In the case of a transfer to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on consent of the President set forth in paragraphs (1) and (3)(A) shall apply only if the transfer is—

(A) a transfer of major defense equipment valued (in terms of its original acquisition cost) at $25,000,000 or more; or

(B) a transfer of defense articles or defense services valued (in terms of its original acquisition cost) at $100,000,000 or more).

(e)[23] If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 505 of the Foreign Assistance Act of 1961, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f)[45] No sales or leases shall be made to any country that the President has determined is in material breach of its binding commitments to the United States under international treaties or agreements concerning the nonproliferation of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) and unsafeguarded special nuclear material (as defined in section 830(8) of that Act).

(g)[46] Any agreement for the sale or lease of any article on the United States Munitions List entered into by the United States Government after the date of enactment of this subsection shall state that the United States Government retains the right to verify credible reports that such article has been used for a purpose not authorized under section 4 or, if such agreement provides that such

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[43] Subpar. (D), as added by sec. 101(b) of Public Law 96–536 (94 Stat. 3131), was repealed by sec. 101(a)(3)(C) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520). Subpar. (D) had stipulated that subsec. (d) would not apply to transfers to NATO, member countries of NATO, Japan, Australia, or New Zealand of major defense equipment valued at less than $7,000,000 or defense articles or related training or other defense service valued at less than $25,000,000.

[44] Sec. 1405(a)(1)(B) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1456) added para. (5).

[45] Sec. 822(a)(1) of the Nuclear Proliferation Prevention Act (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 511) added subsec. (f).

Previously, sec. 2(b) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1896) repealed sec. 3(f). Added by sec. 18 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 622), sec. 3(f) formerly read as follows:

"(f)(1) Unless the President finds that the national security requires otherwise, he shall terminate all sales, under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The President may not thereafter make or extend sales, to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for sales, pursuant to this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

"(2) If the President finds that the national security justifies a continuation of sales to any government described in paragraph (1), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.".

[46] Sec. 1225 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added subsec. (g).

article may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

Sec. 4.[47] **Purposes for Which Military Sales by the United States Are Authorized.**—Defense articles and defense services shall be sold or leased[48] by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons,[49] to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort: *Provided,* That none of the funds contained in this authorization shall be used to guarantee, or extend credit, or participate in an extension of credit in connection with any sale of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, Iran, Israel, the Republic of China, the Philippines, and Korea unless the President determines that such financing is important to the national security of the United States and reports within thirty days each such determination to the Congress.

Sec. 5.[50] **Prohibition Against Discrimination.**—(a) It is the policy of the United States that no sales should be made, and no credits (including participations in credits) or guaranties extended to or for any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this Act on the basis of race, religion, national origin, or sex.

(b)(1) No agency performing functions under this Act shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign

[47] 22 U.S.C. 2754.

[48] The words "or leased" were added by sec. 109(b)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526).

[49] Sec. 1202(a) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) inserted "for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons," after "self-defense,".

[50] 22 U.S.C. 2755. Sec. 5 was added by sec. 302(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 752).

government where such policies or practices are based upon race, religion, national origin, or sex.

(2) Each contract entered into by any such agency for the performance of any function under this Act shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(c) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any instance in which any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the performance of any sale or licensed transaction under this Act. Such reports shall include (1) a description of the facts and circumstances of any such discrimination, (2) the response thereto on the part of the United States or any agency or employee thereof, and (3) the result of such response, if any.

(d)(1)[51] Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[52] of the House of Representatives, the President shall, within 60 days after the receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Secretary of State,[53] with respect to the country designated in such request, setting forth—

(A) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin or sex and prevent any such person from participating in the performance of any sale or licensed transaction under this Act;

(B) the response of the United States thereto and the results of such response;

(C) whether, in the opinion of the President, notwithstanding any such policies or practices—

(i) extraordinary circumstances exist which necessitate a continuation of such sale or licensed transaction, and, if so, a description of such circumstances and the extent to which such sale or licensed transaction should be continued (subject to such conditions as Congress may impose under this section), and

[51] Functions in this paragraph are delegated to the Assistant Secretary of State for Democracy, Human Rights and Labor (Department of State Public Notice 2086; Delegation of Authority No. 214; 59 F.R. 50790).

[52] Sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Subsequently, sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[53] Sec. 162(f) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405) struck out "Assistant Secretary of State for Human Rights and Humanitarian Affairs" and inserted in lieu thereof "Secretary of State".

(ii) on all the facts it is in the national interest of the United States to continue such sale or licensed transaction; and

(D) such other information as such committee may request.

(2) In the event a statement with respect to a sale or licensed transaction is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within 60 days after receipt of such request, such sale or licensed transaction shall be suspended unless and until such statement is transmitted.

(3)(A) In the event a statement with respect to a sale or licensed transaction is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such sale or licensed transaction.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

Sec. 6.[54] **Foreign Intimidation and Harassment of Individuals in the United States.**—No letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this Act with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. The President shall report any such determination promptly to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate.

Chapter 2—FOREIGN MILITARY SALES AUTHORIZATIONS

Sec. 21.[55] **Sales From Stocks.**—(a)(1)[56] The President may sell defense articles and defense services from the stocks of the Department of Defense and the Coast Guard[57] to any eligible country or

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[54] 22 U.S.C. 2756. Sec. 6. was added by sec. 115 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1528).

[55] 22 U.S.C. 2761. Sec. 205 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 736) amended sec. 21 which formerly read as follows:

"Sec. 21. Cash Sales From Stock.—The President may sell defense articles from the stocks of the Department of Defense and defense services of the Department of Defense to any friendly country or international organization if such country or international organization agrees to pay not less than the value thereof in United States dollars. Payment shall be made in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed one hundred and twenty days after the delivery of the defense articles or the rendering of the defense services.".

10 United States Code 2390, as added by sec. 815 of the Department of Defense Appropriation Authorization Act, 1979 (92 Stat. 1625), as sec. 975 and later redesignated, prohibited the sale of certain defense articles from Department of Defense stocks. See 10 U.S.C. 2390, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

Sec. 706 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 862) provided the following:

"SEC. 706. SENSE OF THE CONGRESS REGARDING EXCESS DEFENSE ARTICLES.

"It is the sense of the Congress that the President should make expanded use of the authority provided under section 21(a) of the Arms Export Control Act to sell excess defense articles by utilizing the flexibility afforded by section 47 of such Act to ascertain the 'market value' of excess defense articles.".

[56] Sec. 107(a)(1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 196) redesignated pars. (1), (2) and (3) as subpars. (A), (B) and (C) and inserted a "(1)" after subsec. (a).

[57] Sec. 1222 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427,

international organization if such country or international organization agrees to pay in United States dollars—

(A)[56] in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;[58]

(B)[56] in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

(C)[56, 59] in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 or to any high-income foreign country (as described in that chapter),[60] only those additional costs that are incurred by the United States Government in furnishing such assistance.

(2)[61] For purposes of subparagraph (A) of paragraph (1), the actual value of a naval vessel of 3,000 tons or less and 20 years or more of age shall be considered to be not less than the greater of the scrap value or fair value (including conversion costs) of such vessel, as determined by the Secretary of Defense.

(b) Except as provided by subsection (d) of this section, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

(c)(1)[62] Personnel performing defense services sold under this Act may not perform any duties of a combatant nature, including

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enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "and the Coast Guard" after "Department of Defense".

[58] 10 U.S.C. 114(c)(2) provides:

"(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

"(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

"(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.".

[59] Subpar. (C) was amended and restated by sec. 108(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197). It previously read: "in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training, only those additional costs that are incurred by the United States Government in furnishing such training.".

[60] Sec. 112(c)(2) of Public Law 104–164 (110 Stat. 1428) inserted "or to any high-income foreign country (as described in that chapter)" after "Foreign Assistance Act of 1961".

[61] Par. (2) was added by sec. 107(a)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 196).

[62] The paragraph designation "(1)" and a new par. (2) were added by sec. 102 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3132). Par. (2) was subsequently amended and restated by sec. 103 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1521). Par. (2) formerly read as follows:

"(2) Within 48 hours after the outbreak of significant hostilities involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

"(A) the identity of such country and a description of such hostilities; and

"(B) the number of members of the United States Armed Forces and the number of United States civilian personnel performing defense services related to such hostilities in such country, their location, the precise nature of their activities, and the likelihood of their becoming engaged in or endangered by hostilities.".

any duties related to training and advising that may engage United States personnel in combat activities,[63] outside the United States in connection with the performance of those defense services.

(2)[62] Within forty-eight hours of the existence of, or a change in status of significant hostilities or terrorist acts or a series of such acts, which may endanger American lives or property, involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, classified if necessary, setting forth—

(A) the identity of such country;

(B) a description of such hostilities or terrorist acts; and

(C) the number of members of the United States Armed Forces and the number of United States civilian personnel that may be endangered by such hostilities or terrorist acts.

(d) If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made under letters of offer issued under this section after the enactment of this subsection may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President may extend such sixty-day period to one hundred and twenty days if he determines that emergency requirements of the purchaser for acquisition of such defense articles or defense services exceed the ready availability to the purchaser of funds sufficient to pay the United States in full for them within such sixty-day period and submits that determination to the Congress together with a special emergency request for the authorization and appropriation of additional funds to finance such purchases under this Act.

(e)(1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 22 of this Act shall include appropriate charges for—

(A)[64] administrative services, calculated on an average percentage basis to recover the full estimated costs (excluding a

[63] The words "training and advising that may engage United States personnel in combat activities" were inserted in lieu of "training, advising, or otherwise providing assistance regarding combat activities" by sec. 102(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3132).

[64] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 177), provided the following under "Foreign Military Financing Program": "*Provided further*, That not more than $356,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2003 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations:".

pro rata share of fixed base operations costs)[65] of administration of sales made under this Act to all purchasers of such articles and services as specified in section 43(b) and section 43(c) of this Act;[66]

(B)[67] a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment (except for equipment wholly paid for either from funds transferred under section 503(a)(3) of the Foreign Assistance Act of 1961 or from funds made available on a nonrepayable basis under section 23 of this Act);[68] and

(C)[69] the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.

(2)[70] (A) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B)[71] for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, standardization with the Armed Forces of Japan, Australia, or New Zealand in further-

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[65] The wording in parentheses was added by sec. 109 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197).

[66] Sec. 9104(c)(1) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), inserted reference to secs. 43(b) and (c).

[67] Section 9104(c)(3) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), deleted par. (1)(B) which read "(B) any use of plant and production equipment in connection with such defense articles;" and redesignated (C) and (D) as (B) and (C), respectively.

Sec. 710 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 864) provided the following:

"SEC. 710. WAIVER OF CERTAIN COSTS.

"Notwithstanding any other provision of law, the President may waive the requirement to impose an appropriate charge for a proportionate amount of any nonrecurring costs of research, development, and production under section 21(e)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(B)) for the November 1999 sale of five UH–60L helicopters to the Republic of Colombia in support of counternarcotics activities.".

[68] Sec. 9104(c)(2) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), inserted parenthetical language here.

[69] This subparagraph was added by sec. 16 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 740) as (D), and redesignated as (C) by the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152).

[70] Sec. 4303(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 658) conditionally amended para. (2) by inserting subpara. designation "(A)", and adding subparas. (B) and (C). Sec. 4303(b) of that Act stated the conditions for incorporating the amendment as follows:

"(b) CONDITIONS.—Subsection (a) shall be effective only if—

"(1) the President, in the budget of the President for fiscal year 1997, proposes legislation that if enacted would be qualifying offsetting legislation; and

"(2) there is enacted qualifying offsetting legislation.

"(c) EFFECTIVE DATE.—If the conditions in subsection (b) are met, then the amendments made by subsection (a) shall take effect on the date of the enactment of qualifying offsetting legislation.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'qualifying offsetting legislation' means legislation that includes provisions that—

"(A) offset fully the estimated revenues lost as a result of the amendments made by subsection (a) for each of the fiscal years 1997 through 2005;

"(B) expressly state that they are enacted for the purpose of the offset described in subparagraph (A); and

"(C) are included in full on the PayGo scorecard.

"(2) The term 'PayGo scorecard' means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

The required offsetting legislation was enacted as sec. 3303(e) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 98d note).

[71] Sec. 9104(c)(3) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) made a conforming amendment here to show redesignation of par. (B) and (C), above.

ance of the mutual defense treaties between the United States and those countries, or foreign procurement in the United States under coproduction arrangements.[72]

(B)[70] The President may waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for a particular sale if the President determines that—

(i) imposition of the charge or charges likely would result in the loss of the sale; or

(ii) in the case of a sale of major defense equipment that is also being procured for the use of the Armed Forces, the waiver of the charge or charges would (through a resulting increase in the total quantity of the equipment purchased from the source of the equipment that causes a reduction in the unit cost of the equipment) result in a savings to the United States on the cost of the equipment procured for the use of the Armed Forces that substantially offsets the revenue foregone by reason of the waiver of the charge or charges.

(C) The President may waive, for particular sales of major defense equipment, any increase in a charge or charges previously considered appropriate under paragraph (1)(B) if the increase results from a correction of an estimate (reasonable when made) of the production quantity base that was used for calculating the charge or charges for purposes of such paragraph.

(3)[73] (A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

(i) a weapon system partnership agreement; or

(ii) a NATO/SHAPE project.

(B) The Secretary of Defense may reimburse the fund established to carry out section 43(b) of this Act in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

(C) As used in this paragraph—

(i) the term "weapon system partnership agreement" means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

(I) is entered into pursuant to the terms of the charter of that organization; and

(II) is for the common logistic support of a specific weapon system common to the participating countries; and

(ii) the term "NATO/SHAPE project" means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.

(f) Any contracts entered into between the United States and a foreign country under the authority of this section or section 22 of

[72] The words "standardization with the * * * and those countries," were added by sec. 104 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1521).

[73] Sec. 1002 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2037) added sec. 21(e)(3).

this Act shall be prepared in a manner which will permit them to be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

(g)[74] The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94–106), and may enter into similar agreements with countries[75] which are major non-NATO allies, for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.[76]

(h)[77] (1) The President is authorized to provide (without charge) quality assurance, inspection, contract administration services,[78] and contract audit defense services under this section—

(A)[77] in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services[79] entered into after the date of enactment of this subsection by, or under this Act on behalf of, a foreign government which is a member of the North Atlantic Treaty Organization, if such government provides such services in accordance with an agreement on a re-

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[74] Subsec. (g) was added by sec. 108(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197).

Subsec. (g) was previously repealed by the Foreign Assistance Appropriations Act, 1985 (sec. 101 of the Continuing Appropriations Act, 1985; Public Law 98–473; 98 Stat. 1895). This amendment had been included as sec. 102(b) of S. 2346, as introduced on February 27, 1984. Public Law 98–473 enacted sec. 102 of S. 2346. Subsec. (g) previously read as follows:

"(g) The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94–106), and may enter into similar agreements with Japan, Australia, and New Zealand, for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.".

[75] Sec. 147(b) of Public Law 104–164 (110 Stat. 1435) struck out "similar agreements with Japan, Australia, and New Zealand, and with other countries" and inserted in lieu thereof "similar agreements with countries". Sec. 580 of Public Law 100–202 (101 Stat. 1329–181) had added "and with other countries which are major non-NATO allies".

[76] Sec. 147(a)(3)(A) of Public Law 104–164 (110 Stat. 1435) struck out the last sentence of subsec. (g). Originally added by sec. 580 of Public Law 100–202 (101 Stat. 1329–181), and amended by sec. 705(d)(1) of Public Law 102–25 (105 Stat. 120), the sentence read: " As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.".

[77] Sec. 12 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 705) redesignated subsec. (h) as subsec. (i) and added this new subsec. (h).

Subsequently, sec. 111 (1), (2), and (3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197), inserted the designation (1) after subsec. (h), added par. (2) and redesignated what was previously pars. (1) and (2) as subpars. (A) and (B) of the newly designated (h)(1).

[78] The language "contract administration services" was added by sec. 110 of Public Law 99–83 (99 Stat. 197).

[79] The reference to design and construction services was added by sec. 115(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134).

ciprocal basis, without charge, to the United States Government; or

(B)[77] in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services[79] pursuant to the North Atlantic Treaty Organization Security Investment program[80] in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.

(2)[77] In carrying out the objectives of this section, the President is authorized to provide cataloging data and cataloging services, without charge, to the North Atlantic Treaty Organization or to any member government of that Organization if that Organization or member government provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.

(i)[81] (1) Sales of defense articles and defense services which could have significant adverse effect on the combat readiness of the Armed Forces of the United States shall be kept to an absolute minimum. The President shall transmit to the Speaker of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate on the same day a written statement giving a complete explanation with respect to any proposal to sell, under this section or under authority of chapter 2B,[82] any defense articles or defense services if such sale could have a significant adverse effect on the combat readiness of the Armed Forces of the United States. Each such statement shall be unclassified except to the extent that public disclosure of any item of information contained therein would be clearly detrimental to the security of the United States. Any necessarily classified information shall be confined to a supplemental report. Each such statement shall include an explanation relating to only one such proposal to sell and shall set forth—

(A) the country or international organization to which the sale is proposed to be made;

(B) the amount of the proposed sale;

(C) a description of the defense article or service proposed to be sold;

(D) a full description of the impact which the proposed sale will have on the Armed Forces of the United States; and

(E) a justification for such proposed sale, including a certification that such sale is important to the security of the United States.

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[80] Sec. 2802(d)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2787) struck out "North Atlantic Treaty Organization Infrastructure Program" and inserted in lieu thereof "North Atlantic Treaty Organization Security Investment program".

[81] Subsec. (i), originally added as subsec. (h) by sec. 206 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 738), was redesignated as subsec. (i) by sec. 12 of Public Law 96–92.

[82] The reference to the authority under chapter 2B was added by sec. 3 of Public Law 97–392 (96 Stat. 1962).

A certification described in subparagraph (E) shall take effect on the date on which such certification is transmitted and shall remain in effect for not to exceed one year.

(2) No delivery may be made under any sale which is required to be reported under paragraph (1) of this subsection unless the certification required to be transmitted by paragraph (E) of paragraph (1) is in effect.

(j)[83] * * * [Repealed—1996]

(k)[84] Before entering into the sale under this Act of defense articles that are excess to the stocks of the Department of Defense, the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.

(l)[85] REPAIR OF DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may acquire a repairable defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this Act;

(B) is not an end item; and

(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

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[83] Sec. 112 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 206) repealed subsec. (j), originally added by sec. 114 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2333). The subsec. read as follows:

"(j) TANK AND INFANTRY VEHICLE UPGRADES.—(1) Funds received from the sale of tanks under this section shall be available for the upgrading of tanks for fielding to the Army.

"(2) Funds received from the sale of infantry fighting vehicles or armored personnel carriers under this section shall be available for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

"(3) Paragraphs (1) and (2) apply only to the extent provided in advance in appropriations Acts.

"(4) This subsection applies with respect to funds received from sales occurring after September 30, 1989.".

[84] Sec. 731(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) added subsec. (k). Sec. 104(b)(1) of Public Law 104–164 (110 Stat. 1426) struck out "the President shall first consider the effects of the sale of the articles on the national technology and industrial base, particularly the extent, if any, to which the sale reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are sold." and inserted the text beginning "the President shall * * *".

[85] Sec. 152(a) of Public Law 104–164 (110 Stat. 1438) added subsec. (l). Subsec. (c) (22 U.S.C. 2761 note) of that section provided: "Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act.".

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

(3) REQUIREMENT.—(A) The foreign government or international organization receiving a new or repaired defense article in exchange for a repairable defense article pursuant to paragraph (1) shall, upon the acceptance by the United States Government of the repairable defense article being returned, be charged the total cost associated with the repair and replacement transaction.

(B) The total cost charged pursuant to subparagraph (A) shall be the same as that charged the United States Armed Forces for a similar repair and replacement transaction, plus an administrative surcharge in accordance with subsection (e)(1)(A) of this section.

(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a repairable defense article as provided in subsection (a) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.

(m)[86] RETURN OF DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may accept the return of a defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this Act;

(B) is not significant military equipment (as defined in section 47(9) of this Act); and

(C) is in fully functioning condition without need of repair or rehabilitation.

(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

(3) CREDIT FOR TRANSACTION.—Upon acquisition and acceptance by the United States Government of a defense article under paragraph (1), the appropriate Foreign Military Sales

[86] Sec. 152(b) of Public Law 104–164 (110 Stat. 1439) added subsec. (m). Subsec. (c) (22 U.S.C. 2761 note) of that section provided: "Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act.".

account of the provider shall be credited to reflect the transaction.

(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a defense article as provided in paragraph (1) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.

Sec. 22.[87] **Procurement for Cash Sales.**—(a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due. Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding

[87] 22 U.S.C. 2762. Sec. 25(3) of the FA Act of 1973 amended and restated sec. 22, which formerly read as follows:

"Sec. 22. Procurement for Cash Sales.—The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any friendly country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due: *Provided*, That the President may, when he determines it to be in the national interest accept a dependable undertaking to make full payment within one hundred and twenty days after delivery of the defense articles, or the rendering of the defense services, and appropriations available to the Department of Defense may be used to meet the payments required by the contracts and shall be reimbursed by the amounts subsequently received from the country or international organization: *Provided further,* That the President may, when he determines it to be in the national interest, enter into sales agreements with purchasing countries or international organizations which fix prices to be paid by the purchasing countries or international organizations for the defense articles or defense services ordered. Funds made available under section 31 for financing sales shall be used to reimburse the applicable appropriations in the amounts required by the contracts which exceed the price so fixed, except that such reimbursement shall not be required upon determination by the President that the continued production of the defense article being sold is advantageous to the Armed Forces of the United States. Payments by purchasing countries or international organizations which exceed the amounts required by such contracts shall be transferred to the general fund of the Treasury. To the maximum extent possible, prices fixed under any such sales agreement shall be sufficient to reimburse the United States for the cost of defense articles or defense services ordered. The President shall submit to the Congress promptly a detailed report concerning any fixed- price sales agreement under which the aggregate cost to the United States exceeds the aggregate amount required to be paid by the purchasing country or international organization. No sales of unclassified defense articles shall be made to the government of any economically developed nation under the provisions of this section unless such articles are not generally available for purchase by such nations from commercial sources in the United States: *Provided, however,* That the President may waive the provisions of this sentence when he determines that the waiver of such provisions is in the national interest.".

the net arrearage and shall be computed from the date of net arrearage.[88]

(b) The President may, if he determines it to be in the national interest, issue letters of offer under this section which provide for billing upon delivery of the defense article or rendering of the defense service and for payment within one hundred and twenty days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this Act.[89] Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold.

(c)[90] The provisions of the Renegotiation Act of 1951 do not apply to procurement contracts, heretofore or hereafter entered into under this section, section 29, or predecessor provisions of law.

(d)[91] COMPETITIVE PRICING.—(1)[92] Procurement contracts made in implementation of sales under this section for defense articles and defense services wholly paid for from funds made available on a nonrepayable basis shall be priced on the same costing basis with

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[88] The words beginning with "Interest shall be charged on any net amount * * *" were added by sec. 207(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 738).

[89] Sec. 207(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 738) amended subsec. (b) by striking out the first sentence and adding in lieu thereof the words to this point. The first sentence of subsec. (b) formerly read as follows: "(b) The President may, when he determines it to be in the national interest, accept a dependable undertaking of a foreign country or international organization with respect to any such sale, to make full payment within 120 days after delivery of the defense articles or the rendering of the defense services.".

Sec. 1007(b)(5) of the DOD Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2579) waived the requirement under sec. 22 for payment in advance of delivery with respect to the purchase by the Federal Republic of Germany of one Patriot missile fire unit.

[90] Subsec. (c), as added by sec. 17 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 740), was amended and restated by sec. 105(b)(2) of the International Security and Development Cooperation Act of 1980 (Public Law 96–553; 94 Stat. 3134). It formerly read as follows:

"(c) The provisions of the Renegotiation Act of 1951 do not apply to contracts for the procurement of defense articles and defense services heretofore or hereafter entered into under this section or predecessor provisions of law.".

[91] Sec. 531A(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 731), added subsec. (d). Subsecs. (b) and (c) of sec. 531A provided the following:

"(b) EFFECTIVE DATE AND IMPLEMENTING REGULATIONS.—Section 22(d) of the Arms Export Control Act, as added by subsection (a)—

"(1) shall take effect on the 60th day following the date of the enactment of this Act;

"(2) shall be applicable only to contracts made in implementation of sales made after such effective date; and

"(3) shall be implemented by revised procurement regulations, which shall be issued prior to such effective date.

"(c) DIRECT COSTS ALLOWABLE.—Direct costs associated with meeting a foreign customer's additional or unique requirements will continue to be allowable under such contracts. Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.".

[92] Sec. 1223 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "Procurement contracts", inserted in lieu thereof "(1) Procurement contracts", and added para. (2).

regard to profit, overhead, independent research and development, bid and proposal, and other costing elements, as is applicable to procurements of like items purchased by the Department of Defense for its own use.

(2)[92] Direct costs associated with meeting additional or unique requirements of the purchaser shall be allowable under contracts described in paragraph (1). Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.

Sec. 23.[93, 94] **Credit Sales.**—(a)[95] The President is authorized to finance the procurement of defense articles, defense services, and

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[93] 22 U.S.C. 2763. Sec. 23 was amended and restated by sec. 102 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 195). It previously read as follows:

"The President is authorized to finance procurements of defense articles, defense services, and design and construction services by friendly foreign countries and international organizations on terms requiring the payment to the United States Government in United States dollars of—

"(1) the value of such articles or services within a period not to exceed twelve years after the delivery of such articles or the rendering of such services; and

"(2) interest on the unpaid balance of that obligation for payment of the value of such articles or services, at a rate equivalent to the current average interest rate, as of the last day of the month preceding the financing of such procurement that the United States Government pays on outstanding marketable obligations of comparable maturity, unless the President certifies to Congress that the national interest requires a lesser rate of interest and states in the certification the lesser rate so required and the justification therefor.".

Prior to that, sec. 45(a)(2) of the FA Act of 1974 amended sec. 23, which formerly read as follows: "Sec. 23. Credit Sales.—The President is hereby authorized to finance procurements of defense articles and defense services by friendly countries and international organizations on terms of repayment to the United States Government of not less than the value thereof in the United States dollars within a period of not to exceed ten years after the delivery of the defense articles or the rendering of the defense services.".

[94] Sec. 101(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 193) provided an authorization for each of the fiscal years 1986 and 1987 of $5,371,000,000 to carry out sec. 23 and set a ceiling of $553,900,000 for each fiscal year of the amount that may be made available at concessional interest rates.

Sec. 1201 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1427) provided the following:

"TITLE XII—MILITARY AND RELATED ASSISTANCE

"SUBTITLE A—FOREIGN MILITARY SALES AND FINANCING AUTHORITIES

"SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $4,107,200,000 for fiscal year 2003.".

In that Act, see also: sec. 1206, relating to defense transfers to Taiwan; subtitle C—assistance for select countries, including sec. 1221, authorizing assistance to Israel and Egypt; sec. 1222, authorizing assistance to Greece and Turkey; sec. 511, authorizing security assistance and IMET to the Baltic states, Bulgaria, the Czech Republic, Hungary, Jordan, Malta, the Philippines, Poland, Romania, Slovakia, Slovenia, and Georgia (IMET funding only); and sec. 1224, condition ESF to Lebanon.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 175), provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $306,400,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), consistent with the provisions of section 562 of this Act, and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further,* That of this amount not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and

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multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so following consultation with the appropriate committees of Congress: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That of the funds made available for demining and related activities, not to exceed $675,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That the Secretary of State is authorized to provide not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract.".

Title III of that Act (117 Stat. 176) provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,072,000,000: *Provided,* That of the funds appropriated under this heading, not less than $2,100,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $550,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That except as provided in the following proviso, none of the funds appropriated by this paragraph may be made available for helicopters and related support costs for Colombia: *Provided further,* That up to $93,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading 'Andean Counterdrug Initiative' for helicopters, training and other assistance for the Colombian Armed Forces for security for the Cano Limon pipeline: *Provided further,* That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

"None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan and Liberia: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Guatemala: *Provided further,* That only those countries for which assistance was justified for the 'Foreign Military Sales Financing Program' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $38,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $356,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2003 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2003 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.".

Title V of that Act (117 Stat. 182, 184) provided the following:

"DEOBLIGATION/REOBLIGATION AUTHORITY

"SEC. 510. Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided,* That the authority of this section may not be used in fiscal year 2003.

"AVAILABILITY OF FUNDS

"SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Pro-*

design and construction services by friendly foreign countries and international organizations, on such terms and conditions as he may determine consistent with the requirements of this section. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of this section may be used to provide financing to Israel and Egypt for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this Act.[96]

(b) The President shall require repayment in United States dollars within a period not to exceed twelve years[97] after the loan

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vided, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, section 23 of the Arms Export Control Act, and funds provided under the heading 'Assistance for Eastern Europe and the Baltic States', shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

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"NOTIFICATION REQUIREMENTS

"SEC. 515. * * * *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: * * *".

On May 30, 2002, the President determined, pursuant to authority stated in secs, 614(a)(2) and 506(a)(1) of the Foreign Assistance Act of 1961, "that it is vital to the national security interests of the United States to provide up to $4.5 million in fiscal year 1997 and 1998 Foreign Military Financing Funds for assistance to Georgia under section 23 of the Arms Export Control Act without regard to any provision of law that might otherwise restrict provision of such funds. I further determine that an unforeseen emergency exists requiring immediate military assistance for Georgia that cannot be met under the Arms Control Export *[sic]* act or any other law, and hereby direct the drawdown of defense articles and services from the stocks of the Department of Defense, and military education and training of the aggregate value of $21 million to meet that emergency requirement. I hereby authorize the furnishing of this assistance." (Presidential Determination No. 02–20; 67 F.R. 39247).

[95] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 210), provided the following:

"COMMERCIAL LEASING OF DEFENSE ARTICLES

"SEC. 575. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.".

[96] The last sentence of subsec. (a) was added by sec. 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100–202).

[97] Sec. 208(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 739) originally substituted "twelve years" in lieu of "ten years". Sec. 208(b) of the same Act went on to say, "The amendment made by subsection (a) shall apply with respect to financing under agreements entered into on or after the date of enactment of

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agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by statute for that country or international organization.

(c)(1) The President shall charge interest under this section at such rate as he may determine, except that such rate may not be less than 5 percent per year.

(2) For purposes of financing provided under this section—

(A) the term "concessional rate of interest" means any rate of interest which is less than market rates of interest; and

(B) the term "market rate of interest" means any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing of the procurement under this section) that the United States Government pays on outstanding marketable obligations of comparable maturity.

(d) References in any law to credits extended under this section shall be deemed to include reference to participations in credits.

(e)[98] (1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).

(f)[99] For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section.

(g)[100] (1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act or the Foreign Assistance Act of 1961 shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

(2) For purposes of this subsection, the term "cash flow financing" has the meaning given such term in subsection (d) of section 25, as added by section 112(b) of Public Law 99–83.

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this Act for the procurement of defense articles to be delivered, or defense services to be rendered, after such date".

[98] Subsec. (e) was added by sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2045).

[99] Sec. 102(a) of Public Law 104–164 (110 Stat. 1422) added subsec. (f).

[100] Sec. 102(b) of Public Law 104–164 (110 Stat. 1422) added subsec. (g).

(h)[101] Of the amounts made available for a fiscal year to carry out this section, not more than $100,000,000 for such fiscal year may be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act.

Sec. 24.[102] **Guaranties.**—(a) The President may guarantee any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies other than the Federal Financing Bank)[103] against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles, defense services, and design and construction services[79] to friendly countries and international organizations. Fees shall be charged for such guaranties.

(b) The President may sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies other than the Federal Financing Bank)[103] promissory notes issued by friendly countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 23, and may guarantee payment thereof.

(c)[104] Funds obligated under this section before the date of enactment of the International Security and Development Cooperation Act of 1980 which constitute a single reserve for the payment of claims under guaranties issued under this section shall remain available for expenditure for the purposes of this section on and after that date. That single reserve may, on and after the date of enactment of the International Security and Development Cooperation Act of 1985, be referred to as the "Guaranty Reserve Fund." Funds provided for necessary expenses to carry out the provisions of section 23 of the Arms Export Control Act and of section 503 of the Foreign Assistance Act of 1961, as amended, may be used to

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[101] Sec. 102(c) of Public Law 104–164 (110 Stat. 1422) added subsec. (h).

[102] 22 U.S.C. 2764.

[103] Sec. 45(a)(3) of the FA Act of 1974 inserted "(excluding United States Government agencies other than the Federal Financing Bank)" in lieu of "(excluding United States Government agencies)".

[104] Subsec. (c), as amended by the FA Act of 1973 and the FA Act of 1974, was further amended and restated by sec. 104(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3132). It formerly read as follows:

"(c) Funds made available to carry out this Act shall be obligated in an amount equal to 10 per centum of the principal amount of contractual liability related to any guaranty issued under this section, and all the funds so obligated shall constitute a single reserve for the payment of claims under such guaranties. Any funds so obligated which are deobligated from time to time during any current fiscal year as being in excess of the amount necessary to maintain a fractional reserve of 10 per centum in the principal amount of contractual liability under outstanding guaranties shall be transferred to the general fund of the Treasury. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.".

Sec. 106 (b) and (c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 196) amended subsec. (c) by deleting the following text:

"The President shall report promptly to the Congress whenever the payment of a claim under any such guaranty reduces the total amount of funds in the single reserve under this subsection to an amount less than $750,000,000, together with his recommendations for the authorization of appropriations of additional funds for such reserve.".

It also added the text beginning with "That single reserve" and continued with the following:

"Funds authorized to be appropriated by section 31(a) to carry out this Act which are allocated for credits at market rates of interest may be used to pay claims under such guarantees to the extent funds in the Guaranty Reserve Fund are inadequate for that purpose.".

The Supplemental Appropriations Act, 1987 (Public Law 100–71; 101 Stat. 409), deleted this text and replaced it with the present language.

pay claims on the Guaranty Reserve Fund to the extent that funds in the Guaranty Reserve Fund are inadequate for that purpose.

For purposes of any provision in this Act or any other Act relating to a prohibition or limitation on the availability of funds under this Act, whenever a guaranty is issued under this section, the principal amount of the loan so guaranteed shall be deemed to be funds made available for use under this Act. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.

Sec. 25.[105] **Annual Estimate and Justification for Sales Program.**—(a) Except as provided in subsection (d) of this section,[106] no later than February 1 of each year, the President shall transmit to the appropriate congressional committees,[107] as a part of the annual presentation materials for security assistance programs proposed for the next fiscal year, a report which sets forth—

(1)[108] an Arms Sales Proposal covering all sales and licensed commercial exports under this Act of major weapons or weapons-related defense equipment for $7,000,000 or more, or of any other weapons or weapons-related defense equipment for $25,000,000 or more, which are considered eligible for approval during the current calendar year, together with an indication of which sales and licensed commercial exports are deemed most likely actually to result in the issuance of a letter of offer or of an export license during such year;

(2) an estimate of the total amount of sales and licensed commercial exports expected to be made to each foreign nation from the United States;

(3) the United States national security considerations involved in expected sales or licensed commercial exports to each country, an analysis of the relationship between anticipated sales to each country and arms control efforts concerning such country and an analysis of the impact of such anticipated sales on the stability of the region that includes such country;

(4) an estimate with regard to the international volume of arms traffic to and from nations purchasing arms as set forth in paragraphs (1) and (2) of this subsection, together with best estimates of the sale and delivery of weapons and weapons-re-

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[105] 22 U.S.C. 2765. Popularly referred to as the "Javits report". Sec. 25, as added by sec. 209(a) of Public Law 94–329 (90 Stat. 739), amended by sec. 18 of Public Law 95–384 (92 Stat. 740), secs. 13 and 14 of Public Law 96–92 (93 Stat. 706), by secs. 104 and 107 of Public Law 96–533 (94 Stat. 3183), was amended and restated by sec. 732 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1557). The previous text of sec. 25 required information similar to that specified in new paragraphs (1) through (4), (7), and (8). Much of the remaining information now required by sec. 25, was formerly required by other statutes as follows: par. (6)—sec. 43(c) of the Arms Export Control Act; par. (9)—sec. 668 of the Foreign Assistance Act of 1961; par. (10)—sec. 714 of the International Security and Development Cooperation Act of 1980; and par. (11)—sec. 634(a)(4) of the Foreign Assistance Act of 1961.

[106] Subsec. (d) and the reference to it at the beginning of subsec. (a) were added by secs. 113 (1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198).

[107] Sec. 519(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2411), struck out "Congress" and inserted in lieu thereof "appropriate congressional committees".

[108] Sec. 519 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1631), provided the following:

"REPORTING REQUIREMENT

"SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.".

lated defense equipment by all major arms suppliers to all major recipient countries during the preceding fiscal year;

(5)(A)[109] an estimate of the aggregate dollar value and quantity of defense articles and defense services, military education and training, grant military assistance, and credits and guarantees, to be furnished by the United States to each foreign country and international organization in the next fiscal year; and

(B)[109] for each country that is proposed to be furnished credits or guaranties under this Act in the next fiscal year and that has been approved for cash flow financing (as defined in subsection (d) of this section) in excess of $100,000,000 as of October 1 of the current fiscal year—

(i) the amount of such approved cash flow financing,

(ii) a description of administrative ceilings and controls applied, and

(iii) a description of the financial resources otherwise available to such country to pay such approved cash flow financing;

(6) an analysis and description of the services performed during the preceding fiscal year by officers and employees of the United States Government carrying out functions on a full-time basis under this Act for which reimbursement is provided under section 43(b) or section 21(a) of this Act, including the number of personnel involved in performing such services;

(7) the total amount of funds in the reserve under section 24(c) at the end of the fiscal year immediately preceding the fiscal year in which a report under this section is made, together with an assessment of the adequacy of such total amount of funds as a reserve for the payment of claims under guaranties issued pursuant to section 24 in view of the current debt servicing capacity of borrowing countries, as reported to the Congress pursuant to section 634(a)(5) of the Foreign Assistance Act of 1961;

(8) a list of all countries with respect to which findings made by the President pursuant to section 3(a)(1) of this Act are in effect on the date of such transmission;

(9) the progress made under the program of the Republic of Korea to modernize its armed forces, the role of the United States in mutual security efforts in the Republic of Korea and the military balance between the People's Republic of Korea and the Republic of Korea;

(10) the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding fiscal year and the military capabilities of those armed forces;

(11) the status of each loan and each contract of guaranty or insurance theretofore made under the Foreign Assistance Act of 1961, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense arti-

[109] Subpar. (B) and the designation for subpar. (A) were added by sec. 112(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198).

cles or defense services, and of each contract of guaranty in connection with any such procurement, theretofore made under the Arms Export Control Act with respect to which there remains outstanding any unpaid obligation or potential liability;[110]

(12)[110] (A) a detailed accounting of all articles, services, credits, guarantees, or any other form of assistance furnished by the United States to each country and international organization, including payments to the United Nations, during the preceding fiscal year for the detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance for the detection and clearance of landmines; and

(B) for each provision of law making funds available or authorizing appropriations for demining activities described in subparagraph (A), an analysis and description of the objectives and activities undertaken during the preceding fiscal year, including the number of personnel involved in performing such activities;[111]

(13)[111] a list of weapons systems that are significant military equipment (as defined in section 47(9) of this Act), and numbers thereof, that are believed likely to become available for transfer as excess defense articles during the next 12 months; and

(14)[110, 111] such other information as the President may deem necessary.

(b) Not later than thirty days following the receipt of a request made by any of the congressional committees described in subsection (e)[112] of the House of Representatives for additional information with respect to any information submitted pursuant to subsection (a), the President shall submit such information to such committee.

(c) The President shall make every effort to submit all of the information required by subsection (a) or (b) wholly in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d)[106] The information required by subsection (a)(4) of this section shall be transmitted to the Congress no later than April 1 of each year.

(d)[113] For the purposes of subsection (a)(5)(B) of this section, the term "cash flow financing" means the dollar amount of the difference between the total estimated price of a Letter of Offer and

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[110] Sec. 102(d) of Public Law 104–164 (110 Stat. 1423) struck out "and" at the end of para. (11); redesignated para. (12) as para. (13); and added a new para. (12).

[111] Sec. 1232 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433), struck out "and" at the end of subpara. (B); redesignated para. (13) as para. (14); and added a new para. (13).

[112] Sec. 519(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2411), struck out "the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs" and inserted in lieu thereof "any of the congressional committees described in subsection (e)".

[113] Subsec. (d), which probably should read subsec. (e), was added to the end of sec. 25 by sec. 112(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198). It should probably end with a period instead of a semicolon.

Acceptance or other purchase agreement that has been approved for financing under this Act or under section 503(a)(3) of the Foreign Assistance Act of 1961 and the amount of the financing that has been approved therefor;[113]

(e)[114] As used in this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

Sec. 26.[115] **Security Assistance**[116] **Surveys.**—(a) The Congress finds that surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of security assistance[116] surveys conducted by the United States clearly do not represent a commitment by the United States to provide any military equipment to any foreign country. Further, recommendations in such surveys should be consistent with the arms export control policy provided for in this Act.

(b) As part of the quarterly report required by section 36(a) of this Act, the President shall include a list of all security assistance surveys authorized during the preceding calendar quarter, specifying the country with respect to which the survey was or will be conducted, the purpose of the survey, and the number of United States Government personnel who participated or will participate in the survey.

(c) Upon a request of the chairman of the Committee on Foreign Affairs[117] of the House of Representatives or the chairman of the Committee on Foreign Relations of the Senate, the President shall submit to that committee copies of[118] security assistance[116] surveys conducted by United States Government personnel.

(d)[119] As used in this section, the term "security assistance surveys" means any survey or study conducted in a foreign country by United States Government personnel for the purpose of assessing the needs of that country for security assistance, and includes defense requirement surveys, site surveys, general surveys or studies, and engineering assessment surveys.

Sec. 27.[120] **Authority of President to Enter into Cooperative Projects with Friendly Foreign Countries.**—(a) The President may enter into a cooperative project agreement with the

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[114] Sec. 519(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2411), added subsec. (e).

[115] 22 U.S.C. 2766. Sec. 26 was added by sec. 19 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 740).

[116] The term "security assistance" was inserted in lieu of "defense requirement" by sec. 114 (a)(1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 198).

[117] Sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4588) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Subsequently, sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[118] Sec. 114(b) of Public Law 99–83 (99 Stat. 199) inserted "submit to that committee copies of" in lieu of "grant that committee access to".

[119] Sec. 114(a)(3) of Public Law 99–83 (99 Stat. 198) added subsec. (d).

[120] 22 U.S.C. 2767. Sec. 27 was added by sec. 15 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 706). It was amended and restated by sec. 115 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 199), at which time it was titled "North Atlantic Treaty Organization Cooperative Projects." Its current heading was added by sec. 1103(a)(2) of Public Law 99–661 (100 Stat. 3816).

North Atlantic Treaty Organization or with one or more member countries of that Organization.

(b) As used in this section—

(1) the term "cooperative project" in the case of an agreement with the North Atlantic Treaty Organization [121] or with one or more member countries of that Organization, means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to further the objectives of standardization, rationalization, and interoperability of the armed forces of North Atlantic Treaty Organization member countries forces and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in another member country of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another member country or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization; [122]

(2) [123] the term "cooperative project", in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve the conventional defense capabilities of the participants and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and

(3) [123] the term "other participant" means a participant in a cooperative project other than the United States.

(c) Each agreement for a cooperative project shall provide that the United States and each of the other participants will contribute to the cooperative project its equitable share of the full cost of such cooperative project and will receive an equitable share of the results of such cooperative project. The full costs of such cooperative project shall include overhead costs, administrative costs, and costs

[121] The words "in the case of * * * Organization" were added by sec. 1103(a)(1)(A)(i) of Public Law 99–661 (100 Stat. 3816).

[122] The words to this point beginning with "or for procurement" were added by sec. 1022 of Public Law 100–180 (101 Stat. 1144).

[123] Sec. 1103(a)(1)(A)(iv) of Public Law 99–661 (100 Stat. 3816) added par. (2) and redesignated the previous par. (2) as par. (3).

of claims.[124] The United States and the other participants may contribute their equitable shares of the full cost of such cooperative project in funds or in defense articles or defense services needed for such cooperative project. Military assistance and financing received from the United States Government may not be used by any other participant to provide its share of the cost of such cooperative project. Such agreements shall provide that no requirement shall be imposed by a participant for worksharing or other industrial or commercial compensation in connection with such agreement that is not in accordance with such agreement.

(d) The President may enter into contracts or incur other obligations for a cooperative project on behalf of the other participants, without charge to any appropriation or contract authorization, if each of the other participants in the cooperative project agrees (1) to pay its equitable share of the contract or other obligation, and (2) to make such funds available in such amounts and at such times as may be required by the contract or other obligation and to pay any damages and costs that may accrue from the performance of or cancellation of the contract or other obligation in advance of the time such payments, damages, or costs are due.

(e)(1) For those cooperative projects entered into on or after the effective date of the International Security and Development Cooperation Act of 1985, the President may reduce or waive the charge or charges which would otherwise be considered appropriate under section 21(e) of this Act in connection with sales under sections 21 and 22 of this Act when such sales are made as part of such cooperative project, if the other participants agree to reduce or waive corresponding charges.

(2) Notwithstanding provisions of section 21(e)(1)(A) and section 43(b) of this Act, administrative surcharges shall not be increased on other sales made under this Act in order to compensate for reductions or waivers of such surcharges under this section. Funds received pursuant to such other sales shall not be available to reimburse the costs incurred by the United States Government for which reduction or waiver is approved by the President under this section.

(f) Not less than 30 days before a cooperative project agreement is signed on behalf of the United States, the President shall transmit to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, and the chairman of the Committee on Armed Services of the Senate, a numbered certification with respect to such proposed agreement, setting forth—

(1) a detailed description of the cooperative project with respect to which the certification is made;

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[124] Sec. 843(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2468) struck out "and administrative costs" and inserted in lieu thereof "costs, administrative costs, and costs of claims". Sec. 843(c) of that Act further provided:

"(c) TERMINATION.—On the date which is two years after the date of the enactment of this Act [October 23, 1992], subsections (a) and (b) shall cease to be in effect, and section 27(c) of the Arms Export Control Act and section 2350a of title 10, United States Code, shall read as if such subsections had not been enacted.".

Sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902), however, repealed sec. 843(c), making permanent the authority for the Department of Defense to share the cost of claims under international armaments cooperative programs.

(2) an estimate of the quantity of the defense articles expected to be produced in furtherance of such cooperative project;

(3) an estimate of the full cost of the cooperative project, with an estimate of the part of the full cost to be incurred by the United States Government, including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act,[125] for its participation in such cooperative project and an estimate of that part of the full costs to be incurred by the other participants;

(4) an estimate of the dollar value of the funds to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(5) a description of the defense articles and defense services expected to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(6) a statement of the foreign policy and national security benefits anticipated to be derived from such cooperative project; and

(7) to the extent known, whether it is likely that prime contracts will be awarded to particular prime contractors or that subcontracts will be awarded to particular subcontractors to comply with the proposed agreement.

(g) In the case of a cooperative project with a North Atlantic Treaty Organization country, section[126] 36(b) of this Act shall not apply to sales made under section 21 or 22 of this Act and to production and exports made pursuant to cooperative projects under this section, and section 36(c) of this Act shall not apply to the issuance of licenses or other approvals under section 38 of this Act, if such sales are made, such production and exports ensue, or such licenses or approvals are issued, as part of a cooperative project.

(h) The authority under this section is in addition to the authority under sections 21 and 22 of this Act and under any other provision of law.

(i)(1) With the approval of the Secretary of State and the Secretary of Defense, a cooperative agreement which was entered into by the United States before the effective date of the amendment to this section made by the International Security and Development Cooperation Act of 1985 and which meets the requirements of this section as so amended may be treated on and after such date as having been made under this section as so amended.

(2) Notwithstanding the amendment made to this section made by the International Security and Development Cooperation Act of 1985, projects entered into under the authority of this section before the effective date of that amendment may be carried through to conclusion in accordance with the terms of this section as in effect immediately before the effective date of that amendment.

(j)[127] (1) The President may enter into a cooperative project agreement with any friendly foreign country not a member of the

[125] The words to this point beginning with "including" were added by sec. 1103(a)(1)(B) of Public Law 99–661 (100 Stat. 3816).

[126] The words to this point beginning with "In the case of" were added by sec. 1103(a)(1)(c) of Public Law 99–661 (100 Stat. 3816).

[127] Subsec. (j) was added by sec. 1103(a)(1)(D) of Public Law 99–661 (100 Stat. 3816).

North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

(2) Not later than January 1 of each year, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs [128] of the House of Representatives a report specifying (A) the countries eligible for participation in such a cooperative project agreement under this subsection, and (B) the criteria used to determine the eligibility of such countries.

Sec. 28.[129] * * * [Repealed—1996]

Chapter 2A—FOREIGN MILITARY CONSTRUCTION SALES [130]

Sec. 29.[131] **Foreign Military Construction Sales.**—The President may sell design and construction services to any eligible foreign country or international organization if such country or international organization agrees to pay in United States dollars not less than the full cost to the United States Government of furnishing such services. Payment shall be made to the United States Government in advance of the performance of such services by officers or employees of the United States Government. The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of design and construction services for sale under this section if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such time as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.

Chapter 2B—SALES TO UNITED STATES COMPANIES FOR INCORPORATION INTO END ITEMS

Sec. 30.[132] **General Authority.**—(a) Subject to the conditions specified in subsection (b) of this section, the President may, on a negotiated contract basis, under cash terms (1) sell defense articles at not less than their estimated replacement cost (or actual cost in the case of services), or (2) procure or manufacture and sell defense

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

[129] Formerly at 22 U.S.C. 2768. Sec. 28—Reports on Price and Availability Estimates—was repealed by sec. 1064(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 445).

[130] Chapter 2A was added by sec. 105 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3133).

[131] 22 U.S.C. 2769.

[132] 22 U.S.C. 2770. Sec. 30 was added by sec. 1 of Public Law 97–392 (96 Stat. 1962).

articles at not less than their contract or manufacturing cost to the United States Government, to any United States company for incorporation into end items (and for concurrent or follow-on support) to be sold by such a company either (i)[133] on a direct commercial basis to a friendly foreign country or international organization pursuant to an export license or approval under section 38 of this Act or (ii)[133] in the case of ammunition parts subject to subsection (b) of this section, using commercial practices which restrict actual delivery directly to a friendly foreign country or international organization pursuant to approval under section 38 of this Act. The President may also sell defense services in support of such sales of defense articles, subject to the requirements of this chapter: *Provided, however,* That such services may be performed only in the United States. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

(b) Defense articles and defense services may be sold, procured and sold, or manufactured and sold, pursuant to subsection (a) of this section only if (1) the end item to which the articles apply is to be procured for the armed forces of a friendly country or international organization, (2) the articles would be supplied to the prime contractor as government-furnished equipment or materials if the end item were being procured for the use of the United States Armed Forces, and (3) the articles and services are available only from United States Government sources or are not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor's delivery schedule.

(c) For the purpose of this section, the terms "defense articles" and "defense services" mean defense articles and defense services as defined in sections 47(3) and 47(4) of this Act.

Chapter 2C[134]—EXCHANGE OF TRAINING AND RELATED SUPPORT

Sec. 30A.[134] Exchange of Training and Related Support.—(a) Subject to subsection (b), the President may provide training and related support to military and civilian defense personnel of a friendly foreign country or an international organization. Such training and related support shall be provided by a Secretary of a military department and may include the provision of transportation, food services, health services, and logistics and the use of facilities and equipment.

(b) Training and related support may be provided under this section only pursuant to an agreement or other arrangements providing for the provision by the recipient foreign country or international organization, on a reciprocal basis, of comparable training and related support to military and civilian personnel under the jurisdiction of the Secretary of the military department providing the

[133] Section 9097 of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1150), amended sec. 30(a) by adding designations "(i)" and "(ii)" and adding text after "(ii)" to end of sentence.

[134] 22 U.S.C. 2770a. Chapter 2C (sec. 30A) was added by sec. 116 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 202).

training and related support under this section. Such reciprocal training and related support must be provided within a reasonable period of time (which may not be more than one year) of the provision of training and related support by the United States. To the extent that a foreign country or international organization to which training and related support is provided under this section does not provide such comparable training and related support to the United States within a reasonable period of time, that country or international organization shall be required to reimburse the United States for the full costs of the training and related support provided by the United States.

(c) Training and related support under this section shall be provided under regulations prescribed by the President.

(d) Not later than February 1 of each year, the President shall submit to the Congress a report on the activities conducted pursuant to this section during the preceding fiscal year, including the estimated full costs of the training and related support provided by the United States to each country and international organization and the estimated value of the training and related support provided to the United States by that country or international organization.

Chapter 3—MILITARY EXPORT CONTROLS

Sec. 31.[135, 136] **Authorization and Aggregate Ceiling on Foreign Military Sales Credits.**—(a) There are authorized to be appropriated to the President to carry out this Act $5,371,000,000 for fiscal year 1986 and $5,371,000,000 for fiscal year 1987.[137] Credits

[135] 22 U.S.C. 2771.

[136] The authorization figures for years 1986 and 1987 were added by sec. 101(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 193). Past figures authorized under sec. 31(a) are as follows: fiscal year 1969—$269,000,000; fiscal year 1970—$250,000,000; fiscal year 1971—$250,000,000; fiscal year 1972—$400,000,000; fiscal year 1974—$325,000,000; fiscal year 1975—$1,039,000,000; fiscal year 1977—$740,000,000; fiscal year 1978—$682,000,000; fiscal year 1979—$674,300,000; fiscal year 1980—$673,500,000; fiscal year 1981—$500,000,000; fiscal year 1982—$800,000,000; fiscal year 1983—$800,000,000; fiscal year 1984—$1,315,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2000—no authorization.

For fiscal years 2001 and 2002, sec. 101 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 846) authorized $3,550,000,000 for fiscal year 2001 and $3,627,000,000 for fiscal year 2002 under sec. 23 of the AECA.

For fiscal year 2003, sec. 1201 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) provided the following:

"TITLE XII—MILITARY AND RELATED ASSISTANCE

"SUBTITLE A—FOREIGN MILITARY SALES AND FINANCING AUTHORITIES

"SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $4,107,200,000 for fiscal year 2003.".

In that Act, see also: sec. 1206, relating to defense transfers to Taiwan; subtitle C—assistance for select countries, including sec. 1221, authorizing assistance to Israel and Egypt; sec. 1222, authorizing assistance to Greece and Turkey; sec. 511, authorizing security assistance and IMET to the Baltic states, Bulgaria, the Czech Republic, Hungary, Jordan, Malta, the Philippines, Poland, Romania, Slovakia, Slovenia, and Georgia (IMET funding only); and sec. 1224, condition ESF to Lebanon.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 175), provided the following:

Continued

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $306,400,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), consistent with the provisions of section 562 of this Act, and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further,* That of this amount not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so following consultation with the appropriate committees of Congress: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That of the funds made available for demining and related activities, not to exceed $675,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That the Secretary of State is authorized to provide not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract.".

Title III of that Act (117 Stat. 176) provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,072,000,000: *Provided,* That of the funds appropriated under this heading, not less than $2,100,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $550,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That except as provided in the following proviso, none of the funds appropriated by this paragraph may be made available for helicopters and related support costs for Colombia: *Provided further,* That up to $93,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading 'Andean Counterdrug Initiative' for helicopters, training and other assistance for the Colombian Armed Forces for security for the Cano Limon pipeline: *Provided further,* That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

"None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan and Liberia: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Guatemala: *Provided further,* That only those countries for which assistance was justified for the 'Foreign Military Sales Financing Program' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $38,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $356,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2003 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be

may not be extended under section 23 of this Act in an amount, and loans may not be guaranteed under section 24(a) of this Act in a principal amount, which exceeds any maximum amount which may be established with respect to such credits or such loan guarantees in legislation appropriating funds to carry out this Act.[138] Unobligated balances of funds made available pursuant to this section are hereby authorized to be continued available by appropriations legislation to carry out this Act.

(b)[139] (1) The total amount of credits extended under section 23 of this Act shall not exceed $5,371,000,000 for fiscal year 1986 and $5,371,000,000 for fiscal year 1987.

(2) Of the aggregate amount of financing provided under this section, not more than $553,900,000 for fiscal year 1986 and not more

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exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2003 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.".

Title V of that Act (117 Stat. 182, 184) provided the following:

"DEOBLIGATION/REOBLIGATION AUTHORITY

"SEC. 510. Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided,* That the authority of this section may not be used in fiscal year 2003.

"AVAILABILITY OF FUNDS

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

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"NOTIFICATION REQUIREMENTS

"SEC. 515. * * * *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: * * *".

[137] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 210), provided the following:

"COMMERCIAL LEASING OF DEFENSE ARTICLES

"SEC. 575. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.".

[138] This sentence was added by sec. 104(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3133).

[139] Sec. 101(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 193), amended and restated secs. 31 (b) and (c) and added authorizations for fiscal year 1986 and fiscal year 1987.

Sec. 101 (c), (d), (e) and (f) of Public Law 99–83 also included specific earmarks and conditions on the use of credits authorized under sec. 23 for Israel, Egypt, Greece and Turkey.

than $553,900,000 for fiscal year 1987 may be made available at concessional rates of interest. If a country is released from its contractual liability to repay the United States Government with respect to financing provided under this section, such financing shall not be considered to be financing provided at concessional rates of interest for purposes of the limitation established by this paragraph.

(c)[140] Loans available under section 23 shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(d)[141] * * * [Repealed—1996]

Sec. 32.[142] **Prohibition Against Certain Military Export Financing by Export-Import Bank.** * * * [Repealed—1992]

Sec. 33.[143] **Restraint in Arms Sales to Sub-Saharan Africa.**—It is the sense of the Congress that the problems of Sub-Saharan Africa are primarily those of economic development and that United States policy should assist in limiting the development of costly military conflict in that region. Therefore, the President shall exercise restraint in selling defense articles and defense services, and in providing financing for sales of defense articles and defense services, to countries in Sub-Saharan Africa.

Sec. 34.[144] **Foreign Military Sales Credit Standards.**—The President shall establish standards and criteria for credit and guaranty transactions under sections 23 and 24 in accordance with the

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[140] Sec. 101 of Public Law 104–164 (110 Stat. 1422) amended and restated subsec. (c). Amended and restated earlier by sec. 101(b) of Public Law 99–83 (99 Stat. 193), it formerly read as follows:

"For fiscal year 1986 and fiscal year 1987, the principal amount of credits provided under section 23 at market rates of interest with respect to Greece, the Republic of Korea, the Philippines, Portugal, Spain, Thailand, and Turkey shall (if and to the extent each country so desires) be repaid in not more than twenty years, following a grace period of ten years on repayment of principal.".

[141] Sec. 104(b)(2)(C) of Public Law 104–164 (110 Stat. 1427) repealed subsec. (d). The subsection, originally added by sec. 210(c)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 740), and amended by sec. 17(a)(4) of Public Law 96–92 (93 Stat. 709), and by sec. 596(c) of Public Law 101–513 (104 Stat. 2062), formerly read as follows:

"The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to foreign countries or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this Act may not exceed $250,000,000 (exclusive of ships and their onboard stores and supplies transferred in accordance with law, and of any defense articles with respect to which the President submits a certification under section 36(b) of this Act).".

[142] Formerly at 22 U.S.C. 2772; repealed by sec. 112(e)(2) of the Export Enhancement Act of 1992 (Public Law 102–429; 106 Stat. 2195). Sec. 12(c)(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4935) made an identical amendment; however, sec. 12(e) of that Act also provided that if an Act to reauthorize the Export-Import Bank of the United States with identical amendments is enacted, the amendments contained in the reauthorization shall be effective. Sec. 32 formerly read as follows:

"Notwithstanding any other provision of law, no funds or borrowing authority available to the Export-Import Bank of the United States shall be used by such Bank to participate in any extension of credit in connection with any agreement to sell defense articles and defense services entered into with any economically less developed country after June 30, 1968.".

[143] 22 U.S.C. 2773. Sec. 33 was amended and restated by sec. 18 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709). It formerly read as follows:

"Sec. 33. Regional Ceiling on Foreign Military Sales.—(a) The aggregate of the total amount of military assistance pursuant to the Foreign Assistance Act of 1961, as amended, of credits, or participations in credits, financed pursuant to section 23, of the principal amount of loans guaranteed pursuant to section 24(a), shall, excluding training, not exceed $40,000,000 in each fiscal year for African countries.

"(b) The President may waive the limitations of this section when he determines it to be important to the security of the United States and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.".

[144] 22 U.S.C. 2774.

foreign, national security, and financial policies of the United States.

Sec. 35.[145] **Foreign Military Sales to Less Developed Countries.**—(a) When the President finds that any economically less developed country is diverting development assistance furnished pursuant to the Foreign Assistance Act of 1961, as amended, or sales under the Agricultural Trade Development and Assistance Act of 1954, as amended, to military expenditures, or is diverting its own resources to unnecessary military expenditures, to a degree which materially interferes with its development, such country shall be immediately ineligible for further sales and guarantees under sections 21, 22, 23, and 24, until the President is assured that such diversion will no longer take place.

(b)[146] * * * [Repealed—1974]

Sec. 36.[147] **Reports on Commercial and Governmental Military Exports; Congressional Action.**—(a) The President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than sixty days[148] after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) or (c)(1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be

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[145] 22 U.S.C. 2775.

[146] Subsec. (b) was repealed by sec. 45(a)(5) of the FA Act of 1974.

[147] 22 U.S.C. 2776. Sec. 211(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 740) amended sec. 36, which formerly read as follows:

"Sec. 36. Reports on Commercial and Governmental Military Exports.—

"(a) The President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate quarterly reports containing—

"(1) a listing of all letters of offer to sell any defense articles or services under this Act, if such offer has not been accepted or canceled;

"(2) a cumulative listing of all such letters of offer to sell that have been accepted during the fiscal year in which such report is submitted;

"(3) the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 made before the submission of such quarterly report and during the fiscal year in which such report is submitted; and

"(4) projections of the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 to be made in the quarter of the fiscal year immediately following the quarter for which such report is submitted.

"For each letter of offer to sell under paras. (1) and (2), the report shall specify (A) the foreign country or international organization to which the defense article or service is offered, (B) the dollar amount of the offer to sell under para. (1) or of the completed sale under para. (2), (C) a brief description of the defense article or service offered, (D) the United States armed force which is making the offer to sell, (E) the date of such offer, and (F) the date of any acceptance under paragraph (2).

"(b) In the case of any letter of offer to sell any defense articles or services under this Act for $25,000,000 or more, before issuing such letter of offer the President shall submit to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate a statement with respect to such offer to sell containing the information specified in subparagraphs (A) through (E) in subsection (a). The letter of offer shall not be issued if the Congress, within twenty calendar days after receiving any such statement, adopts a concurrent resolution stating in effect that it objects to such proposed sale, unless the President in his statement certifies that an emergency exists which requires such sale in the national security interests of the United States.

"(c) Nothing in this section shall be construed as modifying in any way the provisions of section 414 of the Mutual Security Act of 1954, as amended, relating to munitions control.".

Sec. 211(b) of the same Act further stated: "The amendment made by subsection (a) of this section shall apply with respect to letters of offer for which a certification is transmitted pursuant to section 36(b) of the Arms Export Control Act on or after the date of enactment of this Act and to export licenses for which an application is filed under section 38 of such Act on or after such date.".

[148] The number of days was increased from 30 to 60 by sec. 19(a)(1) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709).

listed in such addendum unless such letter of offer has been the subject of an unclassified certification pursuant to subsection (b)(1) of this section, and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum)[149] containing—

(1) a listing of all letters of offer to sell any major defense equipment for $1,000,000 or more under this Act to each foreign country and international organization, by category, if such letters of offer have not been accepted or canceled;

(2) a listing of all such letters of offer that have been accepted during the fiscal year in which such report is submitted, together with the total value of all defense articles and defense services sold to each foreign country and international organization during such fiscal year;

(3) the cumulative dollar amounts, by foreign country and international organization, of sales credit agreements under section 23 and guaranty agreements under section 24 made during the fiscal year in which such report is submitted;

(4) a numbered listing of all licenses and approvals for the export to each foreign country and international organization during such fiscal year of commercially sold major defense equipment, by category, sold for $1,000,000 or more, together with the total value of all defense articles and defense services so licensed for each foreign country and international organization, setting forth, with respect to the listed major defense equipment—

(A) the items to be exported under the license,

(B) the quantity and contract price of each such item to be furnished, and

(C) the name and address of the ultimate user of each such item;

(5)[150] projections of the dollar amounts, by foreign country and international organization, of sales expected to be made under sections 21 and 22, in the quarter of the fiscal year immediately following the quarter for which such report is submitted;

(6)[150] a projection with respect to all sales expected to be made to each country and organization for the remainder of the fiscal year in which such report is transmitted;

(7)[151] a description of each payment, contribution, gift, commission, or fee reported to the Secretary of State under section

[149] Sec. 7(b) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899) added text to close parentheses from ", and any information".

[150] Sec. 1209(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279), deleted references in pars. (5) and (6) to "cash sales, and credits, and guaranty agreements".

[151] Sec. 604(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 766) redesignated par. (8) as par. (9) and inserted a new par. (8). Sec. 604(c) of the same Act stated that par. (8) would "take effect sixty days after the date of enactment of this Act" (August 29, 1976). Para. (8) was redesignated as para. (7) by sec. 1262(c) of Public Law 107–228 (see following).

Par. (9), as redesignated by this amendment, was struck out by sec. 19(a)(4) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709). It formerly read as follows:

"(9) an analysis and description of the services being performed by officers and employees of the United States Government under section 21(a) of this Act, including the number of personnel so employed.".

39, including (A) the name of the person who made such payment, contribution, gift, commission, or fee; (B) the name of any sales agent or other person to whom such payment, contribution, gift, commission, or fee was paid; (C) the date and amount of such payment, contribution, gift, commission, or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report;

(8)[152] a listing of each sale under section 29 during the quarter for which such report is made, specifying (A) the purchaser, (B) the United States Government department or agency responsible for implementing the sale, (C) an estimate of the dollar amount of the sale, and (D) a general description of the real property facilities to be constructed pursuant to such sale;

(9)[153] a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of the Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more;[154]

(10)[153] a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

(A) the value of the munitions items was $250,000 of more; and

(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection

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Sec. 1262(c) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1434) struck out para. (7) and redesignated the remaining paras. Para. (7), which was previously amended and restated by sec. 1209(c) of Public Law 99–83 (99 Stat. 279), provided as follows:

"(7) an estimate of—

[152] Par. (9) was added by sec. 105(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134). Redesignated as para. (8) by sec. 1262(c) of Public Law 107–228 (117 Stat. 1434).

[153] Par. (10) and (11) were added by sec. 7 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899). Redesignated as paras. (9) and (10) by sec. 1262(c) of Public Law 107–228 (117 Stat. 1434).

The original par. (10), as added by sec. 109(f) of Public Law 96–533, was repealed by sec. 109(d)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1526). Par. (10) had required information concerning leases of property valued at over $1,000,000 to a foreign government. Leases of defense articles are now covered under chapter 6 of this Act.

[154] Sec. 1045(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2644) struck out "; and" at the end of para. (10); struck out a period at the end of para. (11) and inserted "; and"; and added a new para. (12). Subsec. (b) of that section made para. (12) not applicable to any relevant agreement entered into before the date of enactment of the amendment (September 23, 1996).

with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities);[154, 155]

(11)[154] a report on all concluded government-to-government agreements regarding foreign coproduction of defense articles of United States origin and all other concluded agreements involving coproduction or licensed production outside of the United States of defense articles of United States origin (including coproduction memoranda of understanding or agreement) that have not been previously reported under this subsection, which shall include—

(A) the identity of the foreign countries, international organizations, or foreign firms involved;

(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

(C) a description of any restrictions on third-party transfers of the foreign-manufactured articles; and

(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the foreign country, a description of alternative measures and controls incorporated in the coproduction or licensing program to ensure compliance with restrictions in the agreement on production quantities and third-party transfers; and[155]

(12)[155] a report on all exports of significant military equipment for which information has been provided pursuant to section 38(i).

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered or was sold, as the case may be: (ii) the dollar amount of the offer to sell or the sale and the number of defense articles offered or sold, as the case may be; (iii) a description of the defense article or service offered or sold, as the case may be; and (iv) the United States Armed Forces or other agency of the United States which is making the offer to sell or the sale, as the case may be.

(b)(1)[156] Subject to paragraph (6), in the case of[157] any letter of offer to sell any defense articles or services under this Act for $50,000,000[158] or more, any design and construction services for

[155] Sec. 1302(b) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "and" at the end of para. (11); replaced "third-party transfers." with "third-party transfers; and" at the end of para. (12); and added a new para. (13). Redesignated as paras. (11) and (12) by sec. 1262(c) of Public Law 107–228 (117 Stat. 1434).

[156] To fulfill the requirements of sec. 36(e) of this Act, as amended by sec. 155 of Public Law 104–164; 110 Stat. 1440), the Defense Security Assistance Agency of the Department of Defense reports arms sales to which sec. 36(b) applies. In 2002, DSAA filed numerous notifications; see *Federal Register,* annual index.

[157] Sec. 1405(a)(2)(A)(i) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "(1) In the case of" and inserted in lieu thereof "(1) Subject to paragraph (6), in the case of".

[1588] This figure was increased from $25,000,000 to $50,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

$200,000,000 or more,[159] or any major defense equipment for $14,000,000[160] or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a), or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) of subsection (a),[161] and a description, containing the information specified in paragraph (8) of subsection (a), of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such letter of offer. Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles, defense services, or design and construction services[162] proposed to be sold,[163] and a detailed justification of the reasons necessitating the sale of such articles or services in view of the sensitivity of such technology.[164] In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy.[165] Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification).[166] In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs[167] of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

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[159] The words "any design and construction services for $200,000,000 or more," were added by sec. 105(d)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134).

[160] This figure was increased from $7,000,000 to $14,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[161] The words to this point beginning with ", or (in the case of * * *" were added by sec. 105(d)(2)(A) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134).

[162] The reference to design and construction services was added by sec. 105(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134).

[163] This sentence to this point was added by sec. 20(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 710).

[164] The words to this point beginning with "and a detailed justification" were added by sec. 1180) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 995 Stat. 203).

[165] Sec. 735(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) inserted the sentence beginning with "In a case in which * * *".

[166] Sec. 732(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) inserted the sentence beginning with "Each such numbered * * *".

[167] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Previously, sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4581) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

(A) a detailed description of the defense articles, defense services, or design and construction services[168] to be offered, including a brief description of the capabilities of any defense article to be offered;

(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

(C) the name of each contractor expected to provide the defense article, defense service, or design and construction services[169] proposed to be sold and a description of any offset agreement with respect to such sale;[170]

(D)[171] an evaluation, prepared by the Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence, of the manner, if any, in which the proposed sale would—

(i) contribute to an arms race;

(ii)[172] support international terrorism;

(iii)[172] increase the possibility of an outbreak or escalation of conflict;

(iv)[172] prejudice the negotiation of any arms controls; or

(v)[172] adversely affect the arms control policy of the United States;

(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles, defense services, or design and construction services[168] which are the subject of such sale and a description of how such country or organization intends to use such defense articles, defense services, or design and construction services;[168]

(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

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[168] The reference to defense services or design and construction services was added by sec. 105(d)(2)(C)(ix) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135).

[169] The reference to design and construction service was added by sec. 105(d)(2)(C)(ii) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3134).

[170] Sec. 1245(a)(1) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "and a description from such contractor of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);" and inserted in lieu thereof "and a description of any offset agreement with respect to such sale;". This phrase was substantially amended previously by sec. 732(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503).

[171] Sec. 1225(a)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense" and inserted in lieu thereof "Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence".

Previously, subpar. (D) was amended and restated by sec. 21(1) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 741). It formerly read as follows: "(D) an analysis of the arms control impact pertinent to such offer to sell, prepared in consultation with the Secretary of Defense;".

[172] Sec. 3(b) of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1896) redesignated clauses (ii) through (iv) as (iii) through (v), respectively, and inserted a new clause (ii).

(G) the reasons why the proposed sale is in the national interest of the United States;

(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles, defense services, or design and construction services [168] which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles, defense services, or design and construction services; [168]

(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles, defense services, or design and construction services [168] proposed to be sold;

(K) an analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services [168] are available from other countries;

(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles, defense services, or design and construction services [168] which are the subject of such sale would be delivered;

(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, defense services, design and construction services [168] or defense equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement;

(N) [173] the projected delivery dates of the defense articles, defense services, or design and construction services [168] to be offered;

(O) [173] a detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and

(P) [173] an analysis of the relationship of the proposed sale to projected procurements of the same item.

[173] Subpar. (N), (O) and (P) were added by sec. 21(4) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 741).

A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (ii) and the details of the description specified in clause (iii) of subsection (a) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States, in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information.[174] The letter of offer shall not be issued, with respect to a proposed sale to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, if the Congress, within fifteen calendar days after receiving such certification, or with respect to a proposed sale to any other country or organization, if the Congress within thirty calendar days[175] after receiving such certification,[176] enacts a joint[177] resolution prohibiting the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States. If the President states in his certification that an emergency exists which requires the proposed sale in the national security interest of the United States, thus waiving the congressional review requirements of this subsection, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security interests involved.[178]

(2) Any such joint[177] resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that for purposes of consideration of any joint[177] resolution with respect to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, it shall be in order in the Senate to move to discharge a committee to which such joint[177] resolution was referred if such committee has not reported such joint[177] resolution at the end of five calendar days after its introduction.[179]

(3) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint[177] resolution after it has

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[174] Sec. 1301(b)(1) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added ", in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information".

[175] With regard to the sale to Jordan of advanced weapons systems, see Public Law 99–162 (99 Stat. 937), in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[176] The words in this sentence to this point beginning with "with respect to a proposed sale * * *" were inserted in lieu of the words "if the Congress, within thirty calendar days after receiving such certification," by sec. 102(b)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[177] References to a "joint" resolution in lieu of a "concurrent" resolution were added by Public Law 99–247 (100 Stat. 9).

[178] This sentence was added by sec. 19(c) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709).

[179] The words to this point beginning with ", except that for purposes of * * *" were added by sec. 102(b)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4)[180] In addition to the other information required to be contained in a certification submitted to the Congress under this subsection, each such certification shall cite any quarterly report submitted pursuant to section 28 of this Act which listed a price and availability estimate, or a request for the issuance of a letter of offer, which was a basis for the proposed sale which is the subject of such certification.

(5)[181] (A) If, before the delivery of any major defense article or major defense equipment, or the furnishing of any defense service or design and construction service, sold pursuant to a letter of offer described in paragraph (1), the sensitivity of technology or the capability of the article, equipment, or service is enhanced or upgraded from the level of sensitivity or capability described in the numbered certification with respect to an offer to sell such article, equipment, or service, then, at least 45 days before the delivery of such article or equipment or the furnishing of such service, the President shall prepare and transmit to the chairman of the Committee on Foreign Affairs[182] of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report—

(i) describing the manner in which the technology or capability has been enhanced or upgraded and describing the significance of such enhancement or upgrade; and

(ii) setting forth a detailed justification for such enhancement or upgrade.

(B) The provisions of subparagraph (A) apply to an article or equipment delivered, or a service furnished, within ten years after the transmittal to the Congress of a numbered certification with respect to the sale of such article, equipment, or service.

(C) Subject to paragraph (6), if[183] the enhancement or upgrade in the sensitivity of technology or the capability of major defense equipment, defense articles, defense services, or design and construction services described in a numbered certification submitted under this subsection costs $14,000,000 or more in the case of any major defense equipment, $50,000,000 or more in the case of defense articles or defense services, or $200,000,000 or more in the case of design or construction services, then the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a new numbered certification which relates to such enhancement or upgrade and which shall be considered for purposes of this subsection as if it were a separate letter of offer to sell defense equipment, articles, or services, subject to all of the requirements, restrictions, and conditions set forth in this subsection. For purposes

[180] Par. (4) was added by sec. 16(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 708).

[181] Par. 5 was added by sec. 118(2) of the International Security and Development Cooperation Act of 1983 (Public Law 99–83; 99 Stat. 203).

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

[183] Sec. 1405(a)(1)(B)(ii) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "(C) If" and inserted in lieu thereof "(C) Subject to paragraph (6), if".

of this subparagraph, references in this subsection to sales shall be deemed to be references to enhancements or upgrades in the sensitivity of technology or the capability of major defense equipment, articles, or services, as the case may be.

(D) For the purposes of subparagraph (A), the term "major defense article" shall be construed to include electronic devices, which if upgraded, would enhance the mission capability of a weapons system.

(6)[184] The limitation in paragraph (1) and the requirement in paragraph (5)(C) shall apply in the case of a letter of offer to sell to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries only if the letter of offer involves—

(A) the sale of major defense equipment under this Act for, or the enhancement or upgrade of major defense equipment at a cost of, $25,000,000 or more, as the case may be; and

(B) the sale of defense articles or services for, or the enhancement or upgrade of defense articles or services at a cost of, $100,000,000 or more, as the case may be; or

(C) the sale of design and construction services for, or the enhancement or upgrade of design and construction services at a cost of, $300,000,000 or more, as the case may be.

(c)[185] (1)[186] Subject to paragraph (5), in the case of[187] an application by a person (other than with regard to a sale under section 21 or section 22 of this Act) for a license for the export of any major defense equipment sold under a contract in the amount of $14,000,000[188] or more or of defense articles or defense services sold under a contract in the amount of $50,000,000[189] or more,[190] (or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)[191] before issuing such license the President shall transmit

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[184] Sec. 1405(a)(2)(A)(iii) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) added para. (6).

[185] The Director of the Office of Defense Trade Controls notified Congress of proposed commercial export licenses pursuant to this subsection in numerous Department of State Public Notices. See *Federal Register*, Annual Index.

Sec. 708(b) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 863) provided the following:

"(b) TERMINATION OF EXISTING LICENSES.—If, at any time after the issuance of a license under section 36(c) of the Arms Export Control Act relating to the use, development, or co-production of commercial rocket engine technology with a foreign person, the President determines that the foreign person has engaged in any action described in section 73(a)(1) of the Arms Export Control Act (22 U.S.C. 2797b(a)(1)) since the date the license was issued, the President may terminate the license.".

[186] Sec. 107(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3136) added the paragraph designation "(1)", made several technical changes to par. (1), and added new pars. (2) and (3).

[187] Sec. 1405(a)(2)(B)(i) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "(1) In the case of" and inserted in lieu thereof "(1) Subject to paragraph (5), in the case of".

[188] This figure was increased from $7,000,000 to $14,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[189] This figure was increased from $25,000,000 to $50,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1520).

[190] The words "not less than 30 days" which formerly appeared at this point, were struck out by sec. 107(b)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3136). This 30-day prior notification requirement is now included in par. (2) of subsec. (c).

[191] Sec. 1205(a) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) inserted "(or, in the case

to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate an unclassified numbered certification with respect to such application specifying (A) the foreign country or international organization to which such export will be made, (B) the dollar amount of the items to be exported, and (C) a description of the items to be exported. Each such numbered certification shall also contain an item indicating whether any offset agreement is proposed to be entered into in connection with such export and a description of any such offset agreement.[192] In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs[193] of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request a description of the capabilities of the items to be exported, an estimate of the total number of United States personnel expected to be needed in the foreign country concerned in connection with the items to be exported and an analysis of the arms control impact pertinent to such application, prepared in consultation with the Secretary of Defense and a description from the person who has submitted the license application of any offset agreement proposed to be entered into in connection with such export (if known on the date of transmittal of such statement). In a case in which such articles or services are listed on the Missile Technology Control Regime Annex and are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy.[194] A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (B) and the details of the description specified in clause (C) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States, in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information.[195]

(2)[186] Unless the President states in his certification that an emergency exists which requires the proposed export in the na-

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of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)" after "$50,000,000 or more".

[192] Sec. 1245(a)(2) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "(if known on the date of transmittal of such certification)" and inserted in lieu thereof "and a description of any such offset agreement".

[193] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Previously, sec. 9(a)(7) of the USC Technical Amendments (Public Law 103–437; 108 Stat. 4581) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs".

[194] Sec. 735(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 506) inserted the sentence beginning with "In a case in which such * * *".

[195] Sec. 1301(b)(2) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added ", in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information".

tional security interests of the United States, a license for export described in paragraph (1)—

(A)[196] in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export;[197]

(B)[197] in the case of a license for an export of a commercial communications satellite for launch from, and by nationals of, the Russian Federation, Ukraine, or Kazakhstan, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

(C)[197] in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.

If the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, thus waiving the requirements of subparagraphs (A) and (B) of this paragraph, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the export license and a discussion of the national security interests involved.

(3)[198] (A) Any joint[177] resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint[177] resolutions under this subsection, a motion to proceed to the consideration of any such joint[177] resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

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[196] Sec. 141(c) of Public Law 104–164 (110 Stat. 1431) amended and restated subparas. (A) and (B), which formerly read as follows:

"(A) shall not be issued until at least 30 calendar days after the Congress receives such certification; and

"(B) shall not be issued then if the Congress, within such 30-day period, enacts a joint resolution prohibiting the proposed export, except that this subparagraph does not apply with respect to a license issued for an export to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.".

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[197] Sec. 102(c)(1) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 849) struck out "and" at the end of subpara. (A), redesignated subpara. (B) as subpara. (C), and added a new subpara. (B). Para. (2) of that section, furthermore, provided the following:

"(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that the appropriate committees of Congress and the appropriate agencies of the United States Government should review the commodity jurisdiction of United States commercial communications satellites.".

(4)[198] The provisions of subsection (b)(5) shall apply to any equipment, article, or service for which a numbered certification has been transmitted to Congress pursuant to paragraph (1) in the same manner and to the same extent as that subsection applies to any equipment, article, or service for which a numbered certification has been transmitted to Congress pursuant to subsection (b)(1). For purposes of such application, any reference in subsection (b)(5) to "a letter of offer" or "an offer" shall be deemed to be a reference to "a contract".

(5)[199] In the case of an application by a person (other than with regard to a sale under section 21 or 22 of this Act) for a license for the export to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on the issuance of the license set forth in paragraph (1) shall apply only if the license is for export of—

(A) major defense equipment sold under a contract in the amount of $25,000,000 or more; or

(B) defense articles or defense services sold under a contract in the amount of $100,000,000 or more.

(d)(1)[200] In the case of an approval under section 38 of this Act of a United States commercial technical assistance or manufacturing licensing agreement[201] which involves the manufacture abroad of any item of significant combat equipment on the United States Munitions List, before such approval is given, the President shall submit a certification with respect to such proposed commercial agreement in a manner similar to the certification required under subsection (c)(1) containing comparable information, except that the last sentence of such subsection shall not apply to certifications submitted pursuant to this subsection.

(2)[202] A certification under this subsection shall be submitted—

(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving

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[198] Sec. 1224 of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added para. (4).

[199] Sec. 1405(a)(2)(B)(ii) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) added para. (5).

[200] Sec. 141(d)(1) of Public Law 104–164 (110 Stat. 1432) inserted para. designation "(1)" after "(d)".

[201] Sec. 141(d)(2) of Public Law 104–164 (110 Stat. 1432) struck out "for or in a country not a member of the North Atlantic Treaty Organization" after "licensing agreement".

[202] Sec. 141(d)(3) of Public Law 104–164 (110 Stat. 1432) added paras. (2) through (5).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(e)[203] For purposes of this section—

(1) the term "offset agreement" means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense service from the supplier; and

(2) the term "United States person" means—

(A) an individual who is a national or permanent resident alien of the United States; and

(B) any corporation, business association, partnership, trust, or other juridical entity—

(i) organized under the laws of the United States or any State, district, territory, or possession thereof; or

(ii) owned or controlled in fact by individuals described in subparagraph (A).

(f)[204] The President shall cause to be published in a timely manner[205] in the Federal Register, upon transmittal to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, the full unclassified text of—[206]

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[203] Sec. 732(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503) added subsec. (e).

[204] Sec. 155 of Public Law 104–164 (110 Stat. 1440) added this subsec. as subsec. (e). Sec. 1245(b)(1) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) redesignated as subsec. (f) to correct the occurrence of two subsecs. (e).

[205] Sec. 1301(a)(1) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), inserted "in a timely manner" after "to be published".

[206] Sec. 1301(a)(2) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "the full unclassified text of each numbered certification submitted pursuant to subsection (b) and each notification of a proposed commercial sale

(1) each numbered certification submitted pursuant to subsection (b);

(2) each notification of a proposed commercial sale submitted under subsection (c); and

(3) each notification of a proposed commercial technical assistance or manufacturing licensing agreement submitted under subsection (d).

(g)[207] Information relating to offset agreements provided pursuant to subparagraph (C) of the fifth sentence of subsection (b)(1) and the second sentence of subsection (c)(1) shall be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)).

Sec. 37.[208] **Fiscal Provisions Relating to Foreign Military Sales Credits.**—(a) Cash payments received under sections 21, 22, and 29[209] and advances received under section 23 shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

(b) Amounts received from foreign governments and international organizations as repayments for credits extended pursuant to section 23, amounts received from the disposition of instruments evidencing indebtedness under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are made available for such obligations),[210] and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

(c)[211] Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 24(c) are paid out for a claim arising out of a loan guaranteed under section 24, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.

Sec. 38.[212] **Control of Arms Exports and Imports.**—(a)(1) In furtherance of world peace and the security and foreign policy of

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submitted under subsection (c)." and inserted in lieu thereof "the full unclassified text of—" and text of subparas. (1) through (3).

[207] Sec. 1245(b)(2) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added subsec. (g).

[208] 22 U.S.C. 2777.

[209] The reference to sec. 29 was added by sec. 105(e)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135).

[210] The words to this point beginning with "under section 24(b) (excluding" were added by sec. 25(11) of the FA Act of 1973.

[211] Subsec. (c) was added by sec. 104(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3133).

[212] 22 U.S.C. 2778.

Sec. 38 was added by sec. 212(a)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 744). Sec. 212(b) of the same Act repealed sec. 414 of the Mutual Security Act of 1954 and stated that any reference to sec. 414 would be considered as a reference to sec. 38 of the Arms Export Control Act.

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See also sec. 1403 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1453), relating to information management priorities.

See also secs. 1402–1412 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 798 *et seq.*), relating to, among other issues, export controls, satellite licensing, technology transfers, high-performance computers, and the Defense Threat Reduction Agency.

See also sec. 1309 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), relating to satellite export activities.

See also title XV, subtitle B, of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2173), relating to satellite export controls, particularly as they are applied to exportation to the People's Republic of China.

See also title IV, secs. 401–405, of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 718–722), relating to arms transfers restraint policy for the Middle East and Persian Gulf region.

See also in the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2561): sec. 1365, relating to landmine export moratorium; title XV—Weapons of Mass Destruction Control Act of 1992; and title XVI—Iran-Iraq Arms Non-Proliferation Act of 1992. As a result of sec. 1365 of that Act, the Department of State gave notice to the following:

"Notice is hereby given that all licenses, approvals, sales or transfers of landmines specifically designed for antipersonnel use, regardless of method of delivery, are suspended until further notice. Additionally, all existing authorizations for the sale, export, or transfer of such defense articles are revoked until further notice. This action has been taken pursuant to sections 2, 38 and 42 of the Arms Export Control Act, and section 1365 of the National Defense Authorization Act for Fiscal Year 1993." (Public Notice 1727 of November 25, 1992; 57 F.R. 55614).

Licenses and approvals to export or otherwise transfer defense articles and defense services to the following countries or foreign entities are suspended or restricted:

Iran (Department of State Notice 84–3, January 23, 1984, 49 F.R. 2836; Public Notice 4371, May 16, 2003, 68 F.R. 28315; Public Notice 4375, May 28, 2003, 68 F.R. 31739); Iraq (August 2, 1990; Department of State Public Notice 1238; 55 F.R. 31808); Serbia and Montenegro (Federal Republic of Yugoslavia) (effective July 11, 1991; Department of State Public Notice 1427; 56 F.R. 33322; July 19, 1991); Haiti—including those for use by the police (effective October 3, 1991; Department of State Public Notice 1496; 56 F.R. 50968; October 9, 1991); Sudan (effective October 8, 1992; Department of State Public Notice 1711; 57 F.R. 49741; November 3, 1992); Yemen (effective November 16, 1992; Department of State Public Notice 1734; 57 F.R. 59852; December 16, 1992); the armed forces on Cyprus (except to the United Nations Forces in Cyprus) (effective November 18, 1992; Department of State Public Notice 1738; 57 F.R. 60265; December 18, 1992); Somalia (effective December 16, 1992; Department of State Public Notice 1736; 57 F.R. 59851; December 16, 1992); Liberia (other than for the peacekeeping forces of ECOWAS) (effective December 18, 1992; Department of State Public Notice 1737; 57 F.R. 60265; December 18, 1992; and Department of State Public Notice 3767; 66 F.R. 46491; September 5, 2001); Zaire (Department of State Public Notice 1795; 58 F.R. 26024; April 29, 1993); Burma (Department of State Public Notice 1820; 58 F.R. 33293; June 16, 1993); Guatemala (Department of State Public Notice 1831; 58 F.R. 38597; July 19, 1993); Afghanistan (Taliban-controlled areas: Department of State Public Notice (June 27, 1996; 61 F.R. 33313; and Public Notice 3657, May 8, 2001; 66 F.R. 23310; all licenses except to the Afghan Interim Authority: June 3, 2002; 67 F.R. 44352)); and Zimbabwe (April 11, 2002; 67 F.R. 18978; some export exceptions, July 17, 2002; 67 F.R. 48242).

Over 2000–2001, restrictions imposed against India and Pakistan were adjusted or lifted: Presidential Determination No. 2000–18; March 18, 2000; 65 F.R. 16297; Presidential Determination No. 2001–11; January 19, 2001; 66 F.R. 8503; Presidential Determination No. 2001–23; August 9, 2001; 66 F.R. 44521; and Presidential Determination No. 2001–28; September 22, 2001; 66 F.R. 50095. (Restrictions originally imposed against India on May 13, 1998 (Department of State Public Notice 2825; 63 F.R. 27781); and against Pakistan on May 30, 1998 (Department of State Public Notice 2835; 63 F.R. 33122).

Effective March 24, 2003, Khan Research Laboratories of Pakistan were restricted under the ITAR and within terms of sec. 203(b)(3) of the International Emergency Economic Powers Act (Public Notice 4327; 68 F.R. 16113).

Effective September 10, 1999, restrictions were imposed against Indonesia ("except for certain exports related to commercial communication satellites and Y2K compliance activities"; Department of State Public Notice 3137; 64 F.R. 55805; September 10, 1999); These were eased, effective August 25, 2000, to expand "the exception of the items permitted to be exported * * * to, on a case-by-case basis, C–130 spare parts including when for the Government of Indonesia" (Department of State Public Notice 3557; 66 F.R. 7836). Effective November 28, 2000, exceptions to Indonesia for defense articles and defense services "for ultimate end-use by a third country" were allowed on a case-by-case basis (Department of State Public Notice 3612; 66 F.R. 16085). Effective September 19, 2001, the exceptions to Indonesia were again expanded to include, on a case-by-case basis: "(a) Non-lethal defense articles and spare parts; and (b) non-lethal, safety-of-use spare parts for lethal end-items. An example of safety-of-use items would be cartridge actuated aircraft for purposes of enhancing the safety of the aircraft crew. for non-lethal defense end-items, no distinction will be made between Indonesia's existing and new inventory." (Department of State Public Notice 3854; 66 F.R. 65235).

Effective May 30, 1999, restrictions against Nigeria were eased. Henceforth, applications for licenses are reviewed on a case by case basis (Department of State Public Notice 3076; 64 F.R.

the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall take into account[213] whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.[214]

34304). Exports to Nigeria had been restricted since 1993 (see: Department of State Public Notice 1844; 58 F.R. 40845; July 30, 1993; and Public Notice 2313; 60 F.R. 66334; December 11, 1995).

Peru and Ecuador are restricted on a case-by-case basis (Peru: Department of State Public Notice 2021; 59 F.R. 32481; June 8, 1994; and Public Notice 2168; 60 F.R. 10138; February 23, 1995; Peru and Ecuador: Department of State Public Notice 2205; 60 F.R. 26070; May 4, 1995; and Public Notice 2286; 60 F.R. 57049; November 13, 1995).

Effective July 2, 1993, the domestic arms embargo on Angola was lifted and section 126.1(a) of the International Traffic in Arms Regulations (ITAR) (22 CFR Part 126) was amended accordingly (Department of State Public Notice 1826; 58 F.R. 35864; July 2, 1993). There continues to be a presumption of denial for lethal articles, and an embargo is in place with respect to UNITA (Executive Order 12865, September 29, 1993). See *Legislation on Foreign Relations Through 2000*, vol. III.

The following countries are embargoed under International Traffic in Arms Regulations (ITAR; 22 CFR Part 126) (Department of State Public Notice 1832; 58 F.R. 39280, as amended): Afghanistan (June 27, 1996; 61 F.R. 33313; and Public Notice 3657, May 8, 2001; 66 F.R. 23310); Belarus, Cuba, Iran, Iraq, Libya, North Korea, Syria, and Vietnam (April 4, 1994; 59 F.R. 15625). For some of these countries, other restrictions may also make arms transfers unavailable. Restrictions under the ITAR also apply to countries with respect to which the United States maintains an arms embargo: Burma, People's Republic of China (see also 68 F.R. 28314), Haiti, Liberia (see also 66 F.R. 46491), Rwanda (59 F.R. 42158), Somalia, Sudan, and Democratic Republic of Congo (formerly Zaire).

Federal Republic of Yugoslavia (Serbia and Montenegro) was removed from the ITAR restrictive list, effective December 3, 2001 (67 F.R. 1074). Armenia and Azerbaijan were removed from the list effective April 3, 2002 (67 F.R. 15101).

Ukraine was removed from the ITAR restrictive list, effective December 27, 2000 (65 F.R. 81739). Mongolia was removed from the ITAR restrictive list, effective June 30, 1997, in State Department Public Notice 2567 (62 F.R. 37133). The phrase "the states of the former Yugoslavia" was replaced with "the FRY (Serbia and Montenegro)", effective July 12, 1996, pursuant to State Department Public Notice 2410 (61 F.R. 36625). Georgia, Kazakhstan, Turkmenistan, and Uzbekistan were removed from the ITAR restrictive list, effective July 17, 1996, in State Department Public Notice 2407 (61 F.R. 41499).

[213] Sec. 1225(a)(2)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to" and inserted in lieu thereof "take into account".

[214] Sec. 1225(a)(2)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out " The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved.".

Previously, sec. 714(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), amended and restated para. (2). The paragraph formerly read as follows:

"(2) Decisions on issuing export licenses under this section shall be made in coordination with the director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.".

(3)[215] In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this Act as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b)(1)(A)(i)[216] As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State for local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(ii)[217] (I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

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[215] Par. (3) was added by sec. 107(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3136).

[216] Sec. 151(a) of Public Law 104–164 (110 Stat. 1437) added clause designation "(i)" and added clause (ii).

[217] Sec. 151(a)(2) of Public Law 104–164 (110 Stat. 1437) added clause (ii). Subsec. (b) (22 U.S.C. 2778 note) of that section provided: "Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a), shall apply with respect to brokering activities engaged in beginning on or after 120 days after the enactment of this Act.".

(aa) for use by an agency of the United States Government; or

(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(IV) For purposes of this clause, the term "foreign defense article or defense service" includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

(B)[218] A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.

(B)[218] The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this Act or any other foreign assistance or sales program of the United States if—

(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for such export or import, issued in accordance with this Act and regulations issued under this Act, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(3)[219] (A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be

[218] The first subparagraph (B) was added by sec. 1255(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1431). The second subparagraph (B), which should probably have been designated subpar. (C) was added by sec. 8142(a) of the Department of Defense Appropriations Act, 1988 (sec. 101(b) of the Continuing Appropriations for 1988, Public Law 100–202; 101 Stat. 1329–88).

[219] Par. (3) was added by sec. 1255(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1431). The original par. (3), as amended by sec. 21 of Public Law 96–92 (93 Stat. 710) and sec. 107(a) of Public Law 96–533 (94 Stat. 3136), was repealed by sec. 106 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522). Par. (3) had stipulated that no license could be issued under this Act for the export of any major defense equipment sold under contract in the amount of

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credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Any person who willfully violates any provision of this section or section 39, or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than $1,000,000,[220] or imprisoned not more than ten years, or both.

(d)[221] * * * [Repealed—1979]

(e) In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act,[222] subject to the same terms and conditions as are applicable to such powers under such Act, except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that[223] the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines

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$100,000,000 or more (exceptions were provided for NATO members, Australia, Japan, New Zealand, countries participating in co-production arrangements).

[220] Sec. 119(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 203) raised the amount of the fine to $1,000,000; added the limitation "for each violation"; and raised the period of imprisonment from two to ten years. Previously the fine was "not more than $100,000".

[221] Subsec. (d), which specified that sec. 38 would apply to and within the Canal Zone, was repealed by sec. 3303(a)(4) of the Panama Canal Act of 1979 (Public Law 96–70; 93 Stat. 499).

[222] These references to various sections of the Export Administration Act of 1979 were inserted in lieu of a series of references to secs. 6 and 7 of the Export Administration Act of 1969 (which expired on September 30, 1979), by sec. 22(a) of Public Law 96–72 (93 Stat. 535).

[223] Sec. 1303 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" to secs. 38(e), 39A(c), and 40(k) of this Act.

that the release of such information would be contrary to the national interest.[224] Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979, the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed $500,000.[225]

(f)[226] (1) The President shall periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.[227]

(2) The President may not authorize an exemption for a foreign country from the licensing requirements of this Act for the export of defense items under subsection (j) or any other provision of this Act until 30 days after the date on which the President has transmitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a notification that includes—

(A) a description of the scope of the exemption, including a detailed summary of the defense articles, defense services, and related technical data covered by the exemption; and

(B) a determination by the Attorney General that the bilateral agreement concluded under subsection (j) requires the compilation and maintenance of sufficient documentation relating to the export of United States defense articles, defense services, and related technical data to facilitate law enforcement efforts to detect, prevent, and prosecute criminal viola-

[224] Sec. 156 of Public Law 104–164 (110 Stat. 1440) added ", except that the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest".

[225] The last sentence was added by sec. 119(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 204).

[226] Subsec. (f) was added by sec. 107 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522). Sec. 102(b) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 848) added para. designation "(1)" and added paras. (2) and (3).

[227] Sec. 1406 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) struck out "Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979." and inserted in lieu thereof "The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.".

tions of any provision of this Act, including the efforts on the part of countries and factions engaged in international terrorism to illicitly acquire sophisticated United States defense items.

(3) Paragraph (2) shall not apply with respect to an exemption for Canada from the licensing requirements of this Act for the export of defense items.

(g)[228] (1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

(i) this section,

(ii) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410),

(iii) section 793, 794, or 798 of title 18, United States Code (relating to espionage involving defense or classified information) or section 2339A of such title (relating to providing material support to terrorists),[229]

(iv) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705),

(vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd2),

(vii) chapter 105 of title 18, United States Code (relating to sabotage),

(viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),

(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

(x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421), or

(xi) section 603 (b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113 (b) and (c));

(B) persons who are the subject of an indictment or have been convicted under section 371 of title 18, United States Code, for conspiracy to violate any of the statutes cited in subparagraph (A); and

(C) persons who are ineligible—

(i) to contract with,

(ii) to receive a license or other form of authorization to export from, or

[228] Subsec. (g) was added by sec. 1255 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1429).

[229] Sec. 1304 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added "or section 2339A of such title (relating to providing material support to terrorists)".

(iii) to receive a license or other form of authorization to import defense articles or defense services from,

any agency of the United States Government.

(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

(3) If the President determines—

(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government,

the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

(4) A license to export an item on the United States Munitions List may not be issued to a person—

(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,

except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

(7)[230] The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate ex-

[230] Sometimes referred to as the "Blue Lantern Program".

pertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection—

(A) the term "foreign corporation" means a corporation that is not incorporated in the United States;

(B) the term "foreign government" includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term "foreign person" means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, international organizations, and foreign governments;

(D) the term "party to the export" means—

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.

(h)[231] The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall not be subject to judicial review.

(i)[232] As prescribed in regulations issued under this section, a United States person to whom a license has been granted to export an item on the United States Munitions List shall, not later than 15 days after the item is exported, submit to the Department of State a report containing all shipment information, including a description of the item and the quantity, value, port of exit, and end-user and country of destination of the item.

(j)[233] REQUIREMENTS RELATING TO COUNTRY EXEMPTIONS FOR LICENSING OF DEFENSE ITEMS FOR EXPORT TO FOREIGN COUNTRIES.—

(1) REQUIREMENT FOR BILATERAL AGREEMENT.—

(A) IN GENERAL.—The President may utilize the regulatory or other authority pursuant to this Act to exempt a foreign country from the licensing requirements of this Act with respect to exports of defense items only if the United States Government has concluded a binding bilateral

[231] Sec. 6 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1899) added subsec. (h).

[232] Sec. 1302(a) of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added subsec. (i).

[233] Sec. 102(a) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 846) added subsec. (j).

agreement with the foreign country. Such agreement shall—

(i) meet the requirements set forth in paragraph (2); and

(ii) be implemented by the United States and the foreign country in a manner that is legally-binding under their domestic laws.

(B) EXCEPTION.—The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption for Canada from the licensing requirements of this Act for the export of defense items.

(2) REQUIREMENTS OF BILATERAL AGREEMENT.—A bilateral agreement referred to paragraph (1)—

(A) shall, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy requiring—

(i) conditions on the handling of all United States-origin defense items exported to the foreign country, including prior written United States Government approval for any reexports to third countries;

(ii) end-use and retransfer control commitments, including securing binding end-use and retransfer control commitments from all end-users, including such documentation as is needed in order to ensure compliance and enforcement, with respect to such United States-origin defense items;

(iii) establishment of a procedure comparable to a "watchlist" (if such a watchlist does not exist) and full cooperation with United States Government law enforcement agencies to allow for sharing of export and import documentation and background information on foreign businesses and individuals employed by or otherwise connected to those businesses; and

(iv) establishment of a list of controlled defense items to ensure coverage of those items to be exported under the exemption; and

(B) should, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy regarding—

(i) controls on the export of tangible or intangible technology, including via fax, phone, and electronic media;

(ii) appropriate controls on unclassified information relating to defense items exported to foreign nationals;

(iii) controls on international arms trafficking and brokering;

(iv) cooperation with United States Government agencies, including intelligence agencies, to combat efforts by third countries to acquire defense items, the export of which to such countries would not be authorized pursuant to the export control regimes of the foreign country and the United States; and

(v) violations of export control laws, and penalties for such violations.

(3) ADVANCE CERTIFICATION.—Not less than 30 days before authorizing an exemption for a foreign country from the licensing requirements of this Act for the export of defense items, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a certification that—

(A) the United States has entered into a bilateral agreement with that foreign country satisfying all requirements set forth in paragraph (2);

(B) the foreign country has promulgated or enacted all necessary modifications to its laws and regulations to comply with its obligations under the bilateral agreement with the United States; and

(C) the appropriate congressional committees will continue to receive notifications pursuant to the authorities, procedures, and practices of section 36 of this Act for defense exports to a foreign country to which that section would apply and without regard to any form of defense export licensing exemption otherwise available for that country.

(4) DEFINITIONS.—In this section:

(A) DEFENSE ITEMS.—The term "defense items" means defense articles, defense services, and related technical data.

(B) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

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

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

Sec. 39.[234] **Fees of Military Sales Agents and Other Payments.**—(a) In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

(1) sales of defense articles or defense services under section 22, or of design and construction services under section 29[235] of this Act; or

[234] 22 U.S.C. 2779. Sec. 39 was added by sec. 604(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 767). Sec. 604(c) of the same Act stated that this amendment "shall take effect sixty days after the date of enactment of this Act" (August 29, 1976).

[235] The reference to design and construction services under sec. 29 was added by sec. 105(e)(2)(A) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135).

(2) commercial sales of defense articles or defense services licensed or approved under section 38 of this Act;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

(b) The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this Act.

(c) No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 22 or section 29[236] of this Act, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this section, "improper influence" means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

(d)(1) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this section shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this section.

(2) Access by an agency of the United States Government to records maintained under this section shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.

SEC. 39A.[237] PROHIBITION ON INCENTIVE PAYMENTS.

(a) No United States supplier of defense articles or services sold or licensed[238] under this Act, nor any employee, agent, or subcontractor thereof, shall, with respect to the sale or export[239] of any such defense article or defense service to a foreign country,

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[236] The reference to sec. 29 was added by sec. 105(e)(2)(B) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3155).

[237] 22 U.S.C. 2779a. Sec. 733 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 504), added sec. 39A. Functions in this section are delegated to the Under Secretary of State for International Security Affairs (Department of State Public Notice 2086; Delegation of Authority No. 214; 59 F.R. 50790).

[238] Sec. 1246(a)(1) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "or licensed" after "sold".

[239] Sec. 1246(a)(2) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "or export" after "sale".

make any incentive payments for the purpose of satisfying, in whole or in part, any offset agreement with that country.

(b) Any person who violates the provisions of this section shall be subject to the imposition of civil penalties as provided for in this section.

(c) In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement and imposition of civil penalties which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979 and section 12(a) of such Act, subject to the same terms and conditions as are applicable to such powers under that Act, except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that[240] notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000 or five times the amount of the prohibited incentive payment, whichever is greater.

(d) For purposes of this section—

(1) the term "offset agreement" means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense services from the supplier;

(2) the term "incentive payments" means direct monetary compensation made by a United States supplier of defense articles or defense services or by any employee, agent or subcontractor thereof to any other United States person to induce or persuade that United States person to purchase or acquire goods or services produced, manufactured, grown, or extracted, in whole or in part, in the foreign country which is purchasing those defense articles or services from the United States supplier; and

(3) the term "United States person" means—

(A) an individual who is a national or permanent resident alien of the United States; and

(B) any corporation, business association, partnership, trust, or other juridical entity—

(i) organized under the laws of the United States or any State, the District of Columbia, or any territory or possession of the United States; or

[240] Sec. 1303 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" to secs. 38(e), 39A(c), and 40(k) of this Act.

(ii) owned or controlled in fact by individuals described in subparagraph (A) or by an entity described in clause (i).[241]

Sec. 40.[242] Transactions With Countries Supporting Acts of International Terrorism.

(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regulations issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer

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[241] Sec. 1246(b) of the Defense Offsets Disclosure Act of 1999 (title XII, subtitle D of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) inserted "or by an entity described in clause (i)" after "subparagraph (A)".

[242] 22 U.S.C. 2780. See also 22 CFR Part 120–130. Sec. 40 was added by sec. 509(a) of Public Law 99–399 (100 Stat. 874). Sec. 40 was amended and restated by the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1892). It previously read as follows:

"Sec. 40. Exports to Countries Supporting Acts of International Terrorism.

"(a) PROHIBITION.—Except as provided in subsection (b), items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

"(b) WAIVER.—The President may waive the prohibition contained in subsection (a) in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver.".

of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent, which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

(A) by any department, agency, or other instrumentality of the Government,

(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

(b) PROHIBITED TRANSACTIONS BY UNITED STATES PERSONS.—

(1) IN GENERAL.—A United States person may not take any of the following actions:

(A) Exporting any munitions item to any country described in subsection (d).

(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item with be made available to any country described in subsection (d).

(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

(2) LIABILITY FOR ACTIONS OF FOREIGN SUBSIDIARIES, ETC.—A United State person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue), takes an action described in paragraph (1) outside the United States.

(3) APPLICABILITY TO ACTIONS OUTSIDE THE UNITED STATES.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3)(A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United State by a person designated as a United States person in those regulations.

(c) TRANSFERS TO GOVERNMENTS AND PERSONS COVERED.—This section applies with respect to—

(1) the acquisition of munitions items by the government of a country described in subsection (d); and

(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

(d)[243] COUNTRIES COVERED BY PROHIBITION.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism. For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups,[244] willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material, or willingly aid or abet the efforts of an individual or group to use, develop, produce, stockpile,

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[243] Sec. 543 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 197), provided the following:

"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 543. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.".

In prior years, this section referred to sec. 40(d) of the Arms Export Control Act where it currently cites sec. 6(j) of the Export Administration Act of 1979.

[244] Sec. 1204(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) struck out "groups or" and inserted in lieu thereof "groups,".

or otherwise acquire chemical, biological, or radiological weapons.[245]

(e) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

(f) RESCISSION.—(1)[246] A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

(A)[247] before the proposed rescission would take effect, a report certifying that—

(i)[248] there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii)[248] that government is not supporting acts of international terrorism; and

(iii)[248] that government has provided assurances that it will not support acts of international terrorism in the future; or

(B)[247] at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i)[248] the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(ii)[248] the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(2)[246] (A) No rescission under paragraph (1)(B) of a determination under subsection (d) may be made if the Congress, within 45 days after receipt of a report under paragraph (1)(B), enacts a joint resolution the matter after the resolving clause of which is as follows: "That the proposed rescission of the determination under section 40(d) of the Arms Export Control Act pursuant to the report submitted to the Congress on _____ is hereby prohibited.", the blank to be completed with the appropriate date.

(B) A joint resolution described in subparagraph (A) and introduced within the appropriate 45-day period shall be considered in the Senate and the House of Representatives in accordance with

[245] Sec. 822(a)(2)(A) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 511), added the sentence that begins "For purposes of this subsection, * * *". Sec. 1204(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) added ", or willingly aid or abet the efforts of an individual or group to use, develop, produce, stockpile, or otherwise acquire chemical, biological, or radiological weapons".

[246] Sec. 321(3) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 710), inserted new designation for par. (1), and sec. 321(4) added a new par. (2).

[247] Sec. 321(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 710), redesignated pars. (1) and (2), as subpars. (A) and (B), respectively.

[248] Sec. 321(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 710), redesignated "subparagraphs (A), (B), and (C) of each of paragraphs (1) and (2) as clauses (i), (ii), and (iii), respectively.". Clause (2), redesignated here as subpar. (B), however, has only two subpars., redesignated here as (i) and (ii), from (A) and (B), respectively.

paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act (as contained in Public Law 98–473),[249] except that references in such paragraphs to the Committees on Appropriations of the House of Representatives and the Senate shall be deemed to be references to the Committee on Foreign Af-

[249] Sec. 8066 of the Department of Defense Appropriations Act (title VIII of the Continuing Appropriations, 1985; Public Law 98–473; 98 Stat. 1837 at 1935), placed restrictions on fiscal year 1985 funds made available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities, which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual. Subsec. (b) of that section allowed for the lifting of the prohibition (1) if the President reported on certain criteria; and (2) if a joint resolution approving assistance for military or paramilitary operations in Nicaragua were to be enacted.

In particular subsec. (c), pars. (1) and (3) through (7), provided the following [par. (1) included here because of repeated references to it throughout pars. (3)–(7)]:

"(c)(1) For the purpose of subsection (b)(2), 'joint resolution' means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by the Congress, the matter after the resolving clause of which is as follows: 'That the Congress approved the obligation and expenditure of funds available for fiscal year 1985 for supporting, directly or indirectly, military or paramilitary operations in Nicaragua.'.

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"(3) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Appropriations of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Appropriations of the Senate. Such a resolution may not be reported before the eighth day after its introduction.

"(4) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of fifteen calendar days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

"(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

"(6) If, before the passage by the Senate of a resolution of the Senate described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

"(A) The resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (1) of the Senate—

"(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

"(ii) the vote on final passage shall be on the resolution of the House.

"(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(7) If the Senate receives from the House of Representatives a resolution described in paragraph (1) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.".

fairs[250] of the House of Representatives and the Committee on Foreign Relations of the Senate, respectively.

(g) WAIVER.—The President may waive the prohibitions contained in this section with respect to a specific transaction if—

(1) the President determines that the transaction is essential to the national security interests of the United States; and

(2) not less than 15 days prior to the proposed transaction, the President—

(A) consults with the Committee on Foreign Affairs[250] of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

(iii) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

(iv) the date on which the proposed transaction is expected to occur; and

(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

(h) EXEMPTION FOR TRANSACTIONS SUBJECT TO NATIONAL SECURITY ACT REPORTING REQUIREMENTS.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

(i) RELATION TO OTHER LAWS.—

(1) IN GENERAL.—With regard to munitions items controlled pursuant to this Act, the provisions of this section shall apply notwithstanding any other provisions of law, other than section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)).

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

(2) SECTION 614(A) WAIVER AUTHORITY.—If the authority of section 614(a) of the Foreign Assistance Act of 1961 is used to permit a transaction under that Act or the Arms Export Control Act which is otherwise prohibited by this section, the written policy justification required by that section shall include the information specified in subsection (g)(2)(B) of this section.

(j) CRIMINAL PENALTY.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

(k) CIVIL PENALTIES; ENFORCEMENT.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979[251] (subject to the same terms and conditions as are applicable to such powers under that Act), except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that,[252] notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

(l) DEFINITIONS.—As used in this section—

(1) the term "munitions item" means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

(2) the term "United States", when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;[253]

(3) the term "United States person" means—

(A) any citizen or permanent resident alien of the United States;

(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(C) any other person with respect to that person's actions while in the United States; and

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[251] See *Legislation on Foreign Relations Through 2000*, vol. III, sec. J.

[252] Sec. 1303 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this Act and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" to secs. 38(e), 39A(c), and 40(k) of this Act.

[253] Sec. 822(a)(2)(B) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 511), struck out "and" at the end of para. (2); struck out a period at the end of para. (3), and inserted in lieu thereof a semicolon; and added new paras. (4) and (5).

(D) to the extent provided in regulations issued by the Secretary of state, any person that is not described in subparagraph (A), (B), or (C) but—

(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations), or

(ii) is otherwise subject to the jurisdiction of the United States

with respect to that person's actions while outside the United States;

(4)[253] the term "nuclear explosive device" has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994; and

(5)[253] the term "unsafeguarded special nuclear material" has the meaning given that term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.

SEC. 40A.[254] TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH UNITED STATES ANTITERRORISM EFFORTS.—

(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is important to the national interests of the United States.

Chapter 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES[255]

SEC. 40A.[256] END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

(a) ESTABLISHMENT OF MONITORING PROGRAM.—

(1) IN GENERAL.—In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the President shall establish a program which provides for the end-use monitoring of such articles and services.

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[254] 22 U.S.C. 2781. Sec. 330 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1258) added this sec. 40A. Sec. 150(a) of Public Law 104–164 (110 Stat. 1436) also added a sec. 40A, relating to end-use monitoring of defense articles and defense services.

On May 15, 2003, the Deputy Secretary of State determined and certified, as is done annually, "that the following countries are not cooperating fully with United States antiterrorism efforts: Cuba; Iran; Libya; North Korea; Sudan; and Syria" (Department of State Public Notice No. 4023; 67 F.R. 36062). The first list promulgated under this section, in 1997, included Afghanistan and Iraq. Afghanistan was removed from the list in 2002. Iraq was removed from the list in 2003.

[255] Sec. 150(a) of Public Law 104–164 (110 Stat. 1436) added chapter 3A.

[256] 22 U.S.C. 2785. Added by sec. 150(a) of Public Law 104–164 (110 Stat. 1436). Sec. 330 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1258) added another sec. 40A, relating to transactions with countries not fully cooperating with U.S. antiterrorism efforts.

(2) REQUIREMENTS OF PROGRAM.—To the extent practicable, such program—

(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 38(g)(7) of this Act (commonly referred to as the "Blue Lantern" program); and

(B) shall be designed to provide reasonable assurance that—

(i) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and

(ii) such articles and services are being used for the purposes for which they are provided.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the President shall ensure that the program—

(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this section, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961, the President shall transmit to the Congress a report describing the actions taken to implement this section, including a detailed accounting of the costs and number of personnel associated with the monitoring program.

(d) THIRD COUNTRY TRANSFERS.—For purposes of this section, defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party and the numbers, range, and finding of end-use monitoring of United States transfers of small arms and light weapons.[257]

Chapter 4—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

Sec. 41. Effective Date.—This Act shall take effect on July 1, 1968.

[257] Sec. 1205(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) inserted "and the numbers, range, and finding of end-use monitoring of United States transfers of small arms and light weapons".

Sec. 42.[258] **General Provisions.**—(a)[259] In carrying out this Act, special emphasis shall be placed on procurement in the United States, but, subject to the provisions of subsection (b) of this section, consideration shall also be given[260] to coproduction or licensed production outside the United States of defense articles of United States origin when such production best serves the foreign policy, national security, and economy of the United States. In evaluating any sale proposed to be made pursuant to this Act, there shall be taken into consideration (A) the extent to which the proposed sale damages or infringes upon licensing arrangements whereby United States entities have granted licenses for the manufacture of the defense articles selected by the purchasing country to entities located in friendly foreign countries, which licenses result in financial returns to the United States,[261] (B) the portion of the defense articles so manufactured which is of United States origin, and (C)[259] whether, and the extent to which, such sale might contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.

(b)[262] No credit sale shall be extended under section 23, and no guarantee shall be issued under section 24, in any case involving coproduction or licensed,[263] production outside the United States of any defense article of United States origin unless the Secretary of State shall, in advance of any such transaction, advise the appropriate committees of the Congress and furnish the Speaker of the House of Representatives and the President of the Senate with full information regarding the proposed transaction, including, but not limited to, a description of the particular defense article or articles which would be produced under license or coproduced outside the United States, the estimated value of such production or coproduc-

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[258] 22 U.S.C. 2791. See also notes at section 38, regarding Presidential Determinations.

[259] Sec. 1225(a)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "the assessment of the Director of the United States Arms Control and Disarmament Agency as to" in para. (1)(c); struck out para. designation "(1)" after subsec. designation "(a)"; and struck out para. (2). Para. (2) had read as follows:

"(2) Any proposed sale made pursuant to this Act shall be approved only after consultation with the Director of the United States Arms Control and Disarmament Agency. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that a sale under this section would be detrimental to the national security of the United States, to recommend to the President that such sale be disapproved.".

Previously, sec. 714(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), added para. designation "(1)"; redesignated clauses (1), (2), and (3) as (A), (B), and (C), restated clause (C); and added para. (2). Clause (C), as redesignated, formerly read as follows:

"(C) in coordination with the Director of the United States Arms Control and Disarmament Agency, the Director's opinion as to the extent to which such sale might contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.".

[260] The words "but, subject to the provisions of subsection (b) of this section, consideration shall also be given" were inserted in lieu of "but consideration shall also be given" by sec. 401(f)(1) of the FA Act of 1971 (Public Law 92–226).

[261] Sec. 401(e) of the FA Act of 1971 (Public Law 92–226) struck out the word "and" which appeared at this point.

[262] Sec. 401(f)(2) of the FA Act of 1971 added subsecs. (b) and redesignated former subsecs. (b) and (c) as subsecs. (c) and (d), respectively.

[263] Although the slip law contains a comma between "licensed, production" in the first sentence, it is interpreted as "licensed production" with no comma.

tion, and the probable impact of the proposed transaction on employment and production within the United States.

(c)[262] Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States.

(d)[261] (1) With respect to sales and guaranties under sections 21, 22, 23, 24, 29, and 30[264] the Secretary of Defense shall, under the direction of the President, have primary responsibility for—

(A) the determination of military end-item requirements;

(B) the procurement of military equipment in a manner which permits its integration with service programs;

(C) the supervision of the training of foreign military personnel;

(D) the movement and delivery of military end-items; and

(E) within the Department of Defense, the performance of any other functions with respect to sales and guaranties.

(2) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall, under the direction of the President, be determined by the Secretary of Defense.

(e)[265] (1) Each contract for sale entered into under sections 21, 22, 29, and 30[264] of this Act, and each contract entered into under section 27(d) of this Act,[266] shall provide that such contract may be canceled in whole or in part, or its execution suspended, by the United States at any time under unusual or compelling circumstances if the national interest so requires.

(2)(A) Each export license issued under section 38 of this Act shall provide that such license may be revoked, suspended, or amended by the Secretary of State, without prior notice, whenever the Secretary deems such action to be advisable.

(B) Nothing in this paragraph may be construed as limiting the regulatory authority of the President under this Act.

(3) There are authorized to be appropriated from time to time such sums as may be necessary (A) to refund moneys received from purchasers under contracts of sale entered into under sections 21, 22, 29, and 30[264] of this Act, or under contracts entered into under sec. 27(d) of this Act,[266] that are canceled or suspended under this subsection to the extent such moneys have previously been disbursed to private contractors and United States Government agencies for work in progress, and (B) to pay such damages and costs that accrue from the corresponding cancellation or suspension of the existing procurement contracts or United States Government agency work orders involved.

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[264] The reference to sec. 29 was added by sec. 105(e)(3) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135). The reference to sec. 30 was added by sec. 2 of Public Law 97–392 (96 Stat. 1962).

[265] Subsec. (e) was added by sec. 213 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 745).

[266] The reference to sec. 27(d) was added by sec. 115(b)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 210).

(f)[267] The President shall, to the maximum extent possible and consistent with the purposes of this Act, use civilian contract personnel in any foreign country to perform defense services sold under this Act.

Sec. 43.[268] **Administrative Expenses.**—(a) Funds made available under other law for the operations of United States Government agencies carrying out functions under this Act shall be available for the administrative expenses incurred by such agencies under this Act.

(b)[269] Charges for administrative services calculated under section 21(e)(1)(A) of this Act shall include recovery of administrative expenses and official reception and representation expenses[270] incurred by any department or agency of the United States Government, including any mission or group thereof, in carrying out functions under this Act when—

(1) such functions are primarily for the benefit of any foreign country;

(2) such expenses are not directly and fully charged to, and reimbursed from amounts received for, sale of defense services under section 21(a) of this Act; and

(3)[271] such expenses are neither salaries of the Armed Forces of the United States nor represent unfunded estimated costs of civilian retirement and other benefits.

(c)[272] Not more than $86,500 of the funds derived from charges for administrative services pursuant to section 21(e)(1)(A) of this Act may be used each fiscal year for official reception and representation expenses.

Sec. 44.[273] **Statutory Construction.**—No provision of this Act shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended, or section 7307 of title 10 of the United States Code.

Sec. 45. Statutes Repealed and Amended.—(a) Sections 521, 522, 523, 524(b)(3), 525, 634(g), and 640 of the Foreign Assistance Act of 1961, as amended, are hereby repealed.

(b) Part III of the Foreign Assistance Act of 1961, as amended, is amended as follows:

(1) Section 622(b) is amended by striking out "or sales".

(2) Section 622(c) is amended by striking out "and sales" and "or sales".

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[267] Subsec. (f) was added by sec. 605(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 768).

[268] 22 U.S.C. 2792.

[269] Subsec. (b), as added by sec. 214 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 746), was amended and restated by sec. 7(d) of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 617).

[270] The reference to reception and representation expenses was added by sec. 120(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 204).

[271] Sec. 9104(b)(1) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152) added par. (3).

[272] This subsec. (c) was added by sec. 120(2) of Public Law 99–83 (99 Stat. 204). Sec. 1203 of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) raised the limit from $72,500 to $86,500.

A previous subsec. (c), added by sec. 19(b) of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 709), was repealed by sec. 734(a)(10) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The information previously contained in the annual report required by subsec. (c) is now required by sec. 25(a)(6) of this Act.

[273] 22 U.S.C. 2793.

(3) Section 632(d) is amended by striking out "sections 506, 522, and 523," in the first sentence and inserting in lieu thereof "section 506".

(4) Section 634(d) is amended by inserting "or any other" between "under this" and "Act" in the fourth sentence.

(5) Section 644(m) is amended by striking out "and sales" in the first sentence of the paragraph following numbered paragraph (3).

(c) References in law to the provisions of law repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act. Except for the laws specified in section 44, no other provision of law shall be deemed to apply to this Act unless it refers specifically to this Act or refers generally to sales of defense articles and defense services under any Act.

Sec. 46.[274] **Savings Provisions.**—Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provisions of law repealed by section 45(a) shall continue in full force and effect until modified by appropriate authority.

Sec. 47.[275] **Definitions.**—For purposes of this Act, the term—

(1) "excess defense article" has the meaning provided by section 644(g) of the Foreign Assistance Act of 1961;

(2) "value" means, in the case of an excess defense article, except as otherwise provided in sec. 21(a),[276] not less than the greater of—

(A) the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such article, plus the scrap value; or

(B) the market value, if ascertainable;

(3)[277] "defense article", except as provided in paragraph (7) of this section, includes—

(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

(B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales,

(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

(D) any component or part of any article listed in this paragraph,

but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954) source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unre-

[274] 22 U.S.C. 2341 note.

[275] 22 U.S.C. 2794 note. Sec. 47 was added by sec. 25(12) of the FA Act of 1973.

[276] This reference to sec. 21(a) was added by sec. 102(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat 197).

[277] Sec. 215 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 746) added pars. (3), (4), (5), (6), and (7).

lated to radioactivity),[278] byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;

(4)[277] "defense service", except as provided in paragraph (7) of this section, includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 644(e) of the Foreign Assistance Act of 1961) used for the purposes of making military sales, but does not include design and construction services under section 29 of this Act;[279]

(5)[277] "training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

(6)[277] "major defense equipment" means any item of significant military[280] equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50,000,000 or a total production cost of more than $200,000,000;

(7)[277] "defense articles and defense services" means, with respect to commercial exports subject to the provisions of section 38 of this Act, those items designated by the President pursuant to subsection (a)(1) of such section;[281]

(8)[282] "design and construction services" means, with respect to sales under section 29 of this Act, the design and construction of real property facilities, including necessary construction equipment and materials, engineering services, construction contract management services relating thereto, and technical advisory assistance in the operation and maintenance of real property facilities provided or performed by any department or agency of the Department of Defense or by a contractor pursuant to a contract with such department or agency;[281]

(9)[281] "significant military equipment" means articles—

(A) for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and

(B) identified on the United States Munitions List;

(10)[283] "weapons of mass destruction" has the meaning provided by section 1403(1) of the Defense Against Weapons of Mass De-

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[278] The parenthetical phrase was added by sec. 22 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 710). See also sec. 110 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3138).

[279] The words, "but does not include design and construction services under section 29 of this Act" were added by sec. 105(f) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135).

[280] Sec. 1211 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 279) inserted "military" in lieu of "combat".

[281] Sec. 144 of Public Law 104–164 (110 Stat. 1434) struck out "and" at the end of para. (7); struck out the period at the end of para. (8) and inserted in lieu thereof "; and"; and added a new para. (9).

[282] Par. (8) was added by sec. 105(f) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3135).

[283] Sec. 1202(b) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1427) struck out "and" at the end of para. (8); struck out a period at the end of para. (9) and inserted "; and"; and added para. (10).

struction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1); and

(11)[284] "Sales territory" means a country or group of countries to which a defense article or defense service is authorized to be reexported.

Chapter 5—SPECIAL DEFENSE ACQUISITION FUND[285]

Sec. 51.[286] **Special Defense Acquisition Fund.**—(a)(1) Under the direction of the President and in consultation with the Secretary of State, the Secretary of Defense shall establish a Special Defense Acquisition Fund (hereafter in this chapter referred to as the "Fund"), to be used as a revolving fund separate from other accounts, under the control of the Department of Defense, to finance the acquisition of defense articles and defense service in anticipation of their transfer pursuant to this Act, the Foreign Assistance Act of 1961, or as otherwise authorized by law, to eligible foreign countries and international organizations, and may acquire such articles and services with the funds in the Fund as he may determine. Acquisition under this chapter of items for which the initial issue quantity requirements for United States Armed Forces have not been fulfilled and are not under current procurement contract shall be emphasized when compatible with security assistance requirements for the transfer of such items.

(2) Nothing in this chapter may be construed to limit or impair any responsibilities conferred upon the Secretary of State or the Secretary of Defense under this Act or the Foreign Assistance Act of 1961.

(3)[287] The Fund may be used to keep on continuous order such defense articles and defense services as are assigned by the Department of Defense for integrated management by a single agency thereof for the common use of all military departments in anticipation of the transfer of similar defense articles and defense services to foreign countries and international organizations pursuant to this Act, the Foreign Assistance Act of 1986, or other law.

(4)[288] The Fund shall also be used to acquire defense articles that are particularly suited for use for narcotics control purposes and are appropriate to the needs of recipient countries, such as small boats, planes (including helicopters), and communications equipment.

(b)[287] The Fund shall consist of—

(1) collections from sales made under letters of offer issued pursuant to section 21(a)(1)(A) of this Act representing the ac-

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[284] Sec. 1405(a)(4) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) struck out "and" at the end of para. (9); struck out a period at the end of para. (10) and inserted "; and"; and added para. (11).

[285] Chapter 5 was added by sec. 108(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1522).

[286] 22 U.S.C. 2795.

[287] Sec. 121 (a) and (b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 204), added 51(a)(3) and amended sec. 51(b).

Sec. 114(c) of title 10 U.S.C., limited the size of the Special Defense Acquisition Fund to $1,070,000,000.

[288] Sec. 4 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1957) added par. (4). Sec. 145(b) of Public Law 104–164 (110 Stat. 1434) struck out designation for subpara. (A), and struck out subpara. (B), which had required that information relating to acquisitions under this section be included in an annual report to Congress.

tual value of defense articles not intended to be replaced in stock,

(2) collections from sales representing the value of asset use charges (including contractor rental payments for United States Government-owned plant and production equipment) and charges for the proportionate recoupment of nonrecurring research, development, and production costs, and

(3) collections from sales made under letters of offer (or transfers made under the Foreign Assistance Act of 1961) of defense articles and defense services acquired under this chapter, representing the value of such items calculated in accordance with subparagraph (B) or (C) of section 21(a)(1) or section 22 of this Act or section 644(m) of the Foreign Assistance Act of 1961, as appropriate,

together with such funds as may be authorized and appropriated or otherwise made available for the purposes of the Fund.

(c)(1) The size of the Fund may not exceed such dollar amount as is prescribed in section 114(c) of title 10, United States Code.[289] For purposes of this limitation, the size of the Fund is the amounts in the Fund plus the value (in terms of acquisition cost) of the defense articles acquired under this chapter which have not been transferred from the Fund in accordance with this chapter.

(2) Amounts in the Fund shall be available for obligation in any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.[290]

Sec. 52.[291] **Use and Transfer of Items Procured by the Fund.**—(a) No defense article or defense service acquired by the

[289] Sec. 114(c) of title 10, U.S.C., was originally codified at sec. 138(g) of title 10, U.S.C.. Sec. 138(g) of title 10, U.S.C., as added by sec. 109(b) of Public Law 97–113 (95 Stat. 1524) and amended by sec. 1103 of the DOD Authorization Act, 1983, (Public Law 97–252; 96 Stat. 738), provided that the Special Defense Acquisition Fund "may not exceed $300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter." The DOD Authorization Act, 1986, sec. 1403, (Public Law 99–145; 99 Stat. 743) changed the amount of the program ceiling to $1,000,000,000. Sec. 1304(a) of the DOD Authorization Act, 1987, (Public Law 99–661; 100 Stat. 3816) increased the ceiling to $1,070,000,000. Public Law 99–433, the DOD Reorganization Act of 1986, redesignated sec. 138(g) of title 10 as sec. 114(c).

[290] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1622), as amended by sec. 536 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2416), provided the following:

"SPECIAL DEFENSE ACQUISITION FUND

"Notwithstanding any provision of Public Law 102–391 as amended by Public Law 103–87, not to exceed $140,000,000 of the obligational authority provided in that Act under the heading 'Special Defense Acquisition Fund' may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act.

"Not to exceed $20,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of closing the Special Defense Acquisition Fund, to remain available for obligation until September 30, 2000: *Provided,* That the authority provided in this Act is not used to initiate new procurements.".

Amounts provided for the Fund in recent years are as follows: fiscal year 1982—$125,000,000; fiscal year 1983—$125,000,000; fiscal year 1984—$225,000,000; fiscal year 1985—$325,000,000; fiscal year 1986—$325,000,000; fiscal year 1988—$236,835,000; fiscal year 1989—$236,865,000 (available for obligation until September 30, 1991); fiscal year 1990—$280,000,000 (available for obligation until September 30, 1992—subject to conditions in Public Law 102–298); fiscal year 1991—$350,000,000 (available for obligation until September 30, 1993—subject to conditions in Public Law 102–298); fiscal year 1992—$275,000,000 (available for obligation until September 30, 1994—subject to 1% reduction pursuant to sec. 591 of H.R. 2621 as passed by the House on June 19, 1991, and subject to 1.4781% reduction pursuant to sec. 126 of Public Law 102–145, as amended); fiscal year 1993—$225,000,000 (available for obligation until September 30, 1995); fiscal year 1994—$160,000,000.

[291] 22 U.S.C. 2795a.

Secretary of Defense under this chapter may be transferred to any foreign country or international organization unless such transfer is authorized by this Act, the Foreign Assistance Act of 1961, or other law.

(b) The President may authorize the temporary use by the United States Armed Forces of defense articles and defense services acquired under this chapter prior to their transfer to a foreign country or international organization, if such is necessary to meet national defense requirements and the United States Armed Forces bear the costs of operation and maintenance of such articles or services while in their use and the costs of restoration or replacement upon the termination of such use.

(c) Except as provided in subsection (b) of this section, the Fund may be used to pay for storage, maintenance, and other costs related to the preservation and preparation for transfer of defense articles and defense services acquired under this chapter prior to their transfer, as well as the administrative costs of the Department of Defense incurred in the acquisition of such items to the extent not reimbursed pursuant to section 43(b) of this Act.

Sec. 53.[292] * * * [Repealed—1996]

Chapter 6—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES[293]

Sec. 61.[294] **Leasing Authority.**—(a) The President may lease defense articles in the stocks of the Department of Defense to an eligible foreign country or international organization if—

(1) he determines that there are compelling foreign policy and national security reasons for providing such articles on a lease basis rather than on a sales basis under this Act;

(2) he determines that the articles are not for the time needed for public use;[295]

(3)[295] the President first considers the effects of the lease of the articles on the national technology and industrial base, particularly the extent, if any, to which the lease reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the articles are leased; and

(4)[295] the country or international organization has agreed to pay in United States dollars all costs incurred by the United States Government in leasing such articles, including reimbursement for depreciation of such articles while leased, the costs of restoration or replacement if the articles are damaged

[292] Formerly at 22 U.S.C. 2795b. Sec. 145(a) of Public Law 104–164 (110 Stat. 1434) repealed sec. 53, which had required the President to file an annual comprehensive report on acquisitions of defense articles and defense services under this chapter.

[293] Chapter 6 was added by sec. 109(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1524). Sec. 1003(b) of Public Law 100–456 revised the title of chapter 6. It formerly read "Leases of Defense Articles".

[294] 22 U.S.C. 2796.

[295] Sec. 731(e) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 503), struck out "and" at the end of para. (2); redesignated para. (3) as para. (4); added a new para (3); and struck out "paragraph (3)" in lieu of "paragraph (4)" in the last two sentences of subsec. (a).

while leased, and, if the articles are lost or destroyed while leased—[296]

(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.

The requirement of paragraph (4)[295] shall not apply to leases entered into for purposes of cooperative research or development, military exercises, or communications or electronics interface projects.[297] The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States.[298]

[299] The President may waive the requirement of paragraph (4)[295] with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

(A) may be exercised only if the President submits to the Committee on Foreign Affairs[300] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

(B) may be exercised only during the current fiscal year[301] and only with respect to one country, unless the Congress hereafter provides otherwise.

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[296] Sec. 146 of Public Law 104–164 (110 Stat. 1434) struck out "and the replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased." and inserted in lieu thereof "and, if the articles are lost or destroyed while leased—" and subparas. (A) and (B).

[297] Sec. 153(a)(1) of Public Law 104–164 (110 Stat. 1440) struck out ", or to any defense article which has passed three-quarters of its normal service life" at the end of the second sentence of sec. 61(a).

[298] Sec. 153(a)(2) of Public Law 104–164 (110 Stat. 1440) added this sentence. Sec. 153(b) of that Act (22 U.S.C. 2796 note) further provided: "The third sentence of section 61(a) of the Arms Export Control Act, as added by subsection (a)(2), shall apply only with respect to a defense article leased on or after the date of the enactment of this Act.".

[299] The words from this point to the end of subsec. (a) were added by sec. 147 of the Continuing Appropriations Act for Fiscal Year 1987 (Public Law 99–591; 100 Stat. 3341–354).

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

[301] Sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), struck out "1998" and inserted in lieu thereof "the current fiscal year". If executed literally, the amended text would read "during the fiscal year the current fiscal year". It is interpreted to intend to read "the current fiscal year".

Previously, sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2412), struck out "1997" and inserted in lieu thereof "1998". Previously, sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) struck out "1996" and inserted in lieu thereof "1997"; sec. 524 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 729), struck out "1995" and "inserted in lieu thereof "1996"; and sec. 524 of the Foreign Operations, Export Financing, and Related Pro-

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.

(b)(1) Each lease agreement[302] under this section shall be for a fixed duration which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles,[303] of not to exceed five years and shall provide that, at any time during the duration of the lease, the President may terminate the lease and require the immediate return of the leased articles.

(2)[304] In this subsection, the term "major refurbishment work" means work for which the period of performance is 6 months or more.

(c) Defense articles in the stocks of the Department of Defense may be leased or loaned to a foreign country or international organization only under the authority of this chapter or chapter 2 of part II of the Foreign Assistance Act of 1961, and may not be leased to a foreign country or international organization under the authority of section 2667 of title 10, United States Code.

Sec. 62.[305] **Reports to the Congress.**—(a) Before[306] entering into or renewing any agreement with a foreign country or international organization to lease any defense article under this chapter, or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961, for a period of one year or longer, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Armed Services of the Senate, a written certification which specifies—

(1) the country or international organization to which the defense article is to be leased or loaned;

(2) the type, quantity, and value (in terms of replacement cost) of the defense article to be leased or loaned;

(3) the terms and duration of the lease or loan; and

(4) a justification for the lease or loan, including an explanation of why the defense article is being leased or loaned rather than sold under this Act.

(b) The President may waive the requirements of this section (and in the case of an agreement described in section 63, may waive the provisions of that section) if he states in his certification,[307] that an emergency exists which requires that the lease or loan be entered into immediately in the national security inter-

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grams Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1633), struck out "1994" and "inserted in lieu thereof "1995".

[302] Sec. 1233(1) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) struck out "(b) Each lease agreement" and inserted in lieu thereof "(b)(1) Each lease agreement".

[303] Sec. 1233(2) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) struck out "of not to exceed five years" and inserted in lieu thereof "which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles,".

[304] Sec. 1233(3) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1433) added para. (2).

[305] 22 U.S.C. 2796a.

[306] Sec. 141(e)(1)(A) of Public Law 104–164 (110 Stat. 1432) struck out "Not less than 30 days before" and inserted in lieu thereof "Before".

[307] Sec. 141(e)(1)(B)(i) of Public Law 104–164 (110 Stat. 1432) struck out "determines, and immediately reports to the Congress", and inserted in lieu thereof "states in his certification".

ests of the United States. If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved.[308]

(c)[309] The certification required by subsection (a) shall be transmitted)—

(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand; and

(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.

Sec. 63.[310] **Legislative Review.**—(a)[311] (1) Subject to paragraph (2), in the case of[312] any agreement involving the lease under this chapter, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961, to any foreign country or international organization for a period of one year or longer of any defense articles which are either (i) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $14,000,000 or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $50,000,000 or more, the agreement may not be entered into or renewed if the Congress, within the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,[313] enacts a joint[314] resolution prohibiting the proposed lease or loan.

(2)[315] In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand, the limitations in paragraph (1) shall apply only if the agreement involves a lease or loan of—

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[308] Sec. 141(e)(1)(B)(ii) of Public Law 104–164 (110 Stat. 1432) added the sentence that begins "If the President states".

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[309] Sec. 141(e)(1)(C) of Public Law 104–164 (110 Stat. 1433) added subsec. (c).

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[310] 22 U.S.C. 2796b.

[311] Sec. 141(e)(2) of Public Law 104–164 (110 Stat. 1433) struck out designation for para. (1), and struck out para. (2), which had provided as follows:

"(2) This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.".

[312] Sec. 1405(a)(3)(A) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1457) struck out "In the case of" and inserted in lieu thereof "(1) Subject to paragraph (2), in the case of".

[313] Sec. 141(e)(2) of Public Law 104–164 (110 Stat. 1433) struck out "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserted in lieu thereof "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,".

Sec. 141(f) of Public Law 104–164 (110 Stat. 1433) provided that "amendments made by this section [sec. 141] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996].".

[314] Sec. (d) of Public Law 99–247 (100 Stat. 9) struck out "concurrent" and inserted "joint".

[315] Sec. 1405(a)(3)(B) of the Security Assistance Act of 2002 (division B of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1458) added para. (2).

(A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $25,000,000 or more; or

(B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $100,000,000 or more.

(b) Any joint[314] resolution under subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(c) For the purpose of expediting the consideration and enactment of joint[314] resolutions under subsection (a), a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

Sec. 64.[316] **Application of Other Provisions of Law.**—Any reference to sales of defense articles under this Act in any provision of law restricting the countries or organizations to which such sales may be made shall be deemed to include a reference to leases of defense articles under this chapter.

Sec. 65.[317] **Loan of Materials, Supplies, and Equipment for Research and Development Purposes.**—(a)(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

(b) The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

(c) The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical mate-

[316] 22 U.S.C. 2796c.

[317] 22 U.S.C. 2796d. Sec. 1003(a) of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2038) added sec. 65.

rial and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.

(d) For purposes of this section, the term "NATO[318] ally" means a member country of the North Atlantic Treaty Organization (other than the United States).[319]

CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY[320]

Sec. 71.[321] Licensing.—

(a) ESTABLISHMENT OF LIST OF CONTROLLED ITEMS.—The Secretary of State, in consultation with the Secretary of Defense[322] and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979.

(b) REFERRAL OF LICENSE APPLICATIONS.—(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense.[323]

(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense and the Secretary of Commerce[324] the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary[325] indicates the need to receive such application and documents.

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[318] Sec. 147(a)(3)(B)(i) of Public Law 104–164 (110 Stat. 1435) struck out "or major non-NATO" after "NATO".

[319] Sec. 147(a)(3)(B)(ii) of Public Law 104–164 (110 Stat. 1435) struck out "or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 2350a(i)(3) of title 10, United States Code" after the parentheses. Previously, sec. 705(d)(2) of Public Law 102–25 (105 Stat. 120) struck out "section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a)" and inserted in lieu thereof "section 2350a(i)(3) of title 10, United States Code". Sec. 1105 of the National Defense Authorization Act for Fiscal Year 1987 was repealed in 1989.

[320] Sec. 1703 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1745) added chapter 7, secs. 71–74.

[321] 22 U.S.C. 2797.

[322] Sec. 1225(a)(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out ", the Director of the Arms Control and Disarmament Agency," after "Secretary of Defense". The text had originally been added by sec. 714(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497).

[323] Sec. 1225(a)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "and the Director of the United States Arms Control and Disarmament Agency" after "Secretary of Defense". The text had originally been added by sec. 714(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497).

[324] Sec. 1225(a)(6)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Secretary of Commerce". Previously, sec. 714(a)(5)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

[325] Sec. 1225(a)(6)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out "or the Director" after "relevant

(c) INFORMATION SHARING.—The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence,[326] and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

(d)[327] EXPORTS TO SPACE LAUNCH VEHICLE PROGRAMS.—Within 15 days[328] after the issuance of a license (including any brokering license) for the export of items valued at less than $50,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, the Secretary shall transmit to the Congress[329] a report describing the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were members of the MTCR as of April 17, 1987.

Sec. 72.[330, 331] Denial of the Transfer of Missile Equipment or Technology by United States Persons.

Secretary". Previously, sec. 714(a)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

[326] Sec. 1225(a)(7) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out with the Director of the United States Arms Control and Disarmament Agency," after "Director of Central Intelligence,". Previously, sec. 714(a)(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

[327] Sec. 735(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 506), added subsec. (d).

[328] Sec. 708(c) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 863) struck out "Within 15 days after the issuance of a license for the export of items valued at less than $14,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and intended to support the design, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex," and inserted in lieu thereof "Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than $50,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex,".

[329] Sec. 704 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 861) provided the following:

"SEC. 704. MTCR REPORT TRANSMITTALS.

"For purposes of section 71(d) of the Arms Export Control Act (22 U.S.C. 2797(d)), the requirement that reports under that section shall be transmitted to the Congress shall be considered to be a requirement that such reports shall be transmitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs of the Senate.".

[330] 22 U.S.C. 2797a.

[331] Executive Order 12851 of June 11, 1993 (58 F.R. 33181), provided for the administration of proliferation sanctions, Middle East Arms Control, and related congressional reporting requirements, including the following:

"**Sec. 2.** *Missile Proliferation Sanctions.* (a) *Arms Export Control Act.* The authority and duties vested in me by section 72–73 of the AECA (22 U.S.C. 2797a–2797b) are delegated to the Secretary of State, except that:

"(1) The authority and duties vested in me by section 72(a)(1) to make determinations with respect to violations by United States persons of the EAA are delegated to the Secretary of Commerce.

"(2) The authority and duties vested in me to deny certain United States Government contracts as provided in sections 73(a)(2)(A)(i) and 73(a)(2)(B)(i), pursuant to a determination made by the Secretary of State under section 73(a)(1), as well as the authority and duties vested in me to make the findings provided in sections 72(c), 73(f), and 73(g)(1), are delegated to the Secretary of Defense. The Secretary of State shall issue, transmit to the Con-

Continued

(a) SANCTIONS.—(1) If the President determines that a United States person knowingly—

(A) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 of this Act, section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405), or any regulations or orders issued under any such provisions,

(B) conspires to or attempts to engage in such export, transfer, or trade, or

(C) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in paragraph (2).

(2) The sanctions which apply to a United States person under paragraph (1) are the following:

(A) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person for a period of 2 years—

(i) United States Government contracts relating to missile equipment or technology; and

(ii) licenses for the transfer of missile equipment or technology controlled under this Act.

(B) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR, then the President shall deny to such United States person for a period of not less than 2 years—

(i) all United States Government contracts, and

(ii) all export licenses and agreements for items on the United States Munitions List.

(b) DISCRETIONARY SANCTIONS.—In the case of any determination made pursuant to subsection (a), the President may pursue any penalty provided in section 38(c) of this Act.

(c)[332] PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a United States person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

(d)[332] WAIVER.—The President may waive the imposition of sanctions under subsection (a) with respect to a product or service if the President certifies to the Congress that—

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gress, and notify the Secretary of the Treasury of, as appropriate, any waivers based upon findings made pursuant to sections 72(c) and 73(f).

"(3) The authority and duties vested in me to prohibit certain imports as provided in section 73(a)(2)(C), pursuant to a determination made by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 73(g), are delegated to the Secretary of the Treasury.".

This Executive order superceded a memorandum of the President of June 25, 1991, delegating authority regarding missile technology proliferation (56 F.R. 31041; July 8, 1991).

[332] Sec. 734(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 505), redesignated subsec. (c) as subsec. (d), and added a new subsec. (c).

(1) the product or service is essential to the national security of the United States; and

(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

Sec. 73.[331, 333] **Transfers of Missile Equipment or Technology by Foreign Persons.**

(a) SANCTIONS.—(1)[334] Subject to subsections (c) through (g), if the President determines that a foreign person, after the date of the enactment of this chapter, knowingly—

(A) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the acquisition,[335] design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

(B) conspires to or attempts to engage in such export, transfer, or trade, or

(C) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 11B(b)(1) of the Export Administration Act of 1979, then the President shall impose on that foreign person the applicable sanctions under paragraph (2).

(2) The sanctions which apply to a foreign person under paragraph (1) are the following:

(A)[334] If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years—

(i) United States Government contracts relating to missile equipment or technology; and

(ii) licenses for the transfer to such foreign person of missile equipment or technology controlled under this Act.

(B) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years—

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[333] 22 U.S.C. 2797b.

[334] On May 19, 2003, the State Department determined that entities in Moldova had engaged in missile technology proliferation activities in violation of this section (Department of State Public Notice 4374; 68 F.R. 31740).

On August 20, 2002, the State Department determined that the terms of sec. 73 had been violated, by concluded "that publication of the determination would be harmful to the national security of the United States." (Department of State Public Notice 4107 of August 20, 2002; 67 F.R. 54693). A similar determination was issued on March 27, 2003 (Public Notice 4325; 68 F.R. 16113).

On August 16, 2002, the State Department determined that Changgwang Sinyong Corporation of North Korea was in violation of this section (Department of State Public Notice 4106; 67 F.R. 54693). On April 2, 2003, another determination was made against this entity (Public Notice 4326; 68 F.R. 16113).

See also the sec. 620H of the Foreign Assistance Act of 1961, this volume; Iran Nonproliferation Act of 2000 (Public Law 106–178), Iran-Iraq Arms Nonproliferation Act of 1992, in *Legislation on Foreign Relations Through 2002*, vol. II. See also the Export Administration Act of 1979, in *Legislation on Foreign Relations Through 2000*, vol. III.

[335] Sec. 323(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 711), inserted "acquisition,".

(i) all United States Government contracts with such foreign person; and

(ii) licenses for the transfer to such foreign person of all items on the United States Munitions List.

(C) If, in addition to actions taken under subparagraphs (A) and (B), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(b)[336] INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(2)[336] LIMITATION.—Notwithstanding paragraph (1), subsection (a) shall apply to an entity subordinate to a government that engages in exports or transfers described in section 498A(b)(3)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(b)(3)(A)).

(c) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in subsection (a) may not be imposed under this section on a person with respect to acts described in such subsection or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts, and if the President certifies to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that—

(1) for any judicial or other enforcement action taken by the MTCR adherent, such action has—

(A) been comprehensive; and

(B) been performed to the satisfaction of the United States; and

(2) with respect to any finding of innocence of wrongdoing, the United States is satisfied with the basis for such finding.[337]

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[336] Sec. 1136(b) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)): (1) redesignated paras. (1) and (2) as subparas. (A) and (B), respectively; (2) struck out "Subsection (a)" and inserted in lieu thereof "(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a)" at the beginning of subsec. (b); and (3) added para. (2).

[337] Sec. 1136(c) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added text beginning at "and if the President certifies".

(d) ADVISORY OPINIONS.—The Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce,[338] may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(e) WAIVER AND REPORT TO CONGRESS.—(1) In any case other than one in which an advisory opinion has been issued under subsection (d) stating that a proposed activity would not subject a person to sanctions under this section, the President may waive the application of subsection (a) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(2) In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives[339] not less than 45 working days[339] before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(f)[340] PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a foreign person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

(g)[340] ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(1) the product or service is essential to the national security of the United States; and

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[338] Sec. 1225(a)(8) of the Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A of Public Law 105–277; 112 Stat. 2681) struck out ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Secretary of Commerce". Previously, sec. 714(a)(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), made such an amendment in the reverse.

[339] Sec. 1408(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) (1) struck out "the Congress" and inserted in lieu thereof "the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives"; and (2) struck out "20 working days" and inserted in lieu thereof "45 working days".

The House Committee on National Security reverted back to its former name, Committee on Armed Services, in the 106th Congress. No legislation, however, was enacted to universally amend reference to that committee in Public Law. Sec. 1067 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) did make such a change in specific pieces of legislation and 10 United States Code.

[340] Sec. 734(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 505), redesignated subsecs. (f) and (g) as subsecs. (g) and (h), and added a new subsec. (f).

(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(h)[340] EXCEPTIONS.—The President shall not apply the sanction under this section prohibiting the importation of the products of a foreign person—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(B) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(C) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(3) to—

(A) spare parts,

(B) component parts, but not finished products, essential to United States products or production,

(C) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(D) information and technology essential to United States products or production.

SEC. 73A.[341] NOTIFICATION OF ADMITTANCE OF MTCR ADHERENTS.

(a)[342] POLICY REPORT.—Following any action by the United States that results in a country becoming a MTCR adherent, the President shall transmit promptly to the Congress a report which describes the rationale for such action, together with an assessment of that country's nonproliferation policies, practices, and commitments. Such report shall also include the text of any agreements or understandings between the United States and such

[341] 22 U.S.C. 2797b–1. Sec. 735(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 506), added sec. 73A. Functions in this section are delegated to the Under Secretary of State for International Security Affairs (Department of State Public Notice 2086; Delegation of Authority No. 214; 59 F.R. 50790).

[342] Sec. 1136(d) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "Following any action" and inserted in lieu thereof "(a) POLICY REPORT.—Following any action", and added subsec. (b).

country regarding the terms and conditions of the country's adherence to the MTCR.

(b)[342] INTELLIGENCE ASSESSMENT REPORT.—At such times that a report is transmitted pursuant to subsection (a), the Director of Central Intelligence shall promptly prepare and submit to the Congress a separate report containing any credible information indicating that the country described in subsection (a) has engaged in any activity identified under subparagraph (A), (B), or (C) of section 73(a)(1) within the previous two years.

SEC. 73B.[343] AUTHORITY RELATING TO MTCR ADHERENTS.

Notwithstanding section 73(b), the President may take the actions under section 73(a)(2) under the circumstances described in section 74(b)(2).

Sec. 74.[344] Definitions.

(a)[345] IN GENERAL.—For purposes of this chapter—

(1) the term "missile" means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

(2) the term "Missile Technology Control Regime" or "MTCR" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

(3) the term "MTCR adherent" means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

(4) the term "MTCR Annex" means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

(5) the terms "missile equipment or technology" and "MTCR equipment or technology" mean those items listed in category I or category II of the MTCR Annex;

(6) the term "United States person" has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2));

(7) the term "foreign person" means any person other than a United States person;

(8)(A) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

[343] 22 U.S.C. 2797b–2. Sec. 1137 of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added sec. 73B.

[344] 22 U.S.C. 2797c.

[345] Sec. 1136(a) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) added subsec. designation and "IN GENERAL" before "For purposes of", and added subsec. (b).

(B) in the case of countries with non-market economies (excluding former members of the Warsaw Pact),[346] the term "person" means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of electronics, space systems or equipment, and military aircraft;[347] and

(9) the term "otherwise engaged in the trade of" means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

(b)[345] INTERNATIONAL UNDERSTANDING DEFINED.—For purposes of subsection (a)(3), as it relates to any international understanding concluded with the United States after January 1, 2000, the term "international understanding" means—

(1) any specific agreement by a country not to export, transfer, or otherwise engage in the trade of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act; or

(2) any specific understanding by a country that, notwithstanding section 73(b) of this Act, the United States retains the right to take the actions under section 73(a)(2) of this Act in the case of any export or transfer of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act.

CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION[348]

SEC. 81.[349, 350] SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) IMPOSITION OF SANCTIONS.—

[346] Popularly referred to as the Helms amendment. Sec. 323(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 711), struck out "countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A)" and inserted in lieu thereof "countries with non-market economies (excluding former members of the Warsaw Pact)".

[347] Sec. 323(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 711), struck out "aircraft, electronics, and space systems or equipment" and inserted in lieu thereof "electronics, space systems or equipment, and military aircraft".

[348] Two forms of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 were enacted in 1991. Sec. 505(b) of the first Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; Public Law 102–138; 105 Stat. 727) added chapter 8, sec. 81.

Sec. 305(b) of the second Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182; 105 Stat. 1245) also inserted a new chapter 8, section 81 at this point.

Subsequently, sec. 309(a) of the second Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182; 105 Stat. 1245) repealed title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (the first Chemical and Biological Weapons Control and Warfare Elimination Act), and all amendments made therein.

[349] 22 U.S.C. 2798.

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section,[351] has knowingly and materially contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after January 1, 1980—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration

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[350] Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related congressional reporting requirements, including the following:

"Section 1. *Chemical and Biological Weapons Proliferation and Use Sanctions.* (a) *Chemical and Biological Weapons Proliferation.* The authority and duties vested in me by section 81 of the Arms Export Control Act, as amended ('AECA') (22 U.S.C. 2798), and section 11C of the Export Administration Act of 1979, as amended ('EAA') (50 U.S.C. App. 2410c), are delegated to the Secretary of State, except that:

"(1) The authority and duties vested in me to deny certain United States Government contracts, as provided in section 81(c)(1)(A) of the AECA and section 11C(c)(1)(A) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, as well as the authority and duties vested in me to make the determinations provided for in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA are delegated to the Secretary of Defense. The Secretary of Defense shall notify the Secretary of the Treasury of determinations made pursuant to section 81(c)(2) of the AECA and section 11(c)(2) of the EAA).

"(2) The authority and duties vested in me to prohibit certain imports as provided in section 81(c)(1)(B) of the AECA and section 11C(c)(1)(B) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, and the obligation to implement the exceptions provided in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA, insofar as the exceptions affect imports of goods into the United States, are delegated to the Secretary of the Treasury."

On February 4, 2003, the Department of State determined that entities of Indian origin had engaged in proliferation activities that were in violation of sec. 81 of this Act and the Export Administration Act (Department of State Public Notice 4280; 68 F.R. 8068).

On July 19, 2002, the Department of State determined that numerous entities in China and one of Indian origin had engaged in proliferation activities that were in violation of sec. 81 of this Act, the Export Administration Act, and the Iran-Iraq Arms Nonproliferation Act of 1992 (Department of State Public Notice 4071; 67 F.R. 48696).

[351] Sec. 309(a)(2) of Public Law 102–182 (105 Stat. 1258) provides that "the 'date of the enactment of this section' * * * shall be deemed to refer to the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138)", which was enacted on October 28, 1991.

Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for

the procurement of, any goods or services from any person described in subsection (a)(3).

(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12–month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in para-

graph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

CHAPTER 9—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS [352]

SEC. 91.[353] PURPOSE.

The purpose of this chapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

(1) enhance NATO's forces,

(2) increase NATO standardization and interoperability, and

(3) better distribute defense burdens within the NATO alliance.

SEC. 92.[354] CFE TREATY OBLIGATIONS.

The authorities provided in this chapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

SEC. 93.[355] AUTHORITIES.

(a) [356] GENERAL AUTHORITY.—The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

(1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty's definition of "conventional armaments and equipment limited by the Treaty";

(2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Department of Defense and located in the CFE Treaty's area of application; and

(3) that the President determines are not needed by United States military forces within the CFE Treaty's area of application.

(b) ACCEPTANCE OF NATO ASSISTANCE IN ELIMINATING DIRECT COSTS OF TRANSFERS.—In order to eliminate direct costs of facilitating transfers of defense articles under subsection (a), the United

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[352] Sec. 2 of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102–228; 105 Stat. 1691) added chapter 9, secs. 91–95.

[353] 22 U.S.C. 2799.

[354] 22 U.S.C. 2799a.

[355] 22 U.S.C. 2799b.

[356] In a Memorandum of February 13, 1992, the President delegated "to the Secretary of Defense the functions vested in me by section 93(a) and section 94 of the Arms Export Control Act, as amended ('the Act'), and to the Secretary of State the functions vested in me by section 93(f) of the Act. Consistent with section 2 of the Act, transfers of defense articles under section 93(a) shall be subject to the policy direction of the Secretary of State, including the determination of whether such transfers shall occur." (57 F.R. 6663; February 27, 1992).

States may utilize services provided by NATO or any NATO/CFE country, including inspection, repair, or transportation services with respect to defense articles so transferred.

(c) ACCEPTANCE OF NATO ASSISTANCE IN MEETING CERTAIN UNITED STATES OBLIGATIONS.—In order to facilitate United States compliance with the CFE Treaty-mandated obligations for destruction of conventional armaments and equipment limited by the CFE Treaty, the United States may utilize services or funds provided by NATO or any NATO/CFE country.

(d) AUTHORITY TO TRANSFER ON A GRANT BASIS.—Defense articles may be transferred under subsection (a) without cost to the recipient country.

(e) THIRD COUNTRY TRANSFERS RESTRICTIONS.—For purposes of sections 3(a)(2), 3(a)(3), 3(c), and 3(d) of this Act, defense articles transferred under subsection (a) of this section shall be deemed to have been sold under this Act.

(f)[356] MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.—The President shall ensure that transfers by the United States under subsection (a), taken together with transfers by other NATO/CFE countries in implementing the CFE Treaty, are of such valuations so as to be consistent with the United States policy, embodied in section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the Eastern Mediterranean.

(g) EXPIRATION OF AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the authority of subsection (a) expires at the end of the 40–month period beginning on the date on which the CFE Treaty enters into force.

(2) TRANSITION RULE.—Paragraph (1) does not apply with respect to a transfer of defense articles for which notification under section 94(a) is submitted before the end of the period described in that paragraph.

SEC. 94.[356, 357] NOTIFICATIONS AND REPORTS TO CONGRESS.

(a) NOTIFICATIONS.—Not less than 15 days before transferring any defense articles pursuant to section 93(a), the President shall notify the Committee on Foreign Affairs[358] of the House of Representatives and the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of the Foreign Assistance Act of 1961.

(b) ANNUAL REPORTS.—Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs[358] and the Committee on Armed Services[359] of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

[357] 22 U.S.C. 2799c.

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

[359] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

(1) lists all transfers made to each recipient NATO/CFE country by the United States under section 93(a) during the preceding calendar year;

(2) describes how those transfers further the purposes described in paragraphs (1) through (3) of section 91; and

(3) lists, on a country-by-country basis, all transfers to another country of conventional armaments and equipment limited by the CFE Treaty—

(A) by each NATO/CFE country (other than the United States) in implementing the CFE Treaty, and

(B) by each country of the Eastern Group of States Parties[360] in implementing the CFE Treaty.

SEC. 95.[361] DEFINITIONS.

As used in this chapter—

(1) the term "CFE Treaty" means the Treaty on Conventional Armed Forces in Europe (signed at Paris, November 19, 1990);

(2) the term "conventional armaments and equipment limited by the CFE Treaty" has the same meaning as the term "conventional armaments and equipment limited by the Treaty" does under paragraph 1(J) of article II of the CFE Treaty;

(3) the term "NATO" means the North Atlantic Treaty Organization;

(4) the term "NATO/CFE country" means a member country of NATO that is a party to the CFE Treaty and is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949 (the North Atlantic Treaty); and

(5) the term "country of the Eastern Group of States Parties"[362] means a country that is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955 or a successor state to such a country.[363]

CHAPTER 10—NUCLEAR NONPROLIFERATION CONTROLS[364]

SEC. 101.[365] NUCLEAR ENRICHMENT TRANSFERS.

(a) PROHIBITIONS; SAFEGUARDS AND MANAGEMENT.—Except as provided in subsection (b) of this section, no funds made available

[360] Sec. 402(1) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Warsaw Pact country" and inserted in lieu thereof "country of the Eastern Group of States Parties".

[361] 22 U.S.C. 2799d.

[362] Sec. 402(2)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "Warsaw Pact country" and inserted in lieu thereof "country of the Eastern Group of States Parties".

[363] Sec. 402(2)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) inserted "or a successor state to such a country".

[364] Sec. 826(a) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 515) added chapter 10, sections 101, 102, and 103.

[365] 22 U.S.C. 2799aa. See determinations set out in footnotes in sec. 102(b)(1).

Popularly referred to as the Symington amendment. Similar language was originally enacted as sec. 669 of the Foreign Assistance Act of 1961, and codified at 22 U.S.C. 2429, by sec. 305 of Public Law 94–329. Sec. 669 was amended and restated by sec. 12 of the International Security Assistance Act of 1977 (Public Law 95–92; 91 Stat. 620), further amended by secs. 10(b)(4) and 12 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 735,

to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines delivers nuclear enrichment equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977, unless before such delivery—

(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

(b) CERTIFICATION BY PRESIDENT OF NECESSITY OF CONTINUED ASSISTANCE; DISAPPROVAL BY CONGRESS.—(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within thirty calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

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737); and further amended by sec. 737(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562). Secs. 669 and 670 were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

SEC. 102.[364, 366] **NUCLEAR REPROCESSING TRANSFERS, ILLEGAL EXPORTS FOR NUCLEAR EXPLOSIVE DEVICES, TRANSFERS OF NUCLEAR EXPLOSIVE DEVICES, AND NUCLEAR DETONATIONS.**

(a) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OF NUCLEAR REPROCESSING EQUIPMENT, MATERIALS, OR TECHNOLOGY; EXCEPTIONS; PROCEDURES APPLICABLE.—(1) Except as provided in paragraph (2) of this subsection, no funds made available to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines—

(A) delivers nuclear reprocessing equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977 (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing), or

(B) is a non-nuclear-weapon state which, on or after August 8, 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device.

For purposes of clause (B), an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export (or attempted export) by that country.

(2) Notwithstanding paragraph (1) of this subsection, the President in any fiscal year may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing during that fiscal year to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

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[366] 22 U.S.C. 2799aa–1. Popularly referred to as the Glenn amendment. Similar language was originally enacted as sec. 670 of the Foreign Assistance Act of 1961, and codified at 22 U.S.C. 2429a, by sec. 12 of Public Law 95–92 (91 Stat. 620); amended and restated by sec. 737(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1562); and further amended by sec. 1204 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 277). Sec. 670 (and sec. 669) were repealed by sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of the Foreign Relations Authorization Act; Public Law 103–236; 108 Stat. 519), after section 826(a) of that Act enacted two new sections into the Arms Export Control Act (secs. 101 and 102; at 22 U.S.C. 2799aa and 2799aa–1) to state nuclear nonproliferation controls.

(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(b) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES; EXCEPTIONS; PROCEDURES APPLICABLE.—(1)[367] Except as provided in para-

[367] On May 13, 1998, the President determined "that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998. The relevant agencies and instrumentalities of the United States Government are hereby directed to take the necessary actions to impose the sanctions described in section 102(b)(2) * * *" (Presidential Determination 98–22 of May 13, 1998; 63 F.R. 27665). In support of that determination, the Department of State issued Public Notice 2825 (63 F.R. 27781; May 15, 1998), to revoke all "licenses and other approvals to export or otherwise transfer defense articles and defense services from the United States to India, or transfer U.S. origin defense articles and defense services from a foreign destination to India, or temporarily import defense articles from India pursuant to Section 38 of the Arms Export Control Act * * *".

On May 30, 1998, the President determined "that Pakistan, a non-nuclear-weapon state, detonated a nuclear explosive device on May 28, 1998. The relevant agencies and instrumentalities of the United States Government are hereby directed to take the necessary actions to impose the sanctions described in section 102(b)(2) * * *" (Presidential Determination 98–25 of May 30, 1998; 63 F.R. 31881). In support of that determination, the Department of State issued Public Notice 2835 (63 F.R. 33122; May 30, 1998), to revoke all "licenses and other approvals to export or otherwise transfer defense articles and defense services from the United States to Pakistan, or transfer U.S. origin defense articles and defense services from a foreign destination to Pakistan, or temporarily import defense articles from Pakistan pursuant to Section 38 of the Arms Export Control Act * * *".

The India-Pakistan Relief Act, enacted as title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(a) of Public Law 105–277; 112 Stat. 2681), however, authorized the President to waive the application of sanctions against India and Pakistan for one year. The President issued such a determination as referred to in sec. 902 of the India-Pakistan Relief Act on December 1, 1998, that provided: "I hereby waive until October 21, 1999, the sanctions and prohibitions contained in section 101 and 102 of the Arms Export Control Act, section 620E(e) of the Foreign Assistance Act of 1961, and section 2(b)(4)of the Export-Import Bank Act of 1945, insofar as such sanctions and prohibitions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency with respect to Pakistan and India; assistance to Pakistan and India under the 'International Military Education and Training' program; the making of any loan or financial or technical assistance to Pakistan by any international financial institution in support of the assistance program that Pakistan is negotiating with the International Monetary Fund." (Presidential Determination No. 99–7; *Weekly Compilation of Presidential Documents,*vol. 34, no. 49, December 7, 1998, p. 2402).

The President extended the waiver on September 30, 1999 (Presidential Determination No. 99–44; 64 F.R. 54503).

In 1999, the President exercised authority pursuant to the India-Pakistan Relief Act of 1998 in Presidential Determination No. 99–38 of September 21, 1999 (64 F.R. 53573); Presidential Determination No. 99–44 of September 30, 1999 (64 F.R. 54503); and Presidential Determination No. 2000–4 of October 27, 1999 (64 F.R. 60649).

Title IX of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1283) repealed the India-Pakistan Relief Act, effective October 21, 1999. In its place, title IX of that Act, as amended, provided the following:

"TITLE IX

"WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

"SEC. 9001. (a) WAIVER AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the President may waive, with respect to India and Pakistan, the application of any sanction contained in section 101 or 102 of the Arms Export Control Act (22 U.S.C. 2799aa or 22

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graphs (4), (5), and (6), in the event that the President determines that any country, after the effective date of part B of the Nuclear Proliferation Prevention Act of 1994—

(A) transfers to a non-nuclear-weapon state a nuclear explosive device,

(B) is a non-nuclear-weapon state and either—

(i) receives a nuclear explosive device, or

(ii) detonates a nuclear explosive device,

(C) transfers to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by the transferring country to be

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U.S.C. 2799aa–1), section 2(b)(4) of the Export Import Bank Act of 1945 (12 U.S.C. 635(b)(4)), or section 620E(e) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2375(e)).

"(b) EXCEPTION.—The authority to waive the application of a sanction or prohibition (or portion thereof) under subsection (a) shall not apply with respect to a sanction or prohibition contained in subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines, and so certifies to the Congress, that the application of the restriction would not be in the national security interests of the United States.

"(c) TERMINATAION OF WAIVER.—The President may not exercise the authority of subsection (a), and any waiver previously issued under subsection (a) shall cease to apply, with respect to India or Pakistan, if that country detonates a nuclear explosive device after the date of the enactment of this Act or otherwise takes such action which would cause the President to report pursuant to section 102(b)(1) of the Arms Export Control Act.

"(d) TARGETED SANCTIONS.—

"(1) SENSE OF THE CONGRESS.—

"(A) it is the sense of the Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that this control list requires refinement; and

"(B) export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.

"(2) REPORTING REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit both a classified and unclassified report to the appropriate congressional committees listing those Indian and Pakistani entities whose activities contribute to missile programs or weapons of mass destruction programs.

"(e) CONGRESSIONAL NOTIFICATION.—The issuance of a license for export of a defense article, defense service, or technology under the authority of this section shall be subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), including the transmittal of information and the application of congressional review procedures. The application of these requirements shall be subject to the dollar amount thresholds specified in that section.

"(f) REPEAL.—The India-Pakistan Relief Act (title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, as contained in section 101(a) of Public Law 105–277) is repealed effective October 21, 1999.".

The President waived the application of sanctions under the new law on October 27, 1999 (Presidential Determination No. 2000–4; 64 F.R. 60649), to the following extent:

"(1) with respect to India, insofar as such sanctions would otherwise apply to activities of the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency; assistance under the 'International Military Education and Training' program; the making of any loan or the providing of any credit to the Government of India by any U.S. bank; assistance to the Asian elephant Conservation Fund, the Rhinoceros and Tiger conservation Fund, and the Indo-American Environmental Leadership program; and any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and

"(2) with respect to Pakistan, insofar as such sanctions would otherwise apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity; and the making of any loan or the providing of any credit to the Government of Pakistan by any U.S. bank." (Presidential Determination No. 2000–4; October 27, 1999; 64 F.R. 60649).

The President and executive branch agencies subsequently waived or adjusted sanctions against particular Indian and Pakistani entities: see Presidential Determination No. 2000–18 (March 18, 2000; 65 F.R. 16297); Bureau of Export Administration , 15 CFR Part 744 (March 17, 2000; 65 F.R. 14444); and Presidential Determination No. 2001–11 (January 19, 2001; 66 F.R. 8503).

On September 22, 2001, the President lifted all nuclear test-related sanctions against India and Pakistan, under the authority granted him in the Defense Appropriations Act, FY 2000 (Presidential Determination No. 2001–28; 66 F.R. 50095).

On October 27, 2001, the President signed Public Law 107–57 (115 Stat. 403), authorizing the waiver of remaining sanctions imposed against Pakistan for debt arrearage and the military overthrow of its democratically elected government. This authority remains available through fiscal year 2003.

intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

(D) is a non-nuclear-weapon state and seeks and receives any design information or component which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

then the President shall forthwith report in writing his determination to the Congress and shall forthwith impose the sanctions described in paragraph (2) against that country.

(2) The sanctions referred to in paragraph (1) are as follows:

(A) The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for humanitarian assistance or food or other agricultural commodities.

(B) The United States Government shall terminate—

(i) sales to that country under this Act of any defense articles, defense services, or design and construction services, and

(ii) licenses for the export to that country of any item on the United States Munitions List.

(C) The United States Government shall terminate all foreign military financing for that country under this Act.

(D) The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, except that the sanction of this subparagraph shall not apply—

(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities),[368]

(ii) to medicines, medical equipment, and[369] humanitarian assistance, or[368]

(iii)[368] to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity.

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[368] Sec. 2(a) of the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627) struck out "or" at the end of clause (i); struck out a period at the end of clause (ii) and inserted in lieu thereof ", or"; and added clause (iii). Subsecs. (d) and (e) of that section further provided:

"(d) APPLICATION OF AMENDMENTS.—The amendment made by subsection (a)(3) shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act through September 30, 1999.

"(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.".

[369] Sec. 2(c) of the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627) inserted "medicines, medical equipment, and" after "to". Subsec. (e) of that section further provided:

"(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.".

(E) The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by any international financial institution.

(F) The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities, which includes fertilizer.[370]

(G) The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of specific goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

(3) As used in this subsection—

(A) the term "design information" means specific information that relates to the design of a nuclear explosive device and that is not available to the public; and

(B) the term "component" means a specific component of a nuclear explosive device.

(4)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, delay the imposition of sanctions which would otherwise be required under paragraph (1)(A) or (1)(B) of this subsection if the President first transmits to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate imposition of sanctions on that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (5) of this subsection shall, if introduced in either House within thirty days of continuous session after the Congress receives this certification, be considered in the Senate in accordance with subparagraph (C) of this paragraph.

(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

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[370] Sec. 2(b) of the Agriculture Export Relief Act of 1998 (Public Law 105–194; 112 Stat. 627) struck out the period at the end of subpara. (F) and inserted in lieu thereof ", which includes fertilizer.". Subsec. (e) of that section also provided the following:

"(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.".

(D) For purposes of this paragraph, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress having received on ____ a certification by the President under section 102(b)(4) of the Arms Export Control Act with respect to ____, the Congress hereby authorizes the President to exercise the waiver authority contained in section 102(b)(5) of that Act.", with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

(5) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (4) of this subsection, the President may waive any sanction which would otherwise be required under paragraph (1)(A) or (1)(B) if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the imposition of such sanction would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(6)(A) In the event the President is required to impose sanctions against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform such country and shall impose the required sanctions beginning 30 days after submitting to the Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of such sanctions.

(B) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs[371] of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(7) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(8) The President may not delegate or transfer his power, authority, or discretion to make or modify determinations under this subsection.

(c) NON-NUCLEAR-WEAPON STATE DEFINED.—As used in this section, the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

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

SEC. 103.[364, 372] **DEFINITION OF NUCLEAR EXPLOSIVE DEVICE.**

As used in this chapter, the term "nuclear explosive device" has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994.

[372] 22 U.S.C. 2799aa–2.

c. Microenterprise Report to Congress

Partial text of Public Law 108–31 [H.R. 192], 117 Stat. 775, approved June 17, 2003

AN ACT To amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000. * * *[1]

SEC. 2. AMENDMENTS TO THE MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961. * * *[2]

SEC. 3. AMENDMENTS TO THE MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961. * * *[2]

SEC. 4. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.

(b) REPORTS FOR FISCAL YEAR 2006 AND BEYOND.—Beginning with fiscal year 2006, the Administrator of the United States Agency for International Development shall annually submit to Congress on a timely basis a report that addresses the United States Agency for International Development's compliance with the Microenterprise for Self-Reliance Act of 2000 by documenting—

(1) the percentage of its resources that were allocated to the very poor (as defined in paragraph (5) of section 131(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(f)(5))) based on the data collected from its partners using the certified methods; and

(2) the absolute number of the very poor reached.

[1] Sec. 1 amendments have been incorporated into the Microenterprise for Self-Reliance Act of 2000; see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[2] Secs. 2 and 3 amendments have been incorporated into the Foreign Assistance Act of 1961.

d. United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003

Public Law 108–25 [H.R. 1298], 117 Stat. 711, approved May 27, 2003

AN ACT To provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

	Page
Sec. 1. Short title; table of contents	504
Sec. 2. Findings	505
Sec. 3. Definitions	510
Sec. 4. Purpose	511
Sec. 5. Authority to consolidate and combine reports	511
TITLE I—POLICY PLANNING AND COORDINATION	
Sec. 101. Development of a comprehensive, five-year, global strategy	511
Sec. 102. HIV/AIDS Response Coordinator	515
TITLE II—SUPPORT FOR MULTILATERAL FUNDS, PROGRAMS, AND PUBLIC-PRIVATE PARTNERSHIPS	
Sec. 201. Sense of Congress on public-private partnerships	515
Sec. 202. Participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria	516
Sec. 203. Voluntary contributions to international vaccine funds	520
TITLE III—BILATERAL EFFORTS	
SUBTITLE A—GENERAL ASSISTANCE AND PROGRAMS	
Sec. 301. Assistance to combat HIV/AIDS	520
Sec. 302. Assistance to combat tuberculosis	522
Sec. 303. Assistance to combat malaria	522
Sec. 304. Pilot program for the placement of health care professionals in overseas areas severely affected by HIV/AIDS, tuberculosis, and malaria	523
Sec. 305. Report on treatment activities by relevant executive branch agencies	524
Sec. 306. Strategies to improve injection safety	525
Sec. 307. Study on illegal diversions of prescription drugs	525
SUBTITLE B—ASSISTANCE FOR CHILDREN AND FAMILIES	
Sec. 311. Findings	526
Sec. 312. Policy and requirements	527
Sec. 313. Annual reports on prevention of mother-to-child transmission of the HIV infection	527

[1] 22 U.S.C. 7601 note.

Sec. 314. Pilot program of assistance for children and families affected by HIV/AIDS 528
Sec. 315. Pilot program on family survival partnerships 529

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations 531
Sec. 402. Sense of Congress 531
Sec. 403. Allocation of funds 532
Sec. 404. Assistance from the United States private sector to prevent and reduce HIV/AIDS in sub-Saharan Africa 532

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

Sec. 501. Modification of the Enhanced HIPC Initiative 533
Sec. 502. Report on expansion of debt relief to non-HIPC countries 535
Sec. 503. Authorization of appropriations 535

SEC. 2.[2] FINDINGS.

Congress makes the following findings:

(1) During the last 20 years, HIV/AIDS has assumed pandemic proportions, spreading from the most severely affected regions, sub-Saharan Africa and the Caribbean, to all corners of the world, and leaving an unprecedented path of death and devastation.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 65,000,000 individuals worldwide have been infected with HIV since the epidemic began, more than 25,000,000 of these individuals have lost their lives to the disease, and more than 14,000,000 children have been orphaned by the disease. HIV/AIDS is the fourth-highest cause of death in the world.

(3)(A) At the end of 2002, an estimated 42,000,000 individuals were infected with HIV or living with AIDS, of which more than 75 percent live in Africa or the Caribbean. Of these individuals, more than 3,200,000 were children under the age of 15 and more than 19,200,000 were women.

(B) Women are four times more vulnerable to infection than are men and are becoming infected at increasingly high rates, in part because many societies do not provide poor women and young girls with the social, legal, and cultural protections against high risk activities that expose them to HIV/AIDS.

(C) Women and children who are refugees or are internally displaced persons are especially vulnerable to sexual exploitation and violence, thereby increasing the possibility of HIV infection.

(4) As the leading cause of death in sub-Saharan Africa, AIDS has killed more than 19,400,000 individuals (more than 3 times the number of AIDS deaths in the rest of the world) and will claim the lives of one-quarter of the population, mostly adults, in the next decade.

(5) An estimated 2,000,000 individuals in Latin America and the Caribbean and another 7,100,000 individuals in Asia and the Pacific region are infected with HIV or living with AIDS. Infection rates are rising alarmingly in Eastern Europe (especially in the Russian Federation), Central Asia, and China.

[2] 22 U.S.C. 7601.

(6) HIV/AIDS threatens personal security by affecting the health, lifespan, and productive capacity of the individual and the social cohesion and economic well-being of the family.

(7) HIV/AIDS undermines the economic security of a country and individual businesses in that country by weakening the productivity and longevity of the labor force across a broad array of economic sectors and by reducing the potential for economic growth over the long term.

(8) HIV/AIDS destabilizes communities by striking at the most mobile and educated members of society, many of whom are responsible for security at the local level and governance at the national and subnational levels as well as many teachers, health care personnel, and other community workers vital to community development and the effort to combat HIV/AIDS. In some countries the overwhelming challenges of the HIV/AIDS epidemic are accelerating the outward migration of critically important health care professionals.

(9) HIV/AIDS weakens the defenses of countries severely affected by the HIV/AIDS crisis through high infection rates among members of their military forces and voluntary peacekeeping personnel. According to UNAIDS, in sub-Saharan Africa, many military forces have infection rates as much as five times that of the civilian population.

(10) HIV/AIDS poses a serious security issue for the international community by—

(A) increasing the potential for political instability and economic devastation, particularly in those countries and regions most severely affected by the disease;

(B) decreasing the capacity to resolve conflicts through the introduction of peacekeeping forces because the environments into which these forces are introduced pose a high risk for the spread of HIV/AIDS; and

(C) increasing the vulnerability of local populations to HIV/AIDS in conflict zones from peacekeeping troops with HIV infection rates significantly higher than civilian populations.

(11) The devastation wrought by the HIV/AIDS pandemic is compounded by the prevalence of tuberculosis and malaria, particularly in developing countries where the poorest and most vulnerable members of society, including women, children, and those individuals living with HIV/AIDS, become infected. According to the World Health Organization (WHO), HIV/AIDS, tuberculosis, and malaria accounted for more than 5,700,000 deaths in 2001 and caused debilitating illnesses in millions more.

(12) Together, HIV/AIDS, tuberculosis, malaria and related diseases are undermining agricultural production throughout Africa. According to the United Nations Food and Agricultural Organization, 7,000,000 agricultural workers throughout 25 African countries have died from AIDS since 1985. Countries with poorly developed agricultural systems, which already face chronic food shortages, are the hardest hit, particularly in sub-Saharan Africa, where high HIV prevalence rates are

compounding the risk of starvation for an estimated 14,400,000 people.

(13) Tuberculosis is the cause of death for one out of every three people with AIDS worldwide and is a highly communicable disease. HIV infection is the leading threat to tuberculosis control. Because HIV infection so severely weakens the immune system, individuals with HIV and latent tuberculosis infection have a 100 times greater risk of developing active tuberculosis diseases thereby increasing the risk of spreading tuberculosis to others. Tuberculosis, in turn, accelerates the onset of AIDS in individuals infected with HIV.

(14) Malaria, the most deadly of all tropical parasitic diseases, has been undergoing a dramatic resurgence in recent years due to increasing resistance of the malaria parasite to inexpensive and effective drugs. At the same time, increasing resistance of mosquitoes to standard insecticides makes control of transmission difficult to achieve. The World Health Organization estimates that between 300,000,000 and 500,000,000 new cases of malaria occur each year, and annual deaths from the disease number between 2,000,000 and 3,000,000. Persons infected with HIV are particularly vulnerable to the malaria parasite. The spread of HIV infection contributes to the difficulties of controlling resurgence of the drug resistant malaria parasite.

(15) HIV/AIDS is first and foremost a health problem. Successful strategies to stem the spread of the HIV/AIDS pandemic will require clinical medical interventions, the strengthening of health care delivery systems and infrastructure, and determined national leadership and increased budgetary allocations for the health sector in countries affected by the epidemic as well as measures to address the social and behavioral causes of the problem and its impact on families, communities, and societal sectors.

(16) Basic interventions to prevent new HIV infections and to bring care and treatment to people living with AIDS, such as voluntary counseling and testing and mother-to-child transmission programs, are achieving meaningful results and are cost-effective. The challenge is to expand these interventions from a pilot program basis to a national basis in a coherent and sustainable manner.

(17) Appropriate treatment of individuals with HIV/AIDS can prolong the lives of such individuals, preserve their families, prevent children from becoming orphans, and increase productivity of such individuals by allowing them to lead active lives and reduce the need for costly hospitalization for treatment of opportunistic infections caused by HIV.

(18) Nongovernmental organizations, including faith-based organizations, with experience in health care and HIV/AIDS counseling, have proven effective in combating the HIV/AIDS pandemic and can be a resource in assisting indigenous organizations in severely affected countries in their efforts to provide treatment and care for individuals infected with HIV/AIDS.

(19) Faith-based organizations are making an important contribution to HIV prevention and AIDS treatment programs

around the world. Successful HIV prevention programs in Uganda, Jamaica, and elsewhere have included local churches and faith-based groups in efforts to promote behavior changes to prevent HIV, to reduce stigma associated with HIV infection, to treat those afflicted with the disease, and to care for orphans. The Catholic Church alone currently cares for one in four people being treated for AIDS worldwide. Faith-based organizations possess infrastructure, experience, and knowledge that will be needed to carry out these programs in the future and should be an integral part of United States efforts.

(20)(A) Uganda has experienced the most significant decline in HIV rates of any country in Africa, including a decrease among pregnant women from 20.6 percent in 1991 to 7.9 percent in 2000.

(B) Uganda made this remarkable turnaround because President Yoweri Museveni spoke out early, breaking long-standing cultural taboos, and changed widespread perceptions about the disease. His leadership stands as a model for ways political leaders in Africa and other developing countries can mobilize their nations, including civic organizations, professional associations, religious institutions, business and labor to combat HIV/AIDS.

(C) Uganda's successful AIDS treatment and prevention program is referred to as the ABC model: "Abstain, Be faithful, use Condoms", in order of priority. Jamaica, Zambia, Ethiopia and Senegal have also successfully used the ABC model. Beginning in 1986, Uganda brought about a fundamental change in sexual behavior by developing a low-cost program with the message: "Stop having multiple partners. Be faithful. Teenagers, wait until you are married before you begin sex.".

(D) By 1995, 95 percent of Ugandans were reporting either one or zero sexual partners in the past year, and the proportion of sexually active youth declined significantly from the late 1980s to the mid-1990s. The greatest percentage decline in HIV infections and the greatest degree of behavioral change occurred in those 15 to 19 years old. Uganda's success shows that behavior change, through the use of the ABC model, is a very successful way to prevent the spread of HIV.

(21) The magnitude and scope of the HIV/AIDS crisis demands a comprehensive, long-term, international response focused upon addressing the causes, reducing the spread, and ameliorating the consequences of the HIV/AIDS pandemic, including—

(A) prevention and education, care and treatment, basic and applied research, and training of health care workers, particularly at the community and provincial levels, and other community workers and leaders needed to cope with the range of consequences of the HIV/AIDS crisis;

(B) development of health care infrastructure and delivery systems through cooperative and coordinated public efforts and public and private partnerships;

(C) development and implementation of national and community-based multisector strategies that address the impact of HIV/AIDS on the individual, family, community,

and nation and increase the participation of at-risk populations in programs designed to encourage behavioral and social change and reduce the stigma associated with HIV/AIDS; and

(D) coordination of efforts between international organizations such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the World Health Organization (WHO), national governments, and private sector organizations, including faith-based organizations.

(22) The United States has the capacity to lead and enhance the effectiveness of the international community's response by—

(A) providing substantial financial resources, technical expertise, and training, particularly of health care personnel and community workers and leaders;

(B) promoting vaccine and microbicide research and the development of new treatment protocols in the public and commercial pharmaceutical research sectors;

(C) making available pharmaceuticals and diagnostics for HIV/AIDS therapy;

(D) encouraging governments and faith-based and community-based organizations to adopt policies that treat HIV/AIDS as a multisectoral public health problem affecting not only health but other areas such as agriculture, education, the economy, the family and society, and assisting them to develop and implement programs corresponding to these needs;

(E) promoting healthy lifestyles, including abstinence, delaying sexual debut, monogamy, marriage, faithfulness, use of condoms, and avoiding substance abuse; and

(F) encouraging active involvement of the private sector, including businesses, pharmaceutical and biotechnology companies, the medical and scientific communities, charitable foundations, private and voluntary organizations and nongovernmental organizations, faith-based organizations, community-based organizations, and other nonprofit entities.

(23) Prostitution and other sexual victimization are degrading to women and children and it should be the policy of the United States to eradicate such practices. The sex industry, the trafficking of individuals into such industry, and sexual violence are additional causes of and factors in the spread of the HIV/AIDS epidemic. One in nine South Africans is living with AIDS, and sexual assault is rampant, at a victimization rate of one in three women. Meanwhile in Cambodia, as many as 40 percent of prostitutes are infected with HIV and the country has the highest rate of increase of HIV infection in all of Southeast Asia. Victims of coercive sexual encounters do not get to make choices about their sexual activities.

(24) Strong coordination must exist among the various agencies of the United States to ensure effective and efficient use of financial and technical resources within the United States

Government with respect to the provision of international HIV/AIDS assistance.

(25) In his address to Congress on January 28, 2003, the President announced the Administration's intention to embark on a five-year emergency plan for AIDS relief, to confront HIV/AIDS with the goals of preventing 7,000,000 new HIV/AIDS infections, treating at least 2,000,000 people with life-extending drugs, and providing humane care for millions of people suffering from HIV/AIDS, and for children orphaned by HIV/AIDS.

(26) In this address to Congress, the President stated the following: "Today, on the continent of Africa, nearly 30,000,000 people have the AIDS virus—including 3,000,000 children under the age of 15. There are whole countries in Africa where more than one-third of the adult population carries the infection. More than 4,000,000 require immediate drug treatment. Yet across that continent, only 50,000 AIDS victims—only 50,000—are receiving the medicine they need.".

(27) Furthermore, the President focused on care and treatment of HIV/AIDS in his address to Congress, stating the following: "Because the AIDS diagnosis is considered a death sentence, many do not seek treatment. Almost all who do are turned away. A doctor in rural South Africa describes his frustration. He says, 'We have no medicines. Many hospitals tell people, you've got AIDS, we can't help you. Go home and die.' In an age of miraculous medicines, no person should have to hear those words. AIDS can be prevented. Anti-retroviral drugs can extend life for many years * * * Ladies and gentlemen, seldom has history offered a greater opportunity to do so much for so many.".

(28) Finally, the President stated that "[w]e have confronted, and will continue to confront, HIV/AIDS in our own country", proposing now that the United States should lead the world in sparing innocent people from a plague of nature, and asking Congress "to commit $15,000,000,000 over the next five years, including nearly $10,000,000,000 in new money, to turn the tide against AIDS in the most afflicted nations of Africa and the Caribbean".

SEC. 3.[3] DEFINITIONS.

In this Act:

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

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) GLOBAL FUND.—The term "Global Fund" means the public-private partnership known as the Global Fund to Fight AIDS, Tuberculosis and Malaria established pursuant to Article 80 of the Swiss Civil Code.

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

[3] 22 U.S.C. 7602.

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

(6) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term "relevant executive branch agencies" means the Department of State, the United States Agency for International Development, and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or the Foreign Assistance Act of 1961.

SEC. 4.[4] PURPOSE.

The purpose of this Act is to strengthen United States leadership and the effectiveness of the United States response to certain global infectious diseases by—

(1) establishing a comprehensive, integrated five-year, global strategy to fight HIV/AIDS that encompasses a plan for phased expansion of critical programs and improved coordination among relevant executive branch agencies and between the United States and foreign governments and international organizations;

(2) providing increased resources for multilateral efforts to fight HIV/AIDS;

(3) providing increased resources for United States bilateral efforts, particularly for technical assistance and training, to combat HIV/AIDS, tuberculosis, and malaria;

(4) encouraging the expansion of private sector efforts and expanding public-private sector partnerships to combat HIV/AIDS; and

(5) intensifying efforts to support the development of vaccines and treatment for HIV/AIDS, tuberculosis, and malaria.

SEC. 5.[5] AUTHORITY TO CONSOLIDATE AND COMBINE REPORTS.

With respect to the reports required by this Act to be submitted by the President, to ensure an efficient use of resources, the President may, in his discretion and notwithstanding any other provision of this Act, consolidate or combine any of these reports, except for the report required by section 101 of this Act, so long as the required elements of each report are addressed and reported within a 90-day period from the original deadline date for submission of the report specified in this Act. The President may also enter into contracts with organizations with relevant expertise to develop, originate, or contribute to any of the reports required by this Act to be submitted by the President.

TITLE I—POLICY PLANNING AND COORDINATION

SEC. 101.[6] DEVELOPMENT OF A COMPREHENSIVE, FIVE-YEAR, GLOBAL STRATEGY.

(a) STRATEGY.—The President shall establish a comprehensive, integrated, five-year strategy to combat global HIV/AIDS that strengthens the capacity of the United States to be an effective

[4] 22 U.S.C. 7603.
[5] 22 U.S.C. 7604.
[6] 22 U.S.C. 7611.

leader of the international campaign against HIV/AIDS. Such strategy shall maintain sufficient flexibility and remain responsive to the ever-changing nature of the HIV/AIDS pandemic and shall—

(1) include specific objectives, multisectoral approaches, and specific strategies to treat individuals infected with HIV/AIDS and to prevent the further spread of HIV infections, with a particular focus on the needs of families with children (including the prevention of mother-to-child transmission), women, young people, and children (such as unaccompanied minor children and orphans);

(2) as part of the strategy, implement a tiered approach to direct delivery of care and treatment through a system based on central facilities augmented by expanding circles of local delivery of care and treatment through local systems and capacity;

(3) assign priorities for relevant executive branch agencies;

(4) provide that the reduction of HIV/AIDS behavioral risks shall be a priority of all prevention efforts in terms of funding, educational messages, and activities by promoting abstinence from sexual activity and substance abuse, encouraging monogamy and faithfulness, promoting the effective use of condoms, and eradicating prostitution, the sex trade, rape, sexual assault and sexual exploitation of women and children;

(5) improve coordination and reduce duplication among relevant executive branch agencies, foreign governments, and international organizations;

(6) project general levels of resources needed to achieve the stated objectives;

(7) expand public-private partnerships and the leveraging of resources;

(8) maximize United States capabilities in the areas of technical assistance and training and research, including vaccine research;

(9) establish priorities for the distribution of resources based on factors such as the size and demographics of the population with HIV/AIDS, tuberculosis, and malaria and the needs of that population and the existing infrastructure or funding levels that may exist to cure, treat, and prevent HIV/AIDS, tuberculosis, and malaria; and

(10) include initiatives describing how the President will maximize the leverage of private sector dollars in reduction and treatment of HIV/AIDS, tuberculosis, and malaria.

(b) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report setting forth the strategy described in subsection (a).

(2) REPORT CONTENTS.—The report required by paragraph (1) shall include a discussion of the elements described in paragraph (3) and may include a discussion of additional elements relevant to the strategy described in subsection (a). Such discussion may include an explanation as to why a particular element described in paragraph (3) is not relevant to such strategy.

(3) REPORT ELEMENTS.—The elements referred to in paragraph (2) are the following:

(A) The objectives, general and specific, of the strategy.

(B) A description of the criteria for determining success of the strategy.

(C) A description of the manner in which the strategy will address the fundamental elements of prevention and education, care, and treatment (including increasing access to pharmaceuticals and to vaccines), the promotion of abstinence, monogamy, avoidance of substance abuse, and use of condoms, research (including incentives for vaccine development and new protocols), training of health care workers, the development of health care infrastructure and delivery systems, and avoidance of substance abuse.

(D) A description of the manner in which the strategy will promote the development and implementation of national and community-based multisectoral strategies and programs, including those designed to enhance leadership capacity particularly at the community level.

(E) A description of the specific strategies developed to meet the unique needs of women, including the empowerment of women in interpersonal situations, young people and children, including those orphaned by HIV/AIDS and those who are victims of the sex trade, rape, sexual abuse, assault, and exploitation.

(F) A description of the specific strategies developed to encourage men to be responsible in their sexual behavior, child rearing and to respect women including the reduction of sexual violence and coercion.

(G) A description of the specific strategies developed to increase women's access to employment opportunities, income, productive resources, and microfinance programs.

(H) A description of the programs to be undertaken to maximize United States contributions in the areas of technical assistance, training (particularly of health care workers and community-based leaders in affected sectors), and research, including the promotion of research on vaccines and microbicides.

(I) An identification of the relevant executive branch agencies that will be involved and the assignment of priorities to those agencies.

(J) A description of the role of each relevant executive branch agency and the types of programs that the agency will be undertaking.

(K) A description of the mechanisms that will be utilized to coordinate the efforts of the relevant executive branch agencies, to avoid duplication of efforts, to enhance on-site coordination efforts, and to ensure that each agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

(L) A description of the mechanisms that will be utilized to ensure greater coordination between the United States and foreign governments and international organizations

including the Global Fund, UNAIDS, international financial institutions, and private sector organizations.

(M) The level of resources that will be needed on an annual basis and the manner in which those resources would generally be allocated among the relevant executive branch agencies.

(N) A description of the mechanisms to be established for monitoring and evaluating programs, promoting successful models, and for terminating unsuccessful programs.

(O) A description of the manner in which private, nongovernmental entities will factor into the United States Government-led effort and a description of the type of partnerships that will be created to maximize the capabilities of these private sector entities and to leverage resources.

(P) A description of the ways in which United States leadership will be used to enhance the overall international response to the HIV/AIDS pandemic and particularly to heighten the engagement of the member states of the G–8 and to strengthen key financial and coordination mechanisms such as the Global Fund and UNAIDS.

(Q) A description of the manner in which the United States strategy for combating HIV/AIDS relates to and supports other United States assistance strategies in developing countries.

(R) A description of the programs to be carried out under the strategy that are specifically targeted at women and girls to educate them about the spread of HIV/AIDS.

(S) A description of efforts being made to address the unique needs of families with children with respect to HIV/AIDS, including efforts to preserve the family unit.

(T) An analysis of the emigration of critically important medical and public health personnel, including physicians, nurses, and supervisors from sub-Saharan African countries that are acutely impacted by HIV/AIDS, including a description of the causes, effects, and the impact on the stability of health infrastructures, as well as a summary of incentives and programs that the United States could provide, in concert with other private and public sector partners and international organizations, to stabilize health institutions by encouraging critical personnel to remain in their home countries.

(U) A description of the specific strategies developed to promote sustainability of HIV/AIDS pharmaceuticals (including antiretrovirals) and the effects of drug resistance on HIV/AIDS patients.

(V) A description of the specific strategies to ensure that the extraordinary benefit of HIV/AIDS pharmaceuticals (especially antiretrovirals) are not diminished through the illegal counterfeiting of pharmaceuticals and black market sales of such pharmaceuticals.

(W) An analysis of the prevalence of Human Papilloma Virus (HPV) in sub-Saharan Africa and the impact that

condom usage has upon the spread of HPV in sub-Saharan Africa.

(c) STUDY; DISTRIBUTION OF RESOURCES.—

(1) STUDY.—Not later than 3 years after the date of the enactment of this Act, the Institute of Medicine shall publish findings comparing the success rates of the various programs and methods used under the strategy described in subsection (a) to reduce, prevent, and treat HIV/AIDS, tuberculosis, and malaria.

(2) DISTRIBUTION OF RESOURCES.— In prioritizing the distribution of resources under the strategy described in subsection (a), the President shall consider the findings published by the Institute of Medicine under this subsection.

SEC. 102.[7] HIV/AIDS RESPONSE COORDINATOR.

(a) ESTABLISHMENT OF POSITION.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 265(a)) is amended—
* * *[8]

(b) RESOURCES.—Not later than 90 days after the date of enactment of this Act, the President shall specify the necessary financial and personnel resources, from funds appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance, that shall be assigned to and under the direct control of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally to establish and maintain the duties and supporting activities assigned to the Coordinator by this Act and the amendments made by this Act.

(c) ESTABLISHMENT OF SEPARATE ACCOUNT.—There is established in the general fund of the Treasury a separate account which shall be known as the "Activities to Combat HIV/AIDS Globally Fund" and which shall be administered by the Coordinator of United States Government Activities to Combat HIV/AIDS Globally. There shall be deposited into the Fund all amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance, except for amounts appropriated for United States contributions to the Global Fund.

TITLE II—SUPPORT FOR MULTILATERAL FUNDS, PROGRAMS, AND PUBLIC-PRIVATE PARTNERSHIPS

SEC. 201.[9] SENSE OF CONGRESS ON PUBLIC-PRIVATE PARTNERSHIPS.

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

(1) Innovative partnerships between governments and organizations in the private sector (including foundations, universities, corporations, faith-based and community-based organizations, and other nongovernmental organizations) have proliferated in recent years, particularly in the area of health.

(2) Public-private sector partnerships multiply local and international capacities to strengthen the delivery of health services in developing countries and to accelerate research for vaccines and other pharmaceutical products that are essential

[7] 22 U.S.C. 7612.

[8] For the State Department Basic Authorities Act of 1956, see *Legislation on Foreign Relations Through 2002*, vol. II.

[9] 22 U.S.C. 7621.

to combat infectious diseases decimating the populations of these countries.

(3) These partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which neither the public nor the private sector can achieve alone.

(4) Sustaining existing public-private partnerships and building new ones are critical to the success of the international community's efforts to combat HIV/AIDS and other infectious diseases around the globe.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships should be a priority element of the strategy pursued by the United States to combat the HIV/AIDS pandemic and other global health crises; and

(2) the United States should systematically track the evolution of these partnerships and work with others in the public and private sector to profile and build upon those models that are most effective.

SEC. 202.[10] PARTICIPATION IN THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA.

(a) FINDINGS.—The Congress finds as follows:

(1) The establishment of the Global Fund in January 2002 is consistent with the general principles for an international AIDS trust fund first outlined by the Congress in the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264).

(2) Section 2, Article 5 of the bylaws of the Global Fund provides for the International Bank for Reconstruction and Development to serve as the initial collection trustee for the Global Fund.

(3) The trustee agreement signed between the Global Fund and the International Bank for Reconstruction and Development narrows the range of duties to include receiving and investing funds from donors, disbursing the funds upon the instruction of the Global Fund, reporting on trust fund resources to donors and the Global Fund, and providing an annual external audit report to the Global Fund.

(b) AUTHORITY FOR UNITED STATES PARTICIPATION.—

(1) UNITED STATES PARTICIPATION.—The United States is hereby authorized to participate in the Global Fund.

(2) PRIVILEGES AND IMMUNITIES.—The Global Fund shall be considered a public international organization for purposes of section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

(c) REPORTS TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the duration of the Global Fund, the President shall submit to the appropriate congressional committees a report on the Global Fund, including contributions pledged to, contributions (including donations from the private sector) received by, and projects funded by the

[10] 22 U.S.C. 7622.

Global Fund, and the mechanisms established for transparency and accountability in the grant-making process.

(d) UNITED STATES FINANCIAL PARTICIPATION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds authorized to be appropriated for bilateral or multilateral HIV/AIDS, tuberculosis, or malaria programs, of the amounts authorized to be appropriated under section 401, there are authorized to be appropriated to the President up to $1,000,000,000 for the period of fiscal year 2004 beginning on January 1, 2004, and such sums as may be necessary for the fiscal years 2005–2008, for contributions to the Global Fund.

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

(3) REPROGRAMMING OF FISCAL YEAR 2001 FUNDS.—Funds made available for fiscal year 2001 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000—

(A) are authorized to remain available until expended; and

(B) shall be transferred to, merged with, and made available for the same purposes as, funds made available for fiscal years 2004 through 2008 under paragraph (1).

(4) LIMITATION.—

(A)(i) At any time during fiscal years 2004 through 2008, no United States contribution to the Global Fund may cause the total amount of United States Government contributions to the Global Fund to exceed 33 percent of the total amount of funds contributed to the Global Fund from all sources. Contributions to the Global Fund from the International Bank for Reconstruction and Development and the International Monetary Fund shall not be considered in determining compliance with this paragraph.

(ii) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the Global Fund has provided assistance to a country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has repeatedly provided support for acts of international terrorism, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the amount expended by the Fund to the government of each such country.

(iii) If at any time the President determines that the expenses of the Governing, Administrative, and Advisory Bodies (including the Partnership Forum, the Foundation Board, the Secretariat, and the Technical Review Board) of the Global Fund exceed 10 percent of the total expenditures of the Fund for any 2-year period, the United States shall withhold from its contribution for the next fiscal year an amount equal the to the average annual amount expended by the Fund for such 2-year period for the expenses of the Governing, Administrative, and Advisory Bodies in excess of 10 percent of the total expenditures of the Fund.

(iv) The President may waive the application of clause (iii) if the President determines that extraordinary circumstances warrant such a waiver. No waiver under this clause may be for any period that exceeds 1 year.

(v) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the salary of any individual employed by the Global Fund exceeds the salary of the Vice President of the United States (as determined under section 104 of title 3, United States Code) for that fiscal year, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the aggregate amount by which the salary of each such individual exceeds the salary of the Vice President of the United States.

(B)(i) Any amount made available under this subsection that is withheld by reason of subparagraph (A)(i) shall be contributed to the Global Fund as soon as practicable, subject to subparagraph (A)(i), after additional contributions to the Global Fund are made from other sources.

(ii) Any amount made available under this subsection that is withheld by reason of subparagraph (A)(iii) shall be transferred to the Activities to Combat HIV/AIDS Globally Fund and shall remain available under the same terms and conditions as funds appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance.

(iii) Any amount made available under this subsection that is withheld by reason of clause (ii) or (iii) of subparagraph (A) is authorized to be made available to carry out section 104A of the Foreign Assistance Act of 1961 (as added by section 301 of this Act). Amounts made available under the preceding sentence are in addition to amounts appropriated pursuant to the authorization of appropriations under section 401 of this Act for HIV/AIDS assistance.

(C)(i) The President may suspend the application of subparagraph (A) with respect to a fiscal year if the President determines that an international health emergency threatens the national security interests of the United States.

(ii) The President shall notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 5 days before making a determination under clause (i) with respect to the application of subparagraph (A)(i) and shall include in the notification—

(I) a justification as to why increased United States Government contributions to the Global Fund is preferable to increased United States assistance to combat HIV/AIDS, tuberculosis, and malaria on a bilateral basis; and

(II) an explanation as to why other government donors to the Global Fund are unable to provide adequate contributions to the Fund.

(e) INTERAGENCY TECHNICAL REVIEW PANEL.—

(1) ESTABLISHMENT.—The Coordinator of United States Government Activities to Combat HIV/AIDS Globally, established in section 1(f)(1) of the State Department Basic Authorities Act of 1956 (as added by section 102(a) of this Act), shall establish in the executive branch an interagency technical review panel.

(2) DUTIES.—The interagency technical review panel shall serve as a "shadow" panel to the Global Fund by—

(A) periodically reviewing all proposals received by the Global Fund; and

(B) providing guidance to the United States persons who are representatives on the panels, committees, and boards of the Global Fund, on the technical efficacy, suitability, and appropriateness of the proposals, and ensuring that such persons are fully informed of technical inadequacies or other aspects of the proposals that are inconsistent with the purposes of this or any other Act relating to the provision of foreign assistance in the area of AIDS.

(3) MEMBERSHIP.—The interagency technical review panel shall consist of qualified medical and development experts who are officers or employees of the Department of Health and Human Services, the Department of State, and the United States Agency for International Development.

(4) CHAIR.—The Coordinator referred to in paragraph (1) shall chair the interagency technical review panel.

(f) MONITORING BY COMPTROLLER GENERAL.—

(1) MONITORING.—The Comptroller General shall monitor and evaluate projects funded by the Global Fund.

(2) REPORT.—The Comptroller General shall on a biennial basis shall prepare and submit to the appropriate congressional committees a report that contains the results of the monitoring and evaluation described in paragraph (1) for the preceding 2-year period.

(g) PROVISION OF INFORMATION TO CONGRESS.—The Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall make available to the Congress the following documents within 30 days of a request by the Congress for such documents:

(1) All financial and accounting statements for the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, including administrative and grantee statements.

(2) Reports provided to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by organizations contracted to audit recipients of funds.

(3) Project proposals submitted by applicants for funding from the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, but which were not funded.

(4) Progress reports submitted to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by grantees.

(h) SENSE OF THE CONGRESS REGARDING ENCOURAGEMENT OF PRIVATE CONTRIBUTIONS TO THE GLOBAL FUND.—It is the sense of the Congress that the President should—

(1) conduct an outreach campaign that is designed to—

(A) inform the public of the existence of—

(i) the Global Fund; and

(ii) any entity that will accept private contributions intended for use by the Global Fund; and

(B) encourage private contributions to the Global Fund; and

(2) encourage private contributions intended for use by the Global Fund by—

(A) establishing and operating an Internet website, and publishing information about the website; and

(B) making public service announcements on radio and television.

SEC. 203. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL VACCINE FUNDS.

(a) VACCINE FUND.—Section 302(k) of the Foreign Assistance Act of 1961 (22 U.S.C. 2222(k)) is amended—* * *

TITLE III—BILATERAL EFFORTS

Subtitle A—General Assistance and Programs

SEC. 301.[11] ASSISTANCE TO COMBAT HIV/AIDS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 104(c) (22 U.S.C. 2151b(c)), by striking paragraphs (4) through (7); and

(2) by inserting after section 104 the following new section:

"SEC. 104A. ASSISTANCE TO COMBAT HIV/AIDS. * * *"

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out section 104A of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated by paragraph (1) for the fiscal years 2004 through 2008, such sums as may be necessary are authorized to be appropriated to carry out section 104A(d)(4) of the Foreign Assistance Act of 1961 (as added by subsection (a)), relating to the procurement and distribution of HIV/AIDS pharmaceuticals.

(c) RELATIONSHIP TO ASSISTANCE PROGRAMS TO ENHANCE NUTRITION.—In recognition of the fact that malnutrition may hasten the progression of HIV to AIDS and may exacerbate the decline among AIDS patients leading to a shorter life span, the Administrator of the United States Agency for International Development shall, as appropriate—

[11] 22 U.S.C. 7631.

(1) integrate nutrition programs with HIV/AIDS activities, generally;

(2) provide, as a component of an anti-retroviral therapy program, support for food and nutrition to individuals infected with and affected by HIV/AIDS; and

(3) provide support for food and nutrition for children affected by HIV/AIDS and to communities and households caring for children affected by HIV/AIDS.

(d) ELIGIBILITY FOR ASSISTANCE.—An organization that is otherwise eligible to receive assistance under section 104A of the Foreign Assistance Act of 1961 (as added by subsection (a)) or under any other provision of this Act (or any amendment made by this Act) to prevent, treat, or monitor HIV/AIDS shall not be required, as a condition of receiving the assistance, to endorse or utilize a multisectoral approach to combatting HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the organization has a religious or moral objection.

(e) LIMITATION.—No funds made available to carry out this Act, or any amendment made by this Act, may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(f) LIMITATION.—No funds made available to carry out this Act, or any amendment made by this Act, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking.

(g) SENSE OF CONGRESS RELATING TO FOOD ASSISTANCE FOR INDIVIDUALS LIVING WITH HIV/AIDS.—

(1) FINDINGS.—Congress finds the following:

(A) The United States provides more than 60 percent of all food assistance worldwide.

(B) According to the United Nations World Food Program and other United Nations agencies, food insecurity of individuals infected or living with HIV/AIDS is a major problem in countries with large populations of such individuals, particularly in African countries.

(C) Although the United States is willing to provide food assistance to these countries in need, a few of the countries object to part or all of the assistance because of fears of benign genetic modifications to the foods.

(D) Healthy and nutritious foods for individuals infected or living with HIV/AIDS are an important complement to HIV/AIDS medicines for such individuals.

(E) Individuals infected with HIV have higher nutritional requirements than individuals who are not infected with HIV, particularly with respect to the need for protein. Also, there is evidence to suggest that the full benefit of therapy to treat HIV/AIDS may not be achieved in individuals who are malnourished, particularly in pregnant and lactating women.

(2) SENSE OF CONGRESS.—It is therefore the sense of Congress that United States food assistance should be accepted by countries with large populations of individuals infected or living with HIV/AIDS, particularly African countries, in order to help feed such individuals.

SEC. 302. ASSISTANCE TO COMBAT TUBERCULOSIS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by section 301 of this Act, is further amended by inserting after section 104A the following new section:

"SEC. 104B. ASSISTANCE TO COMBAT TUBERCULOSIS. * * *"

(b)[12] AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out section 104B of the Foreign Assistance Act of 1961, as added by subsection (a).

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

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for fiscal year 2001, 2002, or 2003 under section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7) (as in effect immediately before the date of enactment of this Act) shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal years 2004 through 2008 under paragraph (1).

SEC. 303. ASSISTANCE TO COMBAT MALARIA.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by sections 301 and 302 of this Act, is further amended by inserting after section 104B the following new section:

"SEC. 104C. ASSISTANCE TO COMBAT MALARIA. * * *"

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for fiscal years 2004 through 2008 to carry out section 104C of the Foreign Assistance Act of 1961, as added by subsection (a), including for the development of anti-malarial pharmaceuticals by theMedicines for Malaria Venture.

[12] 22 U.S.C. 7632.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for fiscal year 2001, 2002, or 2003 under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c) (as in effect immediately before the date of enactment of this Act) and made available for the control of malaria shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal years 2004 through 2008 under paragraph (1).

(c) CONFORMING AMENDMENT.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)), as amended by section 301 of this Act, is further amended by adding after paragraph (3) the following: * * *

SEC. 304.[13] PILOT PROGRAM FOR THE PLACEMENT OF HEALTH CARE PROFESSIONALS IN OVERSEAS AREAS SEVERELY AFFECTED BY HIV/AIDS, TUBERCULOSIS, AND MALARIA.

(a) IN GENERAL.—The President should establish a program to demonstrate the feasibility of facilitating the service of United States health care professionals in those areas of sub-Saharan Africa and other parts of the world severely affected by HIV/AIDS, tuberculosis, and malaria.

(b) REQUIREMENTS.—Participants in the program shall—

(1) provide basic health care services for those infected and affected by HIV/AIDS, tuberculosis, and malaria in the area in which they are serving;

(2) provide on-the-job training to medical and other personnel in the area in which they are serving to strengthen the basic health care system of the affected countries;

(3) provide health care educational training for residents of the area in which they are serving;

(4) serve for a period of up to 3 years; and

(5) meet the eligibility requirements in subsection (d).

(c) ELIGIBILITY REQUIREMENTS.—To be eligible to participate in the program, a candidate shall—

(1) be a national of the United States who is a trained health care professional and who meets the educational and licensure requirements necessary to be such a professional such as a physician, nurse, physician assistant, nurse practitioner, pharmacist, other type of health care professional, or other individual determined to be appropriate by the President; or

(2) be a retired commissioned officer of the Public Health Service Corps.

(d) RECRUITMENT.—The President shall ensure that information on the program is widely distributed, including the distribution of information to schools for health professionals, hospitals, clinics, and nongovernmental organizations working in the areas of international health and aid.

(e) PLACEMENT OF PARTICIPANTS.—

(1) IN GENERAL.—To the maximum extent practicable, participants in the program shall serve in the poorest areas of the

[13] 22 U.S.C. 7634.

affected countries, where health care needs are likely to be the greatest. The decision on the placement of a participant should be made in consultation with relevant officials of the affected country at both the national and local level as well as with local community leaders and organizations.

(2) COORDINATION.—Placement of participants in the program shall be coordinated with the United States Agency for International Development in countries in which that Agency is conducting HIV/AIDS, tuberculosis, or malaria programs. Overall coordination of placement of participants in the program shall be made by the Coordinator of United States Government Activities to Combat HIV/AIDS Globally (as described in section 1(f) of the State Department Basic Authorities Act of 1956 (as added by section 102(a) of this Act)).

(f) INCENTIVES.—The President may offer such incentives as the President determines to be necessary to encourage individuals to participate in the program, such as partial payment of principal, interest, and related expenses on government and commercial loans for educational expenses relating to professional health training and, where possible, deferment of repayments on such loans, the provision of retirement benefits that would otherwise be jeopardized by participation in the program, and other incentives.

(g) REPORT.—Not later than 18 months after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report on steps taken to establish the program, including—

(1) the process of recruitment, including the venues for recruitment, the number of candidates recruited, the incentives offered, if any, and the cost of those incentives;

(2) the process, including the criteria used, for the selection of participants;

(3) the number of participants placed, the countries in which they were placed, and why those countries were selected; and

(4) the potential for expansion of the program.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out the program.

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

SEC. 305.[14] REPORT ON TREATMENT ACTIVITIES BY RELEVANT EXECUTIVE BRANCH AGENCIES.

(a) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, the President shall submit to appropriate congressional committees a report on the programs and activities of the relevant executive branch agencies that are directed to the treatment of individuals in foreign countries infected with HIV or living with AIDS.

(b) REPORT ELEMENTS.—The report shall include—

[14] 22 U.S.C. 7635.

(1) a description of the activities of relevant executive branch agencies with respect to—

(A) the treatment of opportunistic infections;

(B) the use of antiretrovirals;

(C) the status of research into successful treatment protocols for individuals in the developing world;

(D) technical assistance and training of local health care workers (in countries affected by the pandemic) to administer antiretrovirals, manage side effects, and monitor patients' viral loads and immune status;

(E) the status of strategies to promote sustainability of HIV/AIDS pharmaceuticals (including antiretrovirals) and the effects of drug resistance on HIV/AIDS patients; and

(F) the status of appropriate law enforcement officials working to ensure that HIV/AIDS pharmaceutical treatment is not diminished through illegal counterfeiting and black market sales of such pharmaceuticals;

(2) information on existing pilot projects, including a discussion of why a given population was selected, the number of people treated, the cost of treatment, the mechanisms established to ensure that treatment is being administered effectively and safely, and plans for scaling up pilot projects (including projected timelines and required resources); and

(3) an explanation of how those activities relate to efforts to prevent the transmission of the HIV infection.

SEC. 306. STRATEGIES TO IMPROVE INJECTION SAFETY.

Section 307 of the Public Health Service Act (42 U.S.C. 242l) is amended by adding at the end the following:

"(d) In carrying out immunization programs and other programs in developing countries for the prevention, treatment, and control of infectious diseases, including HIV/AIDS, tuberculosis, and malaria, the Director of the Centers for Disease Control and Prevention, in coordination with the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, the National Institutes of Health, national and local government, and other organizations, such as the World Health Organization and the United Nations Children's Fund, shall develop and implement effective strategies to improve injection safety, including eliminating unnecessary injections, promoting sterile injection practices and technologies, strengthening the procedures for proper needle and syringe disposal, and improving the education and information provided to the public and to health professionals.".

SEC. 307.[15] STUDY ON ILLEGAL DIVERSIONS OF PRESCRIPTION DRUGS.

Not later than 180 days after enactment of this Act, the Secretary of Health and Human Services, in coordination with other agencies, shall submit a report to the Congress that includes the following:

(1) A thorough accounting of evidence indicating illegal diversion into the United States of prescription drugs donated or

[15] 22 U.S.C. 7636.

sold for humanitarian efforts, and an estimate of the extent of such diversion.

(2) Recommendations to increase the administrative and enforcement powers of the United States to identify, monitor, and prevent the illegal diversion into the United States of prescription drugs donated or sold for humanitarian efforts.

(3) Recommendations and guidelines to advise and provide technical assistance to developing countries on how to implement a program that minimizes diversion into the United States of prescription drugs donated or sold for humanitarian efforts.

Subtitle B—Assistance for Children and Families

SEC. 311.[16] FINDINGS.

Congress makes the following findings:

(1) Approximately 2,000 children around the world are infected each day with HIV through mother-to-child transmission. Transmission can occur during pregnancy, labor, and delivery or through breast feeding. Over 90 percent of these cases are in developing nations with little or no access to public health facilities.

(2) Mother-to-child transmission is largely preventable with the proper application of pharmaceuticals, therapies, and other public health interventions.

(3) Certain antiretroviral drugs reduce mother-to-child transmission by nearly 50 percent. Universal availability of this drug could prevent up to 400,000 infections per year and dramatically reduce the number of AIDS-related deaths.

(4) At the United Nations Special Session on HIV/AIDS in June 2001, the United States committed to the specific goals with respect to the prevention of mother-to-child transmission, including the goals of reducing the proportion of infants infected with HIV by 20 percent by the year 2005 and by 50 percent by the year 2010, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

(5) Several United States Government agencies including the United States Agency for International Development and the Centers for Disease Control are already supporting programs to prevent mother-to-child transmission in resource-poor nations and have the capacity to expand these programs rapidly by working closely with foreign governments and nongovernmental organizations.

(6) Efforts to prevent mother-to-child transmission can provide the basis for a broader response that includes care and treatment of mothers, fathers, and other family members who are infected with HIV or living with AIDS.

(7) HIV/AIDS has devastated the lives of countless children and families across the globe. Since the epidemic began, an estimated 13,200,000 children under the age of 15 have been orphaned by AIDS, that is they have lost their mother or both

[16] 22 U.S.C. 7651.

parents to the disease. The Joint United Nations Program on HIV/AIDS (UNAIDS) estimates that this number will double by the year 2010.

(8) HIV/AIDS also targets young people between the ages of 15 to 24, particularly young women, many of whom carry the burden of caring for family members living with HIV/AIDS. An estimated 10,300,000 young people are now living with HIV/AIDS. One-half of all new infections are occurring among this age group.

SEC. 312.[17] POLICY AND REQUIREMENTS.

(a) POLICY.—The United States Government's response to the global HIV/AIDS pandemic should place high priority on the prevention of mother-to-child transmission, the care and treatment of family members and caregivers, and the care of children orphaned by AIDS. To the maximum extent possible, the United States Government should seek to leverage its funds by seeking matching contributions from the private sector, other national governments, and international organizations.

(b) REQUIREMENTS.—The 5-year United States Government strategy required by section 101 of this Act shall—

(1) provide for meeting or exceeding the goal to reduce the rate of mother-to-child transmission of HIV by 20 percent by 2005 and by 50 percent by 2010;

(2) include programs to make available testing and treatment to HIV-positive women and their family members, including drug treatment and therapies to prevent mother-to-child transmission; and

(3) expand programs designed to care for children orphaned by AIDS.

SEC. 313.[18] ANNUAL REPORTS ON PREVENTION OF MOTHER-TO-CHILD TRANSMISSION OF THE HIV INFECTION.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for a period of 5 years, the President shall submit to appropriate congressional committees a report on the activities of relevant executive branch agencies during the reporting period to assist in the prevention of mother-to-child transmission of the HIV infection.

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

(1) a statement of whether or not all relevant executive branch agencies have met the goal described in section 312(b)(1); and

(2) a description of efforts made by the relevant executive branch agencies to expand those activities, including—

(A) information on the number of sites supported for the prevention of mother-to-child transmission of the HIV infection;

(B) the specific activities supported;

(C) the number of women tested and counseled; and

(D) the number of women receiving preventative drug therapies.

[17] 22 U.S.C. 7652.
[18] 22 U.S.C. 7653.

(c) REPORTING PERIOD DEFINED.—In this section, the term "reporting period" means, in the case of the initial report, the period since the date of enactment of this Act and, in the case of any subsequent report, the period since the date of submission of the most recent report.

SEC. 314.[19] PILOT PROGRAM OF ASSISTANCE FOR CHILDREN AND FAMILIES AFFECTED BY HIV/AIDS.

(a) IN GENERAL.—The President, acting through the United States Agency for International Development, should establish a program of assistance that would demonstrate the feasibility of the provision of care and treatment to orphans and other children and young people affected by HIV/AIDS in foreign countries.

(b) PROGRAM REQUIREMENTS.—The program should—

(1) build upon and be integrated into programs administered as of the date of enactment of this Act by the relevant executive branch agencies for children affected by HIV/AIDS;

(2) work in conjunction with indigenous community-based programs and activities, particularly those that offer proven services for children;

(3) reduce the stigma of HIV/AIDS to encourage vulnerable children infected with HIV or living with AIDS and their family members and caregivers to avail themselves of voluntary counseling and testing, and related programs, including treatments;

(4) ensure the importance of inheritance rights of women, particularly women in African countries, due to the exponential growth in the number of young widows, orphaned girls, and grandmothers becoming heads of households as a result of the HIV/AIDS pandemic;

(5) provide, in conjunction with other relevant executive branch agencies, the range of services for the care and treatment, including the provision of antiretrovirals and other necessary pharmaceuticals, of children, parents, and caregivers infected with HIV or living with AIDS;

(6) provide nutritional support and food security, and the improvement of overall family health;

(7) work with parents, caregivers, and community-based organizations to provide children with educational opportunities; and

(8) provide appropriate counseling and legal assistance for the appointment of guardians and the handling of other issues relating to the protection of children.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the President should submit a report on the implementation of this section to the appropriate congressional committees. Such report should include a description of activities undertaken to carry out subsection (b)(4).

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of

[19] 22 U.S.C. 7654.

the fiscal years 2004 through 2008 to carry out the program. A significant percentage of the amount appropriated pursuant to the authorization of appropriations under the preceding sentence for a fiscal year should be made available to carry out subsection (b)(4).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 315.[20] PILOT PROGRAM ON FAMILY SURVIVAL PARTNERSHIPS.

(a) PURPOSE.—The purpose of this section is to authorize the President to establish a program, through a public-private partnership, for the provision of medical care and support services to HIV positive parents and their children identified through existing programs to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries.

(b) GRANTS.—

(1) IN GENERAL.—The President is authorized to establish a program for the award of grants to eligible administrative organizations to enable such organizations to award subgrants to eligible entities to expand activities to prevent the mother-to-child transmission of HIV by providing medical care and support services to HIV infected parents and their children.

(2) USE OF FUNDS.—Amounts provided under a grant awarded under paragraph (1) shall be used—

(A) to award subgrants to eligible entities to enable such entities to carry out activities described in subsection (c);

(B) for administrative support and subgrant management;

(C) for administrative data collection and reporting concerning grant activities;

(D) for the monitoring and evaluation of grant activities;

(E) for training and technical assistance for subgrantees; and

(F) to promote sustainability.

(c) SUBGRANTS.—

(1) IN GENERAL.—An organization awarded a grant under subsection (b) shall use amounts received under the grant to award subgrants to eligible entities.

(2) ELIGIBILITY.—To be eligible to receive a subgrant under paragraph (1), an entity shall—

(A) be a local health organization, an international organization, or a partnership of such organizations; and

(B) demonstrate to the awarding organization that such entity—

(i) is currently administering a proven intervention to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the President;

(ii) has demonstrated support for the proposed program from relevant government entities; and

[20] 22 U.S.C. 7655.

(iii) is able to provide HIV care, including antiretroviral treatment when medically indicated, to HIV positive women, men, and children with the support of the project funding.

(3) LOCAL HEALTH AND INTERNATIONAL ORGANIZATIONS.—For purposes of paragraph (2)(A)—

(A) the term "local health organization" means a public sector health system, nongovernmental organization, institution of higher education, community-based organization, or nonprofit health system that provides directly, or has a clear link with a provider for the indirect provision of, primary health care services; and

(B) the term "international organization" means—

(i) a nonprofit international entity;

(ii) an international charitable institution;

(iii) a private voluntary international entity; or

(iv) a multilateral institution.

(4) PRIORITY REQUIREMENT.—In awarding subgrants under this subsection, the organization shall give priority to eligible applicants that are currently administering a program of proven intervention to HIV positive individuals to prevent mother-to-child transmission in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, and who are currently administering a program to HIV positive women, men, and children to provide life-long care in family-centered care programs using non-Federal funds.

(5) SELECTION OF SUBGRANT RECIPIENTS.—In awarding subgrants under this subsection, the organization should—

(A) consider applicants from a range of health care settings, program approaches, and geographic locations; and

(B) if appropriate, award not less than 1 grant to an applicant to fund a national system of health care delivery to HIV positive families.

(6) USE OF SUBGRANT FUNDS.—An eligible entity awarded a subgrant under this subsection shall use subgrant funds to expand activities to prevent mother-to-child transmission of HIV by providing medical treatment and care and support services to parents and their children, which may include—

(A) providing treatment and therapy, when medically indicated, to HIV-infected women, their children, and families;

(B) the hiring and training of local personnel, including physicians, nurses, other health care providers, counselors, social workers, outreach personnel, laboratory technicians, data managers, and administrative support personnel;

(C) paying laboratory costs, including costs related to necessary equipment and diagnostic testing and monitoring (including rapid testing), complete blood counts, standard chemistries, and liver function testing for infants, children, and parents, and costs related to the purchase of necessary laboratory equipment;

(D) purchasing pharmaceuticals for HIV-related conditions, including antiretroviral therapies;

(E) funding support services, including adherence and psychosocial support services;

(F) operational support activities; and

(G) conducting community outreach and capacity building activities, including activities to raise the awareness of individuals of the program carried out by the subgrantee, other communications activities in support of the program, local advisory board functions, and transportation necessary to ensure program participation.

(d) REPORTS.—The President shall require that each organization awarded a grant under subsection (b)(1) to submit an annual report that includes—

(1) the progress of programs funded under this section;

(2) the benchmarks of success of programs funded under this section; and

(3) recommendations of how best to proceed with the programs funded under this section upon the expiration of funding under subsection (e).

(e) FUNDING.—There are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 401, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out the program.

(f) LIMITATION ON ADMINISTRATIVE EXPENSES.—An organization shall ensure that not more than 7 percent of the amount of a grant received under this section by the organization is used for administrative expenses.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401.[21] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this Act and the amendments made by this Act $3,000,000,000 for each of the fiscal years 2004 through 2008.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) are authorized to remain available until expended.

(c) AVAILABILITY OF AUTHORIZATIONS.—Authorizations of appropriations under subsection (a) shall remain available until the appropriations are made.

SEC. 402.[22] SENSE OF CONGRESS.

(a) INCREASE IN HIV/AIDS ANTIRETROVIRAL TREATMENT.—It is a sense of the Congress that an urgent priority of United States assistance programs to fight HIV/AIDS should be the rapid increase in distribution of antiretroviral treatment so that—

(1) by the end of fiscal year 2004, at least 500,000 individuals with HIV/AIDS are receiving antiretroviral treatment through United States assistance programs;

(2) by the end of fiscal year 2005, at least 1,000,000 such individuals are receiving such treatment; and

(3) by the end of fiscal year 2006, at least 2,000,000 such individuals are receiving such treatment.

[21] 22 U.S.C. 7671.
[22] 22 U.S.C. 7672.

(b) EFFECTIVE DISTRIBUTION OF HIV/AIDS FUNDS.—It is the sense of Congress that, of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance, an effective distribution of such amounts would be—

(1) 55 percent of such amounts for treatment of individuals with HIV/AIDS;

(2) 15 percent of such amounts for palliative care of individuals with HIV/AIDS;

(3) 20 percent of such amounts for HIV/AIDS prevention consistent with section 104A(d) of the Foreign Assistance Act of 1961 (as added by section 301 of this Act), of which such amount at least 33 percent should be expended for abstinence-until-marriage programs; and

(4) 10 percent of such amounts for orphans and vulnerable children.

SEC. 403.[23] ALLOCATION OF FUNDS.

(a) THERAPEUTIC MEDICAL CARE.—For fiscal years 2006 through 2008, not less than 55 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for therapeutic medical care of individuals infected with HIV, of which such amount at least 75 percent should be expended for the purchase and distribution of antiretroviral pharmaceuticals and at least 25 percent should be expended for related care. For fiscal years 2006 through 2008, not less than 33 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS prevention consistent with section 104A(d) of the Foreign Assistance Act of 1961 (as added by section 301 of this Act) for each such fiscal year shall be expended for abstinence-until-marriage programs.

(b) ORPHANS AND VULNERABLE CHILDREN.—For fiscal years 2006 through 2008, not less than 10 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for assistance for orphans and vulnerable children affected by HIV/AIDS, of which such amount at least 50 percent shall be provided through non-profit, nongovernmental organizations, including faith-based organizations, that implement programs on the community level.

SEC. 404.[24] ASSISTANCE FROM THE UNITED STATES PRIVATE SECTOR TO PREVENT AND REDUCE HIV/AIDS IN SUB-SAHARAN AFRICA.

It is the sense of Congress that United States businesses should be encouraged to provide assistance to sub-Saharan African countries to prevent and reduce the incidence of HIV/AIDS in sub-Saharan Africa. In providing such assistance, United States businesses should be encouraged to consider the establishment of an HIV/AIDS Response Fund in order to provide for coordination among such businesses in the collection and distribution of the assistance to sub-Saharan African countries.

[23] 22 U.S.C. 7673.
[24] 22 U.S.C. 7674.

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–7) is amended by adding at the end the following new section:

"SEC. 1625.[25] MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary of the Treasury should immediately commence efforts within the Paris Club of Official Creditors, the International Bank for Reconstruction and Development, the International Monetary Fund, and other appropriate multilateral development institutions to modify the Enhanced HIPC Initiative so that the amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for each of the first 3 years after the date of enactment of this section or the Decision Point, whichever is later—

"(A) the net present value of the outstanding public and publicly guaranteed debt of the country—

"(i) as of the decision point if the country has already reached its decision point; or

"(ii) as of the date of enactment of this Act, if the country has not reached its decision point,

to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

"(B) the annual payments due on such public and publicly guaranteed debt to not more than—

"(i) 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (e)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources; or

"(ii) a percentage of the gross national product of the country, or another benchmark, that will yield a result substantially equivalent to that which would be achieved through application of subparagraph (A).

"(2) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

"(b) RELATION TO POVERTY AND THE ENVIRONMENT.—Debt cancellation under the modifications to the Enhanced HIPC Initiative described in subsection (a) should not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

"(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

[25] 22 U.S.C. 262p–8.

"(2) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

"(3) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

"(4) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

"(c) CONDITIONS.—A country shall not be eligible for cancellation of debt under modifications to the Enhanced HIPC Initiative described in subsection (a) if the government of the country—

"(1) has an excessive level of military expenditures;

"(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

"(3) is failing to cooperate on international narcotics control matters; or

"(4) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

"(d) PROGRAMS TO COMBAT HIV/AIDS AND POVERTY.—A country that is otherwise eligible to receive cancellation of debt under the modifications to the Enhanced HIPC Initiative described in subsection (a) may receive such cancellation only if the country has agreed—

"(1) to ensure that the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS and poverty, in particular through concrete measures to improve basic services in health, education, nutrition, and other development priorities, and to redress environmental degradation;

"(2) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

"(3) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

"(4) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

"(e) DEFINITIONS.—In this section:

"(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term 'country suffering a public health crisis' means a country in which the HIV/AIDS infection rate, as reported in the most recent epidemiological data for that country compiled by the Joint United Nations Program on HIV/AIDS, is at least 5 percent among women attending prenatal clinics or more than 20 percent among individuals in groups with high-risk behavior.

"(2) DECISION POINT.—The term 'Decision Point' means the date on which the executive boards of the International Bank

for Reconstruction and Development and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

"(3) ENHANCED HIPC INITIATIVE.—The term 'Enhanced HIPC Initiative' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.".

SEC. 502.[26] REPORT ON EXPANSION OF DEBT RELIEF TO NON-HIPC COUNTRIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor country has suffered an external economic shock or a natural disaster.

(b) SPECIFIC OPTIONS TO BE CONSIDERED.—Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 1625(e) of the Financial Institutions Act, as added by section 501 of this Act), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) ENHANCED HIPC INITIATIVE DEFINED.—In this section, the term "Enhanced HIPC Initiative" means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

SEC. 503.[27] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004 and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by section 501 of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

[26] 22 U.S.C. 7681.
[27] 22 U.S.C. 7682.

e. Afghanistan Freedom Support Act of 2002

Public Law 107–327 [S. 2712], 116 Stat. 2797, approved December 4, 2002

AN ACT To authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Afghanistan Freedom Support Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

	Page
Sec. 1. Short title; table of contents; definition	536
TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN	
Sec. 101. Declaration of policy	537
Sec. 102. Purposes of assistance	537
Sec. 103. Authorization of assistance	538
Sec. 104. Coordination of assistance	544
Sec. 105. Sense of Congress regarding promoting cooperation in opium producing areas	544
Sec. 106. Administrative provisions	545
Sec. 107. Relationship to other authority	546
Sec. 108. Authorization of appropriations	546
TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS	
Sec. 201. Support for security during transition in Afghanistan	546
Sec. 202. Authorization of assistance	546
Sec. 203. Eligible foreign countries and eligible international organizations	547
Sec. 204. Reimbursement for assistance	547
Sec. 205. Congressional notification requirements	547
Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan and expansion of the International Security Assistance Force	548
Sec. 207. Relationship to other authority	551
Sec. 208. Sunset	551
TITLE III—MISCELLANEOUS PROVISIONS	
Sec. 301. Requirement to comply with procedures relating to the prohibition on assistance to drug traffickers	551
Sec. 302. Sense of Congress regarding protecting Afghanistan's President	551
Sec. 303. Donor contributions to Afghanistan and reports	552

(c)[2] DEFINITION.—In this Act, the term "Government of Afghanistan" includes—

(1) the government of any political subdivision of Afghanistan; and

[1] 22 U.S.C. 7501 note.
[2] 22 U.S.C. 7501.

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101.[3] DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102.[4] PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

[3] 22 U.S.C. 7511.
[4] 22 U.S.C. 7512.

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multi-ethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan;

(8) to provide resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs; and

(9) to foster the growth of a pluralistic society that promotes and respects religious freedom.

SEC. 103.[5] AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—Notwithstanding section 512 of Public Law 107–115 or any other similar provision of law, the President is authorized to provide assistance for Afghanistan for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

[5] 22 U.S.C. 7513.

(E) clearance of landmines and other unexploded ordinance.

(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2003 through 2006, $15,000,000 is authorized to be appropriated to the President to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing (including repairing homes damaged during military operations), rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, including religious freedom, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan, including the recognition of religious freedom in the constitution and other legal frameworks;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights, including religious freedom, freedom of expression, and freedom of association, and support human rights monitoring;

(x) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities;

(xi) support for national, regional, and local elections and political party development;

(xii) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force;

(xiii) support for establishment of a central bank and central budgeting authority; and

(xiv) assistance in identifying and surveying key road and rail routes essential for economic renewal in Afghanistan and the region, support in reconstructing those

routes, and support for the establishment of a customs service and training for customs officers.

(B) For each of the fiscal years 2003 through 2005, $10,000,000 is authorized to be appropriated to the President to be made available for the purposes of carrying out a traditional Afghan assembly or "Loya Jirga" and for support for national, regional, and local elections and political party development under subparagraph (A)(xi).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing micro-enterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor;

(E) develop handicraft and other small-scale industries; and

(F) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(7) ASSISTANCE TO WOMEN AND GIRLS.—

(A) ASSISTANCE OBJECTIVES.—To assist women and girls in Afghanistan in the areas of political and human rights, health care, education, training, security, and shelter, with particular emphasis on assistance—

(i) to support construction of, provide equipment and medical supplies to, and otherwise facilitate the establishment and rehabilitation of, health care facilities in order to improve the health care of women, children, and infants;

(ii) to expand immunization programs for women and children;

(iii) to establish, maintain, and expand primary and secondary schools for girls that include mathematics, science, and languages in their primary curriculum;

(iv) to develop and expand technical and vocational training programs and income-generation projects for women;

(v) to provide special educational opportunities for girls whose schooling was ended by the Taliban, and to support the ability of women to have access to higher education;

(vi) to develop and implement programs to protect women and girls against sexual and physical abuse,

abduction, trafficking, exploitation, and sex discrimination in the delivery of humanitarian supplies and services;

(vii) to provide emergency shelters for women and girls who face danger from violence;

(viii) to direct humanitarian assistance to widows, who make up a very large and needy population in war-torn Afghanistan;

(ix) to support the work of women-led and local nongovernmental organizations with demonstrated experience in delivering services to Afghan women and children;

(x) to disseminate information throughout Afghanistan on the rights of women and on international standards of human rights, including the rights of religious freedom, freedom of expression, and freedom of association;

(xi) to provide women's rights and human rights training for military, police, and legal personnel; and

(xii) to support the National Human Rights Commission in programs to promote women's rights and human rights, including the rights of religious freedom, freedom of expression, and freedom of association, and in the investigation and monitoring of women's rights and human rights abuses.

(B) AVAILABILITY OF FUNDS.—For each of the fiscal years 2003 through 2006—

(i) $15,000,000 is authorized to be appropriated to the President to be made available to the Afghan Ministry of Women's Affairs; and

(ii) $5,000,000 is authorized to be appropriated to the President to be made available to the National Human Rights Commission of Afghanistan.

(C) RELATION TO OTHER AVAILABLE FUNDS.—Amounts made available under subparagraph (B) are in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that progress is being made toward adopting a constitution and establishing a democratically elected government for Afghanistan that respects human rights.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include

a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

(c) ENTERPRISE FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President for an enterprise fund for Afghanistan $300,000,000. The provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall apply with respect to such enterprise fund and to funds made available to such enterprise fund under this subsection.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 104.[6] COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 105.[7] SENSE OF CONGRESS REGARDING PROMOTING COOPERATION IN OPIUM PRODUCING AREAS.

It is the sense of Congress that the President should—

(1) to the extent practicable, under such procedures as the President may prescribe, withhold United States bilateral assistance from, and oppose multilateral assistance to, opium-producing areas of Afghanistan if, within such areas, appropriate cooperation is not provided to the United States, the Government of Afghanistan, and international organizations with respect to the suppression of narcotics cultivation and trafficking, and if withholding such assistance would promote such cooperation;

[6] 22 U.S.C. 7514.
[7] 22 U.S.C. 7515.

(2) redistribute any United States bilateral assistance (and to promote the redistribution of any multilateral assistance) withheld from an opium-producing area to other areas with respect to which assistance has not been withheld as a consequence of this section; and

(3) define or redefine the boundaries of opium producing areas of Afghanistan for the purposes of this section.

SEC. 106.[8] ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Of the funds made available to carry out the purposes of assistance authorized by this title in any fiscal year, up to 7 percent may be used for administrative expenses of Federal departments and agencies in connection with the provision of such assistance.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(f) PRIORITY FOR DIRECT ASSISTANCE TO THE GOVERNMENT OF AFGHANISTAN.—To the maximum extent practicable, assistance au-

[8] 22 U.S.C. 7516.

thorized under this title should be provided directly to the Government of Afghanistan (including any appropriate ministry thereof).

SEC. 107.[9] RELATIONSHIP TO OTHER AUTHORITY.

The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

SEC. 108.[10] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the President to carry out this title (other than section 103(c)) $425,000,000 for each of the fiscal years 2003 through 2006.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 103(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201.[11] SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202.[12] AUTHORIZATION OF ASSISTANCE.

(a) DRAWDOWN AUTHORITY.—

(1) IN GENERAL.—The President is authorized to exercise his authorities under section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318) to direct the drawdown of defense articles, defense services, and military education and training—

(A) for the Government of Afghanistan, in accordance with this section; and

(B) for eligible foreign countries, and eligible international organizations, in accordance with this section and sections 203 and 205.

(2) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraph (1) may include the supply of defense articles, defense services, counter-narcot-

[9] 22 U.S.C. 7517.
[10] 22 U.S.C. 7518.
[11] 22 U.S.C. 7531.
[12] 22 U.S.C. 7532.

ics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a) may not exceed $300,000,000, except that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1) and shall not count toward any limitation contained in section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318).

SEC. 203.[13] ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), a foreign country or international organization shall be eligible to receive assistance under section 202 if—

(1) such country or organization is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country; and

(2) such assistance is provided specifically for such operations in Afghanistan.

(b) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly engaged in gross violations of human rights, or provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

SEC. 204.[14] REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205.[15] CONGRESSIONAL NOTIFICATION REQUIREMENTS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is im-

[13] 22 U.S.C. 7533.
[14] 22 U.S.C. 7534.
[15] 22 U.S.C. 7535.

portant to the national security interest of the United States and notifies the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206.[16] PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN AND EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it is no longer a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the functioning of the Government of Afghanistan and the traditional Afghan assembly or "Loya Jirga" process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5)(A) On July 6, Vice President Haji Abdul Qadir was assassinated in Kabul by unknown assailants.

(B) On September 5, 2002, a car bomb exploded in Kabul killing 32 and injuring 150 and on the same day a member of Kandahar Governor Sherzai's security team attempted to assassinate President Karzai.

(6) The violence and lawlessness may jeopardize the "Loya Jirga" process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(7) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(8) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from

[16] 22 U.S.C. 7536.

other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(9) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(10) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(11) Because of these immediate security needs, the Government of Afghanistan, its President, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) IMPLEMENTATION OF STRATEGY.—

(1) INITIAL REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall provide the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate with—

(A) a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government, including an update to the strategies submitted pursuant to Public Law 107–206; and

(B) a description of the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

(2) IMPLEMENTATION OF STRATEGY.—Every 6 months after the enactment of this Act through January 1, 2007, the President shall submit to the congressional committees specified in paragraph (1) a report on the implementation of the strategies for meeting the immediate and long-term security needs of Afghanistan, which shall include the following elements—

(A) since the previous report, the progress in recruiting, training, and deploying an Afghan National Army and police force, including the numbers and ethnic composition of recruits; the number of graduates from military and police training; the numbers of graduates retained by the Afghan National Army and police forces since the previous report; the numbers of graduates operationally deployed and to which areas of the country; the degree to which these graduates are assuming security responsibilities; whether Afghan army and police units are establishing effective central governmental authority over areas of the country, and which areas; and the numbers of instances of armed attacks against Afghan central governmental officials, United States or international officials, troops or aid workers, or between the armed forces of regional leaders;

(B) the degree to which armed regional leaders are cooperating and integrating with the central government, providing security and order within their regions of influence, engaging in armed conflict or other forms of competition that are deleterious to peace, security, and the integration of a unified Afghanistan under the central government;

(C) the amount of humanitarian relief provided since the previous report to returnees, isolated populations and other vulnerable groups, as well as demining assistance and landmine survivors rehabilitation; and the numbers of such persons not assisted since the previous report;

(D) the steps taken since the previous report toward national reconstruction, including establishment of the ministries and other institutions of the Government of Afghanistan;

(E) the numbers of Civil Affairs Teams working with regional leaders, as well as the quick impact infrastructure projects undertaken by such teams since the previous report;

(F) efforts undertaken since the previous report to rebuild the justice sector, including the establishment of a functioning judiciary, a competent bar, reintegration of women legal professionals and a reliable penal system, and the respect for human rights; and

(G) a description of the progress of the Government of Afghanistan with respect to the matters described in paragraph (1)(B).

(d) EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.—

(1) SENSE OF CONGRESS.—Congress urges the President, in order to fulfill the objective of establishing security in Afghanistan, to take all appropriate measures to assist Afghanistan in establishing a secure environment throughout the country, including by—

(A) sponsoring in the United Nations Security Council a resolution authorizing an expansion of the International Security Assistance Force, or the establishment of a similar security force; and

(B) enlisting the European and other allies of the United States to provide forces for an expansion of the International Security Assistance Force in Afghanistan, or the establishment of a similar security force.

(2) AUTHORIZATION OF APPROPRIATIONS.—(A) There is authorized to be appropriated to the President $500,000,000 for each of fiscal years 2003 and 2004 to support the International Security Assistance Force or the establishment of a similar security force.

(B) Amounts made available under subparagraph (A) may be appropriated pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961, section 551 of such Act, or section 23 of the Arms Export Control Act.

(C) Funds appropriated pursuant to subparagraph (A) shall be subject to the notification requirements under section 634A of the Foreign Assistance Act of 1961.

SEC. 207.[17] RELATIONSHIP TO OTHER AUTHORITY.

(a) ADDITIONAL AUTHORITY.—The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

(b) LAWS RESTRICTING AUTHORITY.—Assistance under this title to the Government of Afghanistan may be provided notwithstanding section 512 of Public Law 107–115 or any similar provision of law.

SEC. 208.[18] SUNSET.

The authority of this title shall expire after September 30, 2006.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301.[19] REQUIREMENT TO COMPLY WITH PROCEDURES RELATING TO THE PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

Assistance provided under this Act shall be subject to the same provisions as are applicable to assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act under section 487 of the Foreign Assistance Act of 1961 (relating to the prohibition on assistance to drug traffickers; 22 U.S.C. 2291f), and the applicable regulations issued under that section.

SEC. 302.[20] SENSE OF CONGRESS REGARDING PROTECTING AFGHANISTAN'S PRESIDENT.

It is the sense of Congress that—

(1) any United States physical protection force provided for the personal security of the President of Afghanistan should be composed of United States diplomatic security, law-enforcement, or military personnel, and should not utilize private contracted personnel to provide actual physical protection services;

(2) United States allies should be invited to volunteer active-duty military or law enforcement personnel to participate in such a protection force; and

[17] 22 U.S.C. 7537.
[18] 22 U.S.C. 7538.
[19] 22 U.S.C. 7551.
[20] 22 U.S.C. 7552.

(3) such a protection force should be limited in duration and should be succeeded by qualified Afghan security forces as soon as practicable.

SEC. 303.[21] DONOR CONTRIBUTIONS TO AFGHANISTAN AND REPORTS.

(a) FINDINGS.—The Congress finds that inadequate amounts of international assistance promised by donor states at the Tokyo donors conference and elsewhere have been delivered to Afghanistan, imperiling the rebuilding and development of civil society and infrastructure, and endangering peace and security in that war-torn country.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should use all appropriate diplomatic means to encourage all states that have pledged assistance to Afghanistan to deliver as soon as possible the total amount of assistance pledged.

(c) REPORTS.—

(1) IN GENERAL.—The Secretary of State shall submit reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives, in accordance with this paragraph, on the status of contributions of assistance from donor states to Afghanistan. The first report shall be submitted not later than 60 days after the date of enactment of this Act, the second report shall be submitted 90 days thereafter, and subsequent reports shall be submitted every 180 days thereafter through December 31, 2004.

(2) FURTHER REQUIREMENTS.—Each report, which shall be unclassified and posted upon the Department of State's Internet website, shall include, by donor country, the total amount pledged, the amount delivered within the previous 60 days, the total amount of assistance delivered, the type of assistance and type of projects supported by the assistance.

[21] 22 U.S.C. 7553.

f. Russian Democracy Act of 2002

Public Law 107–246 [H.R. 2121], 116 Stat. 1511, approved October 23, 2002

AN ACT To make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society and independent media in that country.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Russian Democracy Act of 2002".

SEC. 2.[2] FINDINGS AND PURPOSES.

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

(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States' contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, and small grants have provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of more than 65,000 nongovernmental organizations, thousands of independent local media outlets, despite governmental opposition, and numerous political parties.

(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999.

(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy. Approximately two-thirds of the Russian Federation's gross domestic product is now generated by the

[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2295 note.

private sector, and the United States recognized Russia as a market economy on June 7, 2002.

(5)(A) The United States has fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent, depending on the estimate, of the gross domestic product of the Russian Federation.

(C) United States-funded programs have contributed to fighting corruption and financial crime, such as money laundering, by helping to—

(i) establish a commercial legal infrastructure;

(ii) develop an independent judiciary;

(iii) support the drafting of a new criminal code, civil code, and bankruptcy law;

(iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;

(v) support Russian law schools;

(vi) create legal aid clinics; and

(vii) bolster law-related activities of nongovernmental organizations.

(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations would enhance Russian cooperation with the United States on a wide range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the rest of the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

(8) United States-Russia relations have improved, leading to a successful summit between President Bush and President Putin in May 2002, resulting in a "Foundation for Cooperation".

(b) PURPOSES.—The purposes of this Act are—

(1) to strengthen and advance institutions of democratic government and of free and independent media, and to sustain the development of an independent civil society in the Russian Federation based on religious and ethnic tolerance, inter-

nationally recognized human rights, and an internationally recognized rule of law; and

(2) to focus United States foreign assistance programs on using local expertise and to give local organizations a greater role in designing and implementing such programs, while maintaining appropriate oversight and monitoring.

SEC. 3.[2] UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

(1) recognize that a democratic and economically stable Russian Federation is inherently less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy within the framework of the rule of law and respect for individual rights, including Russia's membership in the appropriate international institutions;

(2) to engage the Government of the Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote transparency and good governance in all aspects of society, including fair and honest business practices, accessible and open legal systems, freedom of religion, and respect for human rights;

(3) to advance a dialogue among United States Government officials, private sector individuals, and representatives of the Government of the Russian Federation regarding Russia's integration into the Western community of nations;

(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, church officials, and reform-minded politicians from Moscow and all other regions of the Russian Federation;

(5) to incorporate democratic reforms, the promotion of independent media, and economic reforms in a broader United States dialogue with the Government of the Russian Federation;

(6) to encourage the Government of the Russian Federation to address, in a cooperative and transparent manner consistent with internationally recognized and accepted principles, cross-border issues, including the nonproliferation of weapons of mass destruction, environmental degradation, crime, trafficking, and corruption;

(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure Russia's transition to a fully functioning market economy and membership in the World Trade Organization;

(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference, and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

(9) to encourage the G–8 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation.

SEC. 4. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

* * *

SEC. 5.[2] ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION.

(a) ASSISTANCE PROGRAMS.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to—

(1) work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws;

(2) establish civic education programs relating to democracy, public policy, the rule of law, and the importance of independent media, including the establishment of "American Centers" and public policy schools at Russian universities and encourage cooperative programs with universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities; and

(3) support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated a commitment to reform, democracy, and the rule of law, and which promotes the concept of such programs as a model for all regions of the Russian Federation.

(b) RADIO FREE EUROPE/RADIO LIBERTY AND VOICE OF AMERICA.—RFE/RL, Incorporated, and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources and using local languages as appropriate and as possible, to disseminate throughout the Russian Federation information relating to democracy, free-market economics, the rule of law, and human rights.

SEC. 6. AUTHORIZATION OF ASSISTANCE FOR DEMOCRACY, INDEPENDENT MEDIA, AND THE RULE OF LAW.

Of the amounts made available to carry out the provision of chapter 11 of part I of the Foreign Assistance Act of 1961 (22

U.S.C. 2295 et seq.) and the FREEDOM Support Act for fiscal year 2003, $50,000,000 is authorized to be available for the activities authorized by paragraphs (2) and (3) of section 498 of the Foreign Assistance Act of 1961, as amended by section 4(a) of this Act.

SEC. 7. PRESERVING THE ARCHIVES OF HUMAN RIGHTS ACTIVIST AND NOBEL PEACE PRIZE WINNER ANDREI SAKHAROV.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President determines to be appropriate, to make a grant to Brandeis University for an endowment for the Andrei Sakharov Archives and Human Rights Center for the purpose of collecting and preserving documents related to the life of Andrei Sakharov and the administration of such Center.

(b) FUNDING.—There is authorized to be appropriated to the President to carry out subsection (a) not more than $1,500,000.

SEC. 8. EXTENSION OF LAW.

The provisions of section 108(c) of H.R. 3427, as enacted by section 1000(a)(7) of Public Law 106–113, shall apply to United States contributions for fiscal year 2003 to the organization described in section 108(c) of H.R. 3427.[3]

[3] Sec. 108(c) of H.R. 3427, enacted in Public Law 106–113 (113 Stat. 1537–409), provided the following:

"(c) RESTRICTIONS ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.—

"(1) LIMITATION.—Of the amounts made available under subsection (a) for each of the fiscal years 2000 and 2001 for United States voluntary contributions to the United Nations Development Program an amount equal to the amount the United Nations Development Program will spend in Burma during each fiscal year shall be withheld unless during such fiscal year the Secretary of State submits to the appropriate congressional committees the certification described in paragraph (2).

"(2) CERTIFICATION.—The certification referred to in paragraph (1) is a certification by the Secretary of State that all programs and activities of the United Nations Development Program (including United Nations Development Program—Administered Funds) in Burma—

"(A) are focused on eliminating human suffering and addressing the needs of the poor;

"(B) are undertaken only through international or private voluntary organizations that have been deemed independent of the State Peace and Development Council (SPDC) (formerly known as the State Law and Order Restoration Council (SLORC)), after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma;

"(C) provide no financial, political, or military benefit to the SPDC; and

"(D) are carried out only after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma.".

g. Sudan Peace Act

Public Law 107–245 [H.R. 5531], 116 Stat. 1504, approved October 21, 2002

AN ACT To facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Sudan Peace Act".

SEC. 2.[1] FINDINGS.

The Congress makes the following findings:

(1) The Government of Sudan has intensified its prosecution of the war against areas outside of its control, which has already cost more than 2,000,000 lives and has displaced more than 4,000,000 people.

(2) A viable, comprehensive, and internationally sponsored peace process, protected from manipulation, presents the best chance for a permanent resolution of the war, protection of human rights, and a self-sustaining Sudan.

(3) Continued strengthening and reform of humanitarian relief operations in Sudan is an essential element in the effort to bring an end to the war.

(4) Continued leadership by the United States is critical.

(5) Regardless of the future political status of the areas of Sudan outside of the control of the Government of Sudan, the absence of credible civil authority and institutions is a major impediment to achieving self-sustenance by the Sudanese people and to meaningful progress toward a viable peace process. It is critical that credible civil authority and institutions play an important role in the reconstruction of post-war Sudan.

(6) Through the manipulation of traditional rivalries among peoples in areas outside of its full control, the Government of Sudan has used divide-and-conquer techniques effectively to subjugate its population. However, internationally sponsored reconciliation efforts have played a critical role in reducing human suffering and the effectiveness of this tactic.

(7) The Government of Sudan utilizes and organizes militias, Popular Defense Forces, and other irregular units for raiding and enslaving parties in areas outside of the control of the Government of Sudan in an effort to disrupt severely the ability of the populations in those areas to sustain themselves. The tactic helps minimize the Government of Sudan's accountability internationally.

(8) The Government of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales to in-

[1] 50 U.S.C. 1701 note.

crease the tempo and lethality of the war against the areas outside of its control.

(9) By regularly banning air transport relief flights by the United Nations relief operation OLS, the Government of Sudan has been able to manipulate the receipt of food aid by the Sudanese people from the United States and other donor countries as a devastating weapon of war in the ongoing effort by the Government of Sudan to starve targeted groups and subdue areas of Sudan outside of the Government's control.

(10) The acts of the Government of Sudan, including the acts described in this section, constitute genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide (78 U.N.T.S. 277).

(11) The efforts of the United States and other donors in delivering relief and assistance through means outside of OLS have played a critical role in addressing the deficiencies in OLS and offset the Government of Sudan's manipulation of food donations to advantage in the civil war in Sudan.

(12) While the immediate needs of selected areas in Sudan facing starvation have been addressed in the near term, the population in areas of Sudan outside of the control of the Government of Sudan are still in danger of extreme disruption of their ability to sustain themselves.

(13) The Nuba Mountains and many areas in Bahr al Ghazal and the Upper Nile and the Blue Nile regions have been excluded completely from relief distribution by OLS, consequently placing their populations at increased risk of famine.

(14) At a cost which has sometimes exceeded $1,000,000 per day, and with a primary focus on providing only for the immediate food needs of the recipients, the current international relief operations are neither sustainable nor desirable in the long term.

(15) The ability of populations to defend themselves against attack in areas outside of the control of the Government of Sudan has been severely compromised by the disengagement of the front-line states of Ethiopia, Eritrea, and Uganda, fostering the belief among officials of the Government of Sudan that success on the battlefield can be achieved.

(16) The United States should use all means of pressure available to facilitate a comprehensive solution to the war in Sudan, including—

(A) the multilateralization of economic and diplomatic tools to compel the Government of Sudan to enter into a good faith peace process;

(B) the support or creation of viable democratic civil authority and institutions in areas of Sudan outside of government control;

(C) continued active support of people-to-people reconciliation mechanisms and efforts in areas outside of government control;

(D) the strengthening of the mechanisms to provide humanitarian relief to those areas; and

(E) cooperation among the trading partners of the United States and within multilateral institutions toward those ends.

SEC. 3.[1] DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Islamic Front government in Khartoum, Sudan.

(3) OLS.—The term "OLS" means the United Nations relief operation carried out by UNICEF, the World Food Program, and participating relief organizations known as "Operation Lifeline Sudan".

SEC. 4.[1] CONDEMNATION OF SLAVERY, OTHER HUMAN RIGHTS ABUSES, AND TACTICS OF THE GOVERNMENT OF SUDAN.

The Congress hereby—

(1) condemns—

(A) violations of human rights on all sides of the conflict in Sudan;

(B) the Government of Sudan's overall human rights record, with regard to both the prosecution of the war and the denial of basic human and political rights to all Sudanese;

(C) the ongoing slave trade in Sudan and the role of the Government of Sudan in abetting and tolerating the practice;

(D) the Government of Sudan's use and organization of "murahalliin" or "mujahadeen", Popular Defense Forces, and regular Sudanese Army units into organized and coordinated raiding and slaving parties in Bahr al Ghazal, the Nuba Mountains, and the Upper Nile and the Blue Nile regions; and

(E) aerial bombardment of civilian targets that is sponsored by the Government of Sudan; and

(2) recognizes that, along with selective bans on air transport relief flights by the Government of Sudan, the use of raiding and slaving parties is a tool for creating food shortages and is used as a systematic means to destroy the societies, culture, and economies of the Dinka, Nuer, and Nuba peoples in a policy of low-intensity ethnic cleansing.

SEC. 5.[1] ASSISTANCE FOR PEACE AND DEMOCRATIC GOVERNANCE.

(a) ASSISTANCE TO SUDAN.—The President is authorized to provide increased assistance to the areas of Sudan that are not controlled by the Government of Sudan to prepare the population for peace and democratic governance, including support for civil administration, communications infrastructure, education, health, and agriculture.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out the activities described in subsection

(a) of this section $100,000,000 for each of the fiscal years 2003, 2004, and 2005.

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

SEC. 6.[1] SUPPORT FOR AN INTERNATIONALLY SANCTIONED PEACE PROCESS.

(a) FINDINGS.—Congress hereby—

(1) recognizes that—

(A) a single, viable internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and

(B) resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994, and on the Machakos Protocol in July 2002; and

(2) commends the efforts of Special Presidential Envoy, Senator Danforth and his team in working to assist the parties to the conflict in Sudan in finding a just, permanent peace to the conflict in Sudan.

(b) MEASURES OF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—

(A) The President shall make a determination and certify in writing to the appropriate congressional committees within 6 months after the date of enactment of this Act, and each 6 months thereafter, that the Government of Sudan and the Sudan People's Liberation Movement are negotiating in good faith and that negotiations should continue.

(B) If, under subparagraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Government of Sudan has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, or has unreasonably interfered with humanitarian efforts, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(C) If, under paragraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Sudan People's Liberation Movement has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(D) If the President certifies to the appropriate congressional committees that the Government of Sudan is not in compliance with the terms of a permanent peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(E) If, at any time after the President has made a certification under subparagraph (B), the President makes a determination and certifies in writing to the appropriate con-

gressional committees that the Government of Sudan has resumed good faith negotiations, or makes a determination and certifies in writing to the appropriate congressional committees that the Government of Sudan is in compliance with a peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(2) MEASURES IN SUPPORT OF THE PEACE PROCESS.—Subject to the provisions of paragraph (1), the President—

(A) shall, through the Secretary of the Treasury, instruct the United States executive directors to each international financial institution to continue to vote against and actively oppose any extension by the respective institution of any loan, credit, or guarantee to the Government of Sudan;

(B) should consider downgrading or suspending diplomatic relations between the United States and the Government of Sudan;

(C) shall take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues to ensure that the Government of Sudan neither directly nor indirectly utilizes any oil revenues to purchase or acquire military equipment or to finance any military activities; and

(D) shall seek a United Nations Security Council Resolution to impose an arms embargo on the Government of Sudan.

(c) REPORT ON THE STATUS OF NEGOTIATIONS.—If, at any time after the President has made a certification under subsection (b)(1)(A), the Government of Sudan discontinues negotiations with the Sudan People's Liberation Movement for a 14-day period, then the President shall submit a quarterly report to the appropriate congressional committees on the status of the peace process until negotiations resume.

(d) REPORT ON UNITED STATES OPPOSITION TO FINANCING BY INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall submit a semiannual report to the appropriate congressional committees describing the steps taken by the United States to oppose the extension of a loan, credit, or guarantee if, after the Secretary of the Treasury gives the instructions described in subsection (b)(2)(A), such financing is extended.

(e) REPORT ON EFFORTS TO DENY OIL REVENUES.—Not later than 45 days after the President takes an action under subsection (b)(2)(C), the President shall submit to the appropriate congressional committees a comprehensive plan for implementing the actions described in such subsection.

(f) DEFINITION.—In this section, the term "international financial institution" means the International Bank for Reconstruction and Development, the International Development Association, the International Monetary Fund, the African Development Bank, and the African Development Fund.

SEC. 7.[1] MULTILATERAL PRESSURE ON COMBATANTS.

It is the sense of Congress that—

(1) the United Nations should help facilitate peace and recovery in Sudan;

(2) the President, acting through the United States Permanent Representative to the United Nations, should seek to end the veto power of the Government of Sudan over the plans by OLS for air transport relief flights and, by doing so, to end the manipulation of the delivery of relief supplies to the advantage of the Government of Sudan on the battlefield; and

(3) the President should take appropriate measures, including the implementation of recommendations of the International Eminent Persons Commission contained in the report issued on May 22, 2002, to end slavery and aerial bombardment of civilians by the Government of Sudan.

SEC. 8.[1] REPORTING REQUIREMENT.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees a report regarding the conflict in Sudan. Such report shall include—

(1) a description of the sources and current status of Sudan's financing and construction of infrastructure and pipelines for oil exploitation, the effects of such financing and construction on the inhabitants of the regions in which the oil fields are located, and the ability of the Government of Sudan to finance the war in Sudan with the proceeds of the oil exploitation;

(2) a description of the extent to which that financing was secured in the United States or with involvement of United States citizens;

(3) the best estimates of the extent of aerial bombardment by the Government of Sudan, including targets, frequency, and best estimates of damage; and

(4) a description of the extent to which humanitarian relief has been obstructed or manipulated by the Government of Sudan or other forces.

SEC. 9.[1] CONTINUED USE OF NON-OLS ORGANIZATIONS FOR RELIEF EFFORTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a detailed report describing the progress made toward carrying out subsection (a).

SEC. 10.[1] CONTINGENCY PLAN FOR ANY BAN ON AIR TRANSPORT RELIEF FLIGHTS.

(a) PLAN.—The President shall develop a contingency plan to provide, outside the auspices of the United Nations if necessary, the greatest possible amount of United States Government and privately donated relief to all affected areas in Sudan, including the Nuba Mountains and the Upper Nile and the Blue Nile regions, in the event that the Government of Sudan imposes a total, partial, or incremental ban on OLS air transport relief flights.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law, in carrying out the plan developed under subsection (a), the President may reprogram up to 100 percent of the

funds available for support of OLS operations for the purposes of the plan.

SEC. 11.[1] INVESTIGATION OF WAR CRIMES.

(a) IN GENERAL.—The Secretary of State shall collect information about incidents which may constitute crimes against humanity, genocide, war crimes, and other violations of international humanitarian law by all parties to the conflict in Sudan, including slavery, rape, and aerial bombardment of civilian targets.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act and annually thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees a detailed report on the information that the Secretary of State has collected under subsection (a) and any findings or determinations made by the Secretary on the basis of that information. The report under this subsection may be submitted as part of the report required under section 8.

(c) CONSULTATIONS WITH OTHER DEPARTMENTS.—In preparing the report required by this section, the Secretary of State shall consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests.

h. Security Assistance Act of 2002

Division B of Public Law 107–228 [Foreign Relations Authorization Act, 2003; H.R. 1646], 116 Stat. 1350 at 1425, approved September 30, 2002

AN ACT to authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

DIVISION B—SECURITY ASSISTANCE ACT OF 2002

TITLE X—GENERAL PROVISIONS

SEC. 1001.[1] SHORT TITLE.

This division may be cited as the "Security Assistance Act of 2002".

SEC. 1002.[1] DEFINITIONS.

In this division:

(1) DEFENSE ARTICLE.—The term "defense article" has the meaning given the term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794 note).

(2) DEFENSE SERVICE.—The term "defense service" has the meaning given the term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794 note).

(3) EXCESS DEFENSE ARTICLE.—The term "excess defense article" has the meaning given the term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

TITLE XI—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS

SEC. 1101. VERIFICATION AND COMPLIANCE BUREAU PERSONNEL.

(a) IN GENERAL.—Of the amount authorized to be appropriated by section 111(a)(1)(A), $14,000,000 is authorized to be available for the Bureau of Verification and Compliance of the Department of State for Bureau-administered activities, including the Key Verification Assets Fund and to upgrade Bureau spaces for certification as a Sensitive Compartmented Information Facility (SCIF).

(b) ADDITIONAL PERSONNEL.—In addition to the amount made available under subsection (a), $1,800,000 is authorized to be available for the fiscal year 2003 from the Department's American Salaries Account, for the purpose of hiring new personnel to carry out the Bureau's responsibilities, as set forth in section 112 of the Arms Export Control and Nonproliferation Act of 1999 (113 Stat.

[1] 22 U.S.C. 2151 note.

1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113, including the assignment of one full-time person to the Bureau to manage the document control, tracking, and printing requirements of the Bureau's operation in a SCIF.

SEC. 1102. KEY VERIFICATION ASSETS FUND.

Of the total amount made available to the Department for fiscal year 2003, $7,000,000 is authorized to be available within the Verification and Compliance Bureau's account to carry out section 1111 of the Arms Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113.

SEC. 1103. REVISED VERIFICATION AND COMPLIANCE REPORTING REQUIREMENTS.

Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended * * *[2]

TITLE XII—MILITARY AND RELATED ASSISTANCE

Subtitle A—Foreign Military Sales and Financing Authorities

SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $4,107,200,000 for fiscal year 2003.

SEC. 1202. RELATIONSHIP OF FOREIGN MILITARY SALES TO UNITED STATES NONPROLIFERATION INTERESTS. * * *[3]

SEC. 1203. OFFICIAL RECEPTION AND REPRESENTATION EXPENSES. * * *[3]

SEC. 1204. ARMS EXPORT CONTROL ACT PROHIBITION ON TRANSACTIONS WITH COUNTRIES THAT HAVE REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM. * * *[3]

SEC. 1205. CONGRESSIONAL NOTIFICATION OF SMALL ARMS AND LIGHT WEAPONS LICENSE APPROVALS; REPORTS.

(a)–(c) * * *[3]

(d) REPORT ON ARMS BROKERING.—Not later than June 30, 2003, the Secretary shall submit a report to the appropriate congressional committees on activities of registered arms brokers, which shall discuss—

(1) the role of such brokers in the United States and other countries;

(2) United States law, regulations, and policy regarding arms brokers;

(3) violations of the Arms Export Control Act;

(4) United States resources and personnel devoted to the monitoring of arms brokers;

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[2] For the Arms Control and Disarmament Act, see *Legislation on Foreign Relations Through 2002*, vol. II.

[3] Secs. 1202 through 1205 amend the Arms Export Control Act and the Foreign Assistance Act of 1961.

(5) any needed changes in law, regulation, policy, or resources; and

(6) any implications for the regulation of arms brokers in other countries.

SEC. 1206.[4] TREATMENT OF TAIWAN RELATING TO TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.

Notwithstanding any other provision of law, for purposes of the transfer or possible transfer of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other provision of law, Taiwan shall be treated as though it were designated a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)).

Subtitle B—International Military Education and Training

SEC. 1211. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President $85,000,000 for fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training).

SEC. 1212. HUMAN RIGHTS VIOLATIONS.

(a) ANNUAL REPORT.—Chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section: * * *[5]

(b) RECORDS REGARDING FOREIGN PARTICIPANTS.—Section 548 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347g) is amended—
* * *

SEC. 1213. PARTICIPATION IN POST-UNDERGRADUATE FLYING TRAINING AND TACTICAL LEADERSHIP PROGRAMS.

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended by adding at the end the following new subsection: * * *

Subtitle C—Assistance for Select Countries

SEC. 1221. ASSISTANCE FOR ISRAEL AND EGYPT.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ISRAEL.—Section 513 of the Security Assistance Act of 2000 (Public Law 106–280) is amended—* * *[6]

(b) AUTHORIZATION OF APPROPRIATIONS FOR EGYPT.—Section 514 of the Security Assistance Act of 2000 (Public Law 106–280) is amended—* * *[6]

SEC. 1222. SECURITY ASSISTANCE FOR GREECE AND TURKEY.

(a) IN GENERAL.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

(1) $1,120,000 for fiscal year 2003 is authorized to be available for Greece; and

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[4] 22 U.S.C. 2321k note.

[5] Sec. 1212(a) added a new sec. 549 to the Foreign Assistance Act of 1961 (22 U.S.C. 2347h), relating to human rights reporting.

[6] For amended text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

(2) $2,800,000 for fiscal year 2003 is authorized to be available for Turkey.

(b) USE FOR PROFESSIONAL MILITARY EDUCATION.—Of the amounts available under paragraphs (1) and (2) of subsection (a) for fiscal year 2003, $500,000 of each such amount should be available for purposes of professional military education.

(c) USE FOR JOINT TRAINING.—It is the sense of Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.

(d) REPEAL.—Effective October 1, 2002, section 512 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 856) is repealed.

SEC. 1223. SECURITY ASSISTANCE FOR CERTAIN OTHER COUNTRIES.

(a) FMF FOR CERTAIN OTHER COUNTRIES.—Of the total amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), the following amounts are authorized to be available on a grant basis for the following countries:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $22,000,000.

(2) BULGARIA.—For Bulgaria, $11,000,000.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $11,000,000.

(4) GEORGIA.—For Georgia, $7,000,000.

(5) HUNGARY.—For Hungary, $11,000,000.

(6) JORDAN.—For Jordan, $198,000,000.

(7) MALTA.—For Malta, $1,150,000.

(8) THE PHILIPPINES.—For the Philippines, $25,000,000.

(9) POLAND.—For Poland, $16,000,000.

(10) ROMANIA.—For Romania, $12,000,000.

(11) SLOVAKIA.— For Slovakia, $9,000,000.

(12) SLOVENIA.—For Slovenia, $5,000,000.

(b) IMET.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), the following amounts are authorized to be available for the following countries:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $3,300,000.

(2) BULGARIA.—For Bulgaria, $1,370,000.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $1,900,000.

(4) GEORGIA.—For Georgia, $1,200,000.

(5) HUNGARY.—For Hungary, $1,900,000.

(6) JORDAN.—For Jordan, $4,000,000.

(7) MALTA.—For Malta, $350,000.

(8) THE PHILIPPINES.—For the Philippines, $2,000,000.

(9) POLAND.—For Poland, $2,000,000.

(10) ROMANIA.—For Romania, $1,500,000.

(11) SLOVAKIA.—For Slovakia, $950,000.

(12) SLOVENIA.—For Slovenia, $950,000.

(c) REPEALS.—Sections 511 (a) and (b) and 515 of the Security Assistance Act of 2000 are repealed.

SEC. 1224.[7] ASSISTANCE TO LEBANON.

(a) PROHIBITION.—Notwithstanding any other provision of law, $10,000,000 of the amounts made available for fiscal year 2003 or any subsequent fiscal year that are allocated for assistance to Lebanon under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund) may not be obligated unless and until the President certifies to the appropriate congressional committees that—

(1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and

(2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

(b) REQUIREMENT RELATING TO FUNDS WITHHELD.—Notwithstanding any other provision of law, any funds withheld pursuant to subsection (a) may not be programmed in order to be used for a purpose other than for assistance to Lebanon until the last month of the fiscal year in which the authority to obligate such funds lapses.

Subtitle D—Excess Defense Article and Drawdown Authorities

SEC. 1231. EXCESS DEFENSE ARTICLES FOR CERTAIN COUNTRIES.

(a) AUTHORITY.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during the fiscal year 2003 funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the authority provided under this section should be utilized only for those countries demonstrating a genuine commitment to democracy and human rights.

SEC. 1232. ANNUAL LISTING OF POSSIBLE EXCESS DEFENSE ARTICLES.

Section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)) is amended—* * *

SEC. 1233. LEASES OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

Section 61(b) of the Arms Export Control Act (22 U.S.C. 2796(b)), is amended—* * *

SEC. 1234. PRIORITY WITH RESPECT TO TRANSFER OF EXCESS DEFENSE ARTICLES.

Section 516(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(c)(2)) is amended * * *

[7] 22 U.S.C. 2346 note.

Subtitle E—Other Political-Military Assistance

SEC. 1241. DESTRUCTION OF SURPLUS WEAPONS STOCKPILES.

Of the funds authorized to be appropriated to the President for fiscal year 2003 to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), relating to development assistance, up to $10,000,000 is authorized to be made available for the destruction of surplus stockpiles of small arms, light weapons, and other munitions.

Subtitle F—Antiterrorism Assistance

SEC. 1251. AUTHORIZATION OF APPROPRIATIONS.

Section 574(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–4(a)) is amended by striking "and $73,000,000 for fiscal year 2002" and inserting ", $73,000,000 for fiscal year 2002, and $64,200,000 for fiscal year 2003".

Subtitle G—Other Matters

SEC. 1261. ADDITIONS TO UNITED STATES WAR RESERVE STOCKPILES FOR ALLIES.

Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended to read as follows: * * *

SEC. 1262. REVISED MILITARY ASSISTANCE REPORTING REQUIREMENTS.

(a) EXCEPTION FOR CERTAIN COUNTRIES.—Section 656(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2416(a)) is amended—* * *

(b) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655 of the Foreign Assistance Act of 1961 (22 U.S.C. 2415) is amended—* * *

(c) QUARTERLY REPORTS ON GOVERNMENT-TO-GOVERNMENT ARMS EXPORTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—* * *

SEC. 1263.[8] CONSULTATION WITH CONGRESS WITH REGARD TO TAIWAN.

Beginning 180 days after the date of enactment of this Act, and every 180 days thereafter, the President shall provide detailed briefings to and consult with the appropriate congressional committees regarding the United States security assistance to Taiwan, including the provision of defense articles and defense services.

TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

Subtitle A—General Provisions

SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4) is amended—* * *

(b) SUBALLOCATIONS.—Of the amount authorized to be appropriated to the President for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4)—

(1) $2,000,000 is authorized to be available for such fiscal year for the purpose of carrying out section 584 of the Foreign

[8] 22 U.S.C. 3302 note.

Assistance Act of 1961, as added by section 1303 of this Act; and

(2) $65,000,000 for fiscal year 2003 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.

(c) CONFORMING AMENDMENT.—Section 302 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 853) is repealed.

(d) FURTHER AUTHORIZATION.—There is authorized to be appropriated under "Nonproliferation, Anti-terrorism, Demining, and Related Programs" $382,400,000 for fiscal year 2003.

SEC. 1302.[9] NONPROLIFERATION TECHNOLOGY ACQUISITION PROGRAMS FOR FRIENDLY FOREIGN COUNTRIES.

(a) IN GENERAL.—For the purpose of enhancing the nonproliferation and export control capabilities of friendly countries, of the amount authorized to be appropriated for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.), the Secretary is authorized to make available—

(1) $5,000,000 for the procurement and provision of nuclear, chemical, and biological detection systems, including spectroscopic and pulse echo technologies; and

(2) $10,000,000 for the procurement and provision of x-ray systems capable of imaging sea-cargo containers.

(b) REPORTS ON TRAINING PROGRAM.—

(1) INITIAL REPORT.—Not later than March 31, 2003, the Secretary shall submit a report to the appropriate congressional committees setting forth his plans and budget for a multiyear training program to train foreign personnel in the utilization of the systems described in subsection (a).

(2) SUBSEQUENT REPORTS.—Not later than March 31, 2004, and annually thereafter for the next three years, the Secretary shall submit a report to the appropriate congressional committees describing the progress, current status, and budget of that training program and of the provision of those systems.

SEC. 1303. INTERNATIONAL NONPROLIFERATION AND EXPORT CONTROL TRAINING.

Chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.) is amended—

(1) by redesignating sections 584 and 585 as sections 585 and 586, respectively; and

(2) by inserting after section 583 the following:

"SEC. 584.[10] INTERNATIONAL NONPROLIFERATION EXPORT CONTROL TRAINING. * * *".

SEC. 1304. RELOCATION OF SCIENTISTS.

(a) REINSTATEMENT OF CLASSIFICATION AUTHORITY.—Section 4 of the Soviet Scientists Immigration Act of 1992 (Public Law 102-509; 106 Stat. 3316; 8 U.S.C. 1153 note) is amended by striking subsection (d) and inserting the following: * * *[11]

[9] 22 U.S.C. 2349bb note.
[10] 22 U.S.C. 2349bb–2a note.
[11] For text, see *Legislation on Foreign Relations Through 2002*, vol. II.

(b) LIMITATION ON NUMBER OF SCIENTISTS ELIGIBLE FOR VISAS UNDER AUTHORITY.—Section 4(c) of such Act (8 U.S.C. 1153 note) is amended * * *

(c) LIMITATION ON ELIGIBILITY.—Section 4(a) of that Act (8 U.S.C. 1153 note) is amended by adding at the end the following new sentence: * * *

(d)[12] CONSULTATION REQUIREMENT.—The Attorney General shall consult with the Secretary, the Secretary of Defense, the Secretary of Energy, and the heads of other appropriate agencies of the United States regarding—

(1) previous experience in implementing the Soviet Scientists Immigration Act of 1992; and

(2) any changes that those officials would recommend in the regulations prescribed under that Act.

SEC. 1305. INTERNATIONAL ATOMIC ENERGY AGENCY REGULAR BUDGET ASSESSMENTS AND VOLUNTARY CONTRIBUTIONS.

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

(1) The Department has concluded that the International Atomic Energy Agency (in this section referred to as the "IAEA") is a critical and effective instrument for verifying compliance with international nuclear nonproliferation agreements, and that it serves as an essential barrier to the spread of nuclear weapons.

(2) The IAEA furthers United States national security objectives by helping to prevent the proliferation of nuclear weapons material, especially through its work on effective verification and safeguards measures.

(3) The IAEA can also perform a critical role in monitoring and verifying aspects of nuclear weapons reduction agreements between nuclear weapons states.

(4) The IAEA has adopted a multifaceted action plan, to be funded by voluntary contributions, to address the threats posed by radioactive sources that could be used in a radiological weapon and will be the leading international agency in this effort.

(5) As the IAEA has negotiated and developed more effective verification and safeguards measures, it has experienced significant real growth in its mission, especially in the vital area of nuclear safeguards inspections.

(6) Nearly two decades of zero budget growth have affected the ability of the IAEA to carry out its mission and to hire and retain the most qualified inspectors and managers, as evidenced in the decreasing proportion of such personnel who hold doctorate degrees.

(7) Increased voluntary contributions by the United States will be needed if the IAEA is to increase its safeguards activities and also to implement its action plan to address the worldwide risks posed by lost or poorly secured radioactive sources.

(8) Although voluntary contributions by the United States lessen the IAEA's budgetary constraints, they cannot readily be used for the long-term capital investments or permanent

[12] 8 U.S.C. 1153 note.

staff increases necessary to an effective IAEA safeguards regime.

(9) The recent United States decision to accept a 25 percent IAEA regular budget assessment was based upon a correct interpretation of existing law. It was not the intent of Congress that the United States contributions to all United Nations-related organizations and activities be reduced pursuant to the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–405 et seq.), which sets 22 percent assessment rates as benchmarks for the general United Nations budget, the Food and Agricultural Organization, the World Health Organization, and the International Labor Organization. Rather, contributions for an important and effective agency such as the IAEA should be maintained at levels commensurate with the criticality of its mission.

(10) The Secretary should negotiate a gradual and sustained increase in the regular budget of the International Atomic Energy Agency, which should begin with the 2004 budget.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated for Nonproliferation, Anti-terrorism, Demining, and Related Programs there is authorized to be appropriated $60,000,000 for fiscal year 2003 for a United States voluntary contribution to the International Atomic Energy Agency, including for the purpose of implementing the Protection Against Nuclear Terrorism program adopted by the International Atomic Energy Agency Board of Governors in March 2002.

(a) REPORTS ON PROLIFERATION TO IRAN.—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 114 Stat. 39; 50 U.S.C. 1701 note) is amended * * *

(b) DETERMINATION EXEMPTING FOREIGN PERSONS FROM CERTAIN MEASURES UNDER THE ACT.—Section 5(a)(2) of such Act is amended * * *

SEC. 1307. AMENDMENTS TO THE NORTH KOREA THREAT REDUCTION ACT OF 1999.[14]

(a) RESTRICTIONS.—Section 822(a) of the North Korea Threat Reduction Act of 1999 (subtitle B of title VIII of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–472) is amended * * *

(b) SPECIFIED NUCLEAR ITEM DEFINED.—Section 823 of the North Korea Threat Reduction Act of 1999 is amended * * *

SEC. 1308.[15] **ANNUAL REPORTS ON THE PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL WEAPONS.**

(a) REPORT.—Not later than March 1, 2003, and annually thereafter, the President shall transmit to the designated congressional committees an annual report on the transfer by any country of weapons, technology, components, or materials that can be used to deliver, manufacture (including research and experimentation), or

[13] For text, see *Legislation on Foreign Relations Through 2002*, vol. II.
[14] For text, see *Legislation on Foreign Relations Through 2002*, vol. II.
[15] 50 U.S.C. 2368.

weaponize nuclear, biological, chemical or radiological weapons (in this section referred to as "NBC weapons") to any country other than a country referred to in subsection (d) that is seeking to possess or otherwise acquire such weapons, technology, or materials, or other system that the Secretary or the Secretary of Defense has reason to believe could be used to develop, acquire, or deliver NBC weapons.

(b) MATTERS TO BE INCLUDED.—Each such report shall include—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary or the Secretary of Defense has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary or the Secretary of Defense has reason to believe could be used to manufacture NBC weapons.

(c) CONTENT OF REPORT.—Each such report shall include the following with respect to preceding calendar year:

(1) The status of missile, aircraft, and other NBC weapons delivery and weaponization programs in any such country, including efforts by such country or by any subnational group to acquire MTCR-controlled equipment, NBC-capable aircraft, or any other weapon or major weapon component which may be utilized in the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, acquisition, manufacture, stockpiling, and deployment programs in any such country, including efforts by such country or by any subnational group to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after the date of the enactment of this Act, to any such country or subnational group in the acquisition or development of—

(A) NBC weapons;

(B) missile systems, as defined in the MTCR or that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(C) aircraft and other delivery systems and weapons that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(4) A listing of those persons and countries that continue to provide such equipment or technology described in paragraph

(3) to any country or subnational group as of the date of submission of the report, including the extent to which foreign persons and countries were found to have knowingly and materially assisted such programs.

(5) A description of the use of, or substantial preparations to use, the equipment of technology described in paragraph (3) by any foreign country or subnational group.

(6) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other arrangements.

(7) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(8) A summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(b)(4)) and under section 73(d) of the Arms Export Control Act (22 U.S.C. 2797b(d)).

(9) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(10) A description of each transfer by any person or government during the preceding 12-month period which is subject to sanctions under the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484).

(d) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, the Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(e) CLASSIFICATION OF REPORT.—The Secretary shall make every effort to submit all of the information required by this section in unclassified form. Whenever the Secretary submits any such information in classified form, the Secretary shall submit such classified information in an addendum and shall also submit concurrently a detailed summary, in unclassified form, of that classified information.

(f) DEFINITIONS.—In this section:

(1) DESIGNATED CONGRESSIONAL COMMITTEES.—The term "designated congressional committees" means—

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

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

(2) MISSILE; MTCR; MTCR EQUIPMENT OR TECHNOLOGY.—The terms "missile", "MTCR", and "MTCR equipment or tech-

nology" have the meanings given those terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(3) PERSON.—The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of its successor entities, parents, or subsidiaries.

(4) WEAPONIZE; WEAPONIZATION.—The term "weaponize" or "weaponization" means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(g) REPEALS.—

(1) IN GENERAL.—The following provisions of law are repealed:

(A) Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (22 U.S.C. 2751 note).

(B) Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5606).

(C) Section 1607(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484).

(D) Paragraph (d) of section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of title I of division A of Public Law 104–208; 110 Stat. 3009–171).

(2) CONFORMING AMENDMENTS.—Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is amended—* * *

SEC. 1309. THREE-YEAR INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION STRATEGY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the appropriate congressional committees a 3-year international arms control and nonproliferation strategy. The strategy shall contain the following:

(1) A 3-year plan for the reduction of existing nuclear, chemical, and biological weapons and ballistic missiles and for controlling the proliferation of these weapons.

(2) Identification of the goals and objectives of the United States with respect to arms control and nonproliferation of weapons of mass destruction and their delivery systems.

(3) A description of the programs, projects, and activities of the Department of State intended to accomplish goals and objectives described in paragraph (2).

Subtitle B—Russian Federation Debt Reduction for Nonproliferation

SEC. 1311.[16] SHORT TITLE.

This subtitle may be cited as the "Russian Federation Debt for Nonproliferation Act of 2002".

SEC. 1312.[16] FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

[16] 22 U.S.C. 5952 note.

(1) It is in the vital security interests of the United States to prevent the spread of weapons of mass destruction to additional states or to terrorist organizations, and to ensure that other nations' obligations to modify their stockpiles of such arms in accordance with treaties, executive agreements, or political commitments are fulfilled.

(2) In particular, it is in the vital national security interests of the United States to ensure that—

(A) all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for;

(B) stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced;

(C) any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed;

(D) the Russian Federation's nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies are shifted to gainful and sustainable civilian employment;

(E) the Russian Federation's export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and

(F) these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

(3) United States programs should be designed to accomplish these vital objectives in the Russian Federation as rapidly as possible, and the President should develop and present to Congress a plan for doing so.

(4) Substantial progress has been made in United States-Russian Federation cooperative programs to achieve these objectives, but much more remains to be done to reduce the urgent risks to United States national security posed by the current state of the Russian Federation's weapons of mass destruction stockpiles and complexes.

(5) The threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent. Incidents in years immediately preceding 2001, which have been cited by the Russia Task Force of the Secretary of Energy Advisory Board, include—

(A) a conspiracy at one of the Russian Federation's largest nuclear weapons facilities to steal nearly enough highly enriched uranium for a nuclear bomb;

(B) an attempt by an employee of the Russian Federation's premier nuclear weapons facility to sell nuclear weapons designs to agents of Iraq and Afghanistan; and

(C) the theft of radioactive material from a Russian Federation submarine base.

(6) Addressing these threats to United States and world security will ultimately consume billions of dollars, a burden that will have to be shared by the Russian Federation, the United States, and other governments, if these threats are to be neutralized.

(7) The creation of new funding streams could accelerate progress in reducing these threats to United States security and help the government of the Russian Federation to fulfill its responsibility for secure management of its weapons stockpiles and complexes as United States assistance phases out.

(8) The Russian Federation has a significant foreign debt, a substantial proportion of which it inherited from the Soviet Union.

(9) Past debt-for-environment exchanges, in which a portion of a country's foreign debt is canceled in return for certain environmental commitments or payments by that country, suggest that a debt-for-nonproliferation exchange with the Russian Federation could be designed to provide additional funding for nonproliferation and arms reduction initiatives.

(10) Most of the Russian Federation's official bilateral debt is held by United States allies that are advanced industrial democracies. Since the issues described pose threats to United States allies as well, United States leadership that results in a larger contribution from United States allies to cooperative threat reduction activities will be needed.

(11) At the June 2002 meeting of the G–8 countries, agreement was achieved on a G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, under which the advanced industrial democracies committed to contribute $20,000,000,000 to nonproliferation programs in the Russian Federation during a 10-year period, with each contributing country having the option to fund some or all of its contribution through reduction in the Russian Federation's official debt to that country.

(12) The Russian Federation's Soviet-era official debt to the United States is estimated to be $480,000,000 in Lend-Lease debt and $2,250,000,000 in debt as a result of credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(b) PURPOSES.—The purposes of this subtitle are—

(1) to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the use of a portion of the Russian Federation's foreign debt to fund nonproliferation programs, thus allowing the use of additional resources for these purposes; and

(2) to help ensure that the resources made available to the Russian Federation are targeted to the accomplishment of the United States objectives described in the findings set forth in subsection (a).

SEC. 1313.[16] DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

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

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

(2) COST.—The term "cost" has the meaning given that term in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(3) RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT OR AGREEMENT.—The term "Russian Federation Nonproliferation Investment Agreement" or "Agreement" means the agreement between the United States and the Russian Federation entered into under section 1315(a).

(4) SOVIET-ERA DEBT.—The term "Soviet-era debt" means debt owed as a result of loans or credits provided by the United States (or any agency of the United States) to the Union of Soviet Socialist Republics under the Lend Lease Act of 1941 or the Commodity Credit Corporation Charter Act.

(5) STATE SPONSOR OF INTERNATIONAL TERRORISM.—The term "state sponsor of international terrorism" means those countries that have been determined by the Secretary of State, for the purposes of section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

SEC. 1314.[16] AUTHORITY TO REDUCE THE RUSSIAN FEDERATION'S SOVIET-ERA DEBT OBLIGATIONS TO THE UNITED STATES.

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Upon the entry into force of a Russian Federation Nonproliferation Investment Agreement, the President may reduce amounts of Soviet-era debt owed by the Russian Federation to the United States (or any agency or instrumentality of the United States) that are outstanding as of the last day of the fiscal year preceding the fiscal year for which appropriations are available for the reduction of debt, in accordance with this subtitle.

(2) LIMITATION.—The authority provided by paragraph (1) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of reducing any debt pursuant to such subsection are made in advance.

(3) SUPERSEDES EXISTING LAW.—The authority provided by paragraph (1) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(r)) or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority conferred upon the President in this subtitle to the Secretary of State.

(2) ESTABLISHMENT OF TERMS AND CONDITIONS.—Consistent with this subtitle, the President shall establish the terms and

conditions under which loans and credits may be reduced pursuant to subsection (a).

(3) IMPLEMENTATION.—In exercising the authority of subsection (a), the President—

(A) shall notify—

(i) the Department of State, with respect to obligations of the former Soviet Union under the Lend Lease Act of 1941; and

(ii) the Commodity Credit Corporation, with respect to obligations of the former Soviet Union under the Commodity Credit Corporation Act;

(B) shall direct the cancellation of old obligations and the substitution of new obligations consistent with the Russian Federation Nonproliferation Investment Agreement; and

(C) shall direct the appropriate agency to make an adjustment in the relevant accounts to reflect the new debt treatment.

(4) DEPOSIT OF REPAYMENTS.—All repayments of outstanding loan amounts under subsection (a) that are not designated under a Russian Federation Nonproliferation Investment Agreement shall be deposited in the United States Government accounts established for repayments of the original obligations.

(5) NOT TREATED AS FOREIGN ASSISTANCE.—Any reduction of Soviet-era debt pursuant to this subtitle shall not be considered assistance for the purposes of any provision of law limiting assistance to a country.

(c) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of modifying any Soviet-era debt obligation pursuant to subsection (a), there are authorized to be appropriated to the President such sums as may be necessary.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 1315.[16] RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT.

(a) IN GENERAL.—

(1) IN GENERAL.—The President is authorized to enter into an agreement with the Russian Federation under which an amount equal to the value of the debt reduced pursuant to section 1314 will be used to promote the nonproliferation of weapons of mass destruction and the means of delivering such weapons. An agreement entered into under this section may be referred to as the "Russian Federation Nonproliferation Investment Agreement".

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees at least 15 days in advance of the United States entering into a Russian Federation Nonproliferation Investment Agreement.

(b) CONTENT OF THE AGREEMENT.—The Russian Federation Nonproliferation Investment Agreement shall ensure that—

(1) an amount equal to the value of the debt reduced pursuant to this subtitle will be made available by the Russian Federation for agreed nonproliferation programs and projects;

(2) each program or project funded pursuant to the Agreement will be approved by the President;

(3) the administration and oversight of nonproliferation programs and projects will incorporate best practices from established threat reduction and nonproliferation assistance programs;

(4) each program or project funded pursuant to the Agreement will be subject to monitoring and audits conducted by or for the United States Government to confirm that agreed funds are expended on agreed projects and meet agreed targets and benchmarks;

(5) unobligated funds for investments pursuant to the Agreement will not be diverted to other purposes;

(6) funds allocated to programs and projects pursuant to the Agreement will not be subject to any taxation by the Russian Federation;

(7) all matters relating to the intellectual property rights and legal liabilities of United States firms in any project will be agreed upon before the expenditure of funds would be authorized for that project; and

(8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement will be spent in the Russian Federation.

(c) USE OF EXISTING MECHANISMS.—It is the sense of Congress that, to the extent practicable, the boards and administrative mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement.

(d) JOINT AUDITING.—It is the sense of Congress that the United States and the Russian Federation should consider commissioning the United States General Accounting Office and the Russian Chamber of Accounts to conduct joint audits to ensure that the funds saved by the Russian Federation as a result of any debt reduction are used exclusively, efficiently, and effectively to implement agreed programs or projects pursuant to the Agreement.

(e) STRUCTURE OF THE AGREEMENT.—It is the sense of Congress that the Agreement should provide for significant penalties—

(1) if funds obligated for approved programs or projects are determined to have been misappropriated; and

(2) if the President is unable to make the certification required by section 1317(a) for two consecutive years.

SEC. 1316.[16] INDEPENDENT MEDIA AND THE RULE OF LAW.

Notwithstanding section 1315 (a)(1) and (b)(1), up to 10 percent of the amount equal to the value of the debt reduced pursuant to this subtitle may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation through an endowment to support the establishment of a "Center for an Independent Press and the Rule of Law" in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chair-

man, shall be United States personnel, and which shall be responsible for management of the endowment, its funds, and the Center's programs.

SEC. 1317.[16] RESTRICTION ON DEBT REDUCTION AUTHORITY.

(a) PROLIFERATION TO STATE SPONSORS OF TERRORISM.—Subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until the President certifies to the appropriate congressional committees that the Russian Federation has made material progress in stemming the flow of sensitive goods, technologies, material, and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to state sponsors of international terrorism.

(b) ANNUAL DETERMINATION.—If, in any annual report to Congress submitted pursuant to section 1321, the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a), then, subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until such certification is made to the appropriate congressional committees.

(c) PRESIDENTIAL WAIVER.—The President may waive the requirements of subsection (a) or (b) for a fiscal year if the President—

(1) determines that application of the subsection for a fiscal year would be counter to the national interest of the United States; and

(2) so reports to the appropriate congressional committees.

SEC. 1318.[16] DISCUSSION OF RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION WITH OTHER CREDITOR STATES.

It is the sense of Congress that the President and such other appropriate officials as the President may designate should pursue discussions with other creditor states with the objectives of—

(1) ensuring that other advanced industrial democracies, especially the largest holders of Soviet-era Russian debt, dedicate significant proportions of their bilateral official debt with the Russian Federation or equivalent amounts of direct assistance to the G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as agreed upon in the Statement by G–8 Leaders on June 27, 2002; and

(2) reaching agreement, as appropriate, to establish a unified Russian Federation official debt reduction fund to manage and provide financial transparency for the resources provided by creditor states through debt reductions.

SEC. 1319.[16] IMPLEMENTATION OF UNITED STATES POLICY.

It is the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the coordinating mechanism established pursuant to section 1334 of this Act.

SEC. 1320.[16] CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the implementation of this

subtitle and the Russian Federation's eligibility for debt reduction pursuant to this subtitle.

SEC. 1321.[16] ANNUAL REPORTS TO CONGRESS.

Not later than December 31, 2003, and not later than December 31 of each year thereafter, the President shall prepare and transmit to Congress a report concerning actions taken to implement this subtitle during the fiscal year preceding the fiscal year in which the report is transmitted. The report on a fiscal year shall include—

(1) a description of the activities undertaken pursuant to this subtitle during the fiscal year;

(2) a description of the nature and amounts of the loans reduced pursuant to this subtitle during the fiscal year;

(3) a description of any agreement entered into under this subtitle;

(4) a description of the progress during the fiscal year of any projects funded pursuant to this subtitle;

(5) a summary of the results of relevant audits performed in the fiscal year; and

(6) a certification, if appropriate, that the Russian Federation continued to meet the condition required by section 1317(a), and an explanation of why the certification was or was not made.

Subtitle C—Nonproliferation Assistance Coordination

SEC. 1331.[17] SHORT TITLE.

This subtitle may be cited as the "Nonproliferation Assistance Coordination Act of 2002".

SEC. 1332.[18] FINDINGS.

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts has suffered from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

[17] 50 U.S.C. 2301 note.
[18] 50 U.S.C. 2357.

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union make advisable the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

SEC. 1333.[19] DEFINITIONS.

(a) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—In this subtitle, the term "independent states of the former Soviet Union" has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this subtitle, the term "the appropriate committees of Congress" means the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

SEC. 1334.[20] ESTABLISHMENT OF COMMITTEE ON NONPROLIFERATION ASSISTANCE.

(a) IN GENERAL.—The President shall establish a mechanism to coordinate, with the maximum possible effectiveness and efficiency, the efforts of United States Government departments and agencies engaged in formulating policy and carrying out programs for achieving nonproliferation and threat reduction.

(b) MEMBERSHIP.—The coordination mechanism established pursuant to subsection (a) shall include—

(1) representatives designated by—

(A) the Secretary of State;

(B) the Secretary of Defense;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Attorney General; and

(F) the Director of the Office of Homeland Security, or the head of a successor department or agency; and

(2) such other executive branch officials as the President may select.

(c) LEVEL OF REPRESENTATION.—To the maximum extent possible, each department or agency's representative designated pursuant to subsection (b)(1) shall be an official of that department or agency who has been appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The President shall designate an official to direct the coordination mechanism established pursuant to subsection (a). The official so designated may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

[19] 50 U.S.C. 2357a.
[20] 50 U.S.C. 2357b.

SEC. 1335.[21] **PURPOSES AND AUTHORITY.**

(a) PURPOSES.—

(1) IN GENERAL.—The primary purpose of the coordination mechanism established pursuant to section 1334 of this Act should be—

(A) to exercise continuing responsibility for coordinating worldwide United States nonproliferation and threat reduction efforts to ensure that they effectively implement United States policy; and

(B) to enhance the ability of participating departments and agencies to anticipate growing nonproliferation areas of concern.

(2) PROGRAM MONITORING AND COORDINATION.—The coordination mechanism established pursuant to section 1334 of this Act should have primary continuing responsibility within the executive branch of the Government for—

(A) United States nonproliferation and threat reduction efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(B) coordinating the implementation of United States policy with respect to such efforts.

(b) AUTHORITY.—In carrying out the responsibilities described in subsection (a), the coordination mechanism established pursuant to section 1334 of this Act should have, at a minimum, the authority to—

(1) establish such subcommittees and working groups as it deems necessary;

(2) direct the preparation of analyses on issues and problems relating to coordination within and among United States departments and agencies on nonproliferation and threat reduction efforts;

(3) direct the preparation of analyses on issues and problems relating to coordination between the United States public and private sectors on nonproliferation and threat reduction efforts, including coordination between public and private spending on nonproliferation and threat reduction programs and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(4) provide guidance on arrangements that will coordinate, deconflict, and maximize the utility of United States public spending on nonproliferation and threat reduction programs, and particularly such efforts in the independent states of the former Soviet Union;

(5) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union or other countries of concern to voluntarily report these efforts to it;

(6) direct the preparation of analyses on issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts, and

[21] 50 U.S.C. 2357c.

particularly such efforts in the independent states of the former Soviet Union; and

(7) consider, and make recommendations to the President with respect to, proposals for such new legislation or regulations relating to United States nonproliferation efforts as may be necessary.

SEC. 1336.[22] ADMINISTRATIVE SUPPORT.

All United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the coordination mechanism established pursuant to section 1334 of this Act, in carrying out its functions and activities under this subtitle.

SEC. 1337.[23] CONFIDENTIALITY OF INFORMATION.

Information which has been submitted to or received by the coordination mechanism established pursuant to section 1334 of this Act in confidence shall not be publicly disclosed, except to the extent required by law, and such information shall be used by it only for the purpose of carrying out the functions set forth in this subtitle.

SEC. 1338.[24] STATUTORY CONSTRUCTION.

Nothing in this subtitle—

(1) applies to the data-gathering, regulatory, or enforcement authority of any existing United States department or agency over nonproliferation efforts in the independent states of the former Soviet Union, and the review of those efforts undertaken by the coordination mechanism established pursuant to section 1334 of this Act shall not in any way supersede or prejudice any other process provided by law; or

(2) applies to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

SEC. 1339.[25] REPORTING AND CONSULTATION.

(a) PRESIDENTIAL REPORT.—Not later than 120 days after each inauguration of a President, the President shall submit a report to the Congress on his general and specific nonproliferation and threat reduction objectives and how the efforts of executive branch agencies will be coordinated most effectively, pursuant to section 1334 of this Act, to achieve those objectives.

(b) CONSULTATION.—The President should consult with and brief, from time to time, the appropriate committees of Congress regarding the efficacy of the coordination mechanism established pursuant to section 1334 of this Act in achieving its stated objectives.

Subtitle D—Iran Nuclear Proliferation Prevention Act of 2002

SEC. 1341.[26] SHORT TITLE.

This subtitle may be cited as the "Iran Nuclear Proliferation Prevention Act of 2002".

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[22] 50 U.S.C. 2357d.
[23] 50 U.S.C. 2357e.
[24] 50 U.S.C. 2357f.
[25] 50 U.S.C. 2357g.
[26] 22 U.S.C. 2021 note.

SEC. 1342. WITHHOLDING OF VOLUNTARY CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR PROGRAMS AND PROJECTS IN IRAN.

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) is amended by adding at the end the following: * * *

SEC. 1343.[27] ANNUAL REVIEW BY SECRETARY OF STATE OF PROGRAMS AND PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY; UNITED STATES OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF THE AGENCY.

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary shall undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency (IAEA) in the countries described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and shall determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals.

(2) REPORT.—Not later than one year after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary shall submit to Congress a report containing the results of the review under paragraph (1).

(b) OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF INTERNATIONAL ATOMIC ENERGY AGENCY.—The Secretary shall direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary under the review conducted under subsection (a)(1) to be inconsistent with nuclear nonproliferation and safety goals of the United States.

SEC. 1344.[28] REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to Congress a report that contains—

(1) a description of the total amount of annual assistance to Iran from the International Atomic Energy Agency;

(2) a list of Iranian officials in leadership positions at the Agency;

(3) the expected timeframe for the completion of the nuclear power reactors at the Bushehr nuclear power plant;

(4) a summary of the nuclear materials and technology transferred to Iran from the Agency in the preceding year that could assist in the development of Iran's nuclear weapons program; and

(5) a description of all programs and projects of the International Atomic Energy Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and any inconsistencies between the technical cooperation and assistance programs and projects of the Agency and United States nuclear nonproliferation and safety goals in those countries.

[27] 22 U.S.C. 2027.
[28] 22 U.S.C. 2021 note.

(b) ADDITIONAL REQUIREMENT.—The report required to be submitted under subsection (a) shall be submitted in an unclassified form, to the extent appropriate, but may include a classified annex.

SEC. 1345. SENSE OF CONGRESS.

It is the sense of Congress that the President should pursue internal reforms at the International Atomic Energy Agency that will ensure that all programs and projects funded under the Technical Cooperation and Assistance Fund of the Agency are compatible with United States nuclear nonproliferation policy and international nuclear nonproliferation norms.

TITLE XIV—EXPEDITING THE MUNITIONS LICENSING PROCESS

SEC. 1401. LICENSE OFFICER STAFFING.

(a) FUNDING.—Of the amount authorized to be appropriated by section 111(a)(1)(A), $10,000,000 is authorized to be available for salaries and expenses of the Office of Defense Trade Controls of the Department.

(b) ASSIGNMENT OF LICENSE REVIEW OFFICERS.—Effective January 1, 2003, the Secretary shall assign to the Office of Defense Trade Controls of the Department a sufficient number of license review officers to ensure that the average weekly caseload for each officer does not routinely exceed 40.

(c) DETAILEES.—Given the priority placed on expedited license reviews in recent years by the Department of Defense, the Secretary of Defense should ensure that 10 military officers are continuously detailed to the Office of Defense Trade Controls of the Department of State on a nonreimbursable basis.

SEC. 1402. FUNDING FOR DATABASE AUTOMATION.

Of the amount authorized to be appropriated by section 111(a)(2), $4,000,000 is authorized to be available for the Office of Defense Trade Controls of the Department for the modernization of information management systems.

SEC. 1403.[29] INFORMATION MANAGEMENT PRIORITIES.

(a) OBJECTIVE.—The Secretary shall establish a secure, Internet-based system for the filing and review of applications for export of Munitions List items.

(b) ESTABLISHMENT OF AN ELECTRONIC SYSTEM.—Of the amount made available pursuant to section 1402 of this Act, $3,000,000 is authorized to be available to fully automate the Defense Trade Application System, and to ensure that the system—

(1) is a secure, electronic system for the filing and review of Munitions List license applications;

(2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and

(3) is capable of exchanging data with—

(A) the Export Control Automated Support System of the Department of Commerce;

[29] 22 U.S.C. 2778 note.

(B) the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense;

(C) the Export Control System of the Central Intelligence Agency; and

(D) the Proliferation Information Network System of the Department of Energy.

(c) MUNITIONS LIST DEFINED.—In this section, the term "Munitions List" means the United States Munitions List of defense articles and defense services controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

SEC. 1404. IMPROVEMENTS TO THE AUTOMATED EXPORT SYSTEM.

(a)[30] CONTRIBUTION TO THE AUTOMATED EXPORT SYSTEM.—Of the amount provided under section 1402 of this Act, $250,000 is authorized to be available for the purpose of—

(1) providing the Department with full access to the Automated Export System;

(2) ensuring that the system is modified to meet the needs of the Department, if such modifications are consistent with the needs of other United States Government agencies; and

(3) providing operational support.

(b)[30] MANDATORY FILING.—The Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Treasury, shall publish regulations in the Federal Register to require, upon the effective date of those regulations, that all persons who are required to file export information under chapter 9 of title 13, United States Code, file such information through the Automated Export System.

(c)[30] REQUIREMENT FOR INFORMATION SHARING.—The Secretary shall conclude an information-sharing arrangement with the heads of the United States Customs Service and the Census Bureau—

(1) to allow the Department to access information on controlled exports made through the United States Postal Service; and

(2) to adjust the Automated Export System to parallel information currently collected by the Department.

(d) SECRETARY OF TREASURY FUNCTIONS.—Section 303 of title 13, United States Code, is amended by striking ", other than by mail,".

(e) FILING EXPORT INFORMATION, DELAYED FILINGS, PENALTIES FOR FAILURE TO FILE.—Section 304 of title 13, United States Code, is amended—* * *

(f) ADDITIONAL PENALTIES.—

(1) IN GENERAL.—Section 305 of title 13, United States Code, is amended to read as follows:

"SEC. 305. PENALTIES FOR UNLAWFUL EXPORT INFORMATION ACTIVITIES. * * *".

SEC. 1405. ADJUSTMENT OF THRESHOLD AMOUNTS FOR CONGRESSIONAL REVIEW PURPOSES.

(a) IN GENERAL.—The Arms Export Control Act is amended—* * *[31]

[30] 13 U.S.C. 301 note.

[31] Sec. 1405(a) amended the Arms Export Control Act at secs. 3(d), 36, 47, and 63(a)

(b) LICENSES FOR EXPORTS TO INDIA AND PAKISTAN.—Section 9001(e) of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) is amended by adding at the end the following: "The application of these requirements shall be subject to the dollar amount thresholds specified in that section.".

SEC. 1406. CONGRESSIONAL NOTIFICATION OF REMOVAL OF ITEMS FROM THE MUNITIONS LIST.

Section 38(f)(1) of the Arms Export Control Act (22 U.S.C. 778(f)(1)) is amended by striking the third sentence and inserting the following: "The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.".

TITLE XV—NATIONAL SECURITY ASSISTANCE STRATEGY

SEC. 1501. BRIEFING ON THE STRATEGY.

Not later than March 31, 2003, officials of the Department and the Department of Defense shall brief the appropriate congressional committees regarding their plans and progress in formulating and implementing a national security assistance strategy. This briefing shall include—

(1) a description of how, and to what extent, the elements of the strategy recommended in section 501(b) of the Security Assistance Act of 2000 (22 U.S.C. 2305(b)) have been or will be incorporated in security assistance plans and decisions;

(2) the number of out-years considered in the strategy;

(3) a description of the actions taken to include the programs listed in section 501(c) of the Security Assistance Act of 2000 (22 U.S.C. 2305(c)), as well as similar programs of military training or other assistance to the military or security forces of a foreign country;

(4) a description of how a national security assistance strategy is being implemented regarding specific countries;

(5) a description of any programmatic changes adopted or expected as a result of adopting a strategic approach to security assistance policymaking;

(6) a description of any obstacles encountered in formulating or implementing a national security assistance strategy; and

(7) a description of any resource or legislative needs highlighted by this process.

SEC. 1502. SECURITY ASSISTANCE SURVEYS.

(a) UTILIZATION.—The Secretary should utilize security assistance surveys in preparation of a national security assistance strategy pursuant to section 501 of the Security Assistance Act of 2000 (22 U.S.C. 2305).

(b) FUNDING.—Of the amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C.

2763), $2,000,000 is authorized to be available to the Secretary to conduct security assistance surveys, or to request such surveys, on a reimbursable basis, by the Department of Defense or other United States Government agencies. Such surveys shall be conducted consistent with the requirements of section 26 of the Arms Export Control Act (22 U.S.C. 2766).

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. NUCLEAR AND MISSILE NONPROLIFERATION IN SOUTH ASIA.

(a) UNITED STATES POLICY.—It shall be the policy of the United States, consistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.T. 483), to encourage and work with the governments of India and Pakistan to achieve the following objectives by September 30, 2003:

(1) Continuation of a nuclear testing moratorium.

(2) Commitment not to deploy nuclear weapons.

(3) Commitment not to deploy ballistic missiles that can carry nuclear weapons and to restrain the ranges and types of missiles developed or deployed.

(4) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Nuclear Suppliers Group.

(5) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Zangger Committee.

(6) Agreement by both governments to bring their export controls in accord with the guidelines, requirements, and annexes of the Missile Technology Control Regime.

(7) Establishment of a modern, effective system to control the export of sensitive dual-use items, technology, technical information, and materiel that can be used in the design, development, or production of weapons of mass destruction and ballistic missiles.

(8) Conduct of bilateral meetings between Indian and Pakistani senior officials to discuss security issues and establish confidence-building measures with respect to nuclear policies and programs.

(b) FURTHER UNITED STATES POLICY.—It shall also be the policy of the United States, consistent with its obligations under the Treaty on the Nonproliferation of Nuclear Weapons (21 U.S.T. 483), to encourage, and, where appropriate, to work with, the Governments of India and Pakistan to achieve not later than September 30, 2003, the establishment by those governments of modern, effective systems to protect and secure their nuclear devices and materiel from unauthorized use, accidental employment, or theft. Any such dialogue with India or Pakistan would not be represented or considered, nor would it be intended, as granting any recognition to India or Pakistan, as appropriate, as a nuclear weapon state (as defined in the Treaty on the Non-Proliferation of Nuclear Weapons).

(c) REPORT.—Not later than March 1, 2003, the President shall submit to the appropriate congressional committees a report describing United States efforts to achieve the objectives listed in

subsections (a) and (b), the progress made toward the achievement of those objectives, and the likelihood that each objective will be achieved by September 30, 2003.

SEC. 1602.[32] REAL-TIME PUBLIC AVAILABILITY OF RAW SEISMOLOGICAL DATA.

The head of the Air Force Technical Applications Center shall make available to the public, immediately upon receipt or as soon after receipt as is practicable, all raw seismological data provided to the United States Government by any international monitoring organization that is directly responsible for seismological monitoring.

SEC. 1603. DETAILING UNITED STATES GOVERNMENTAL PERSONNEL TO INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION ORGANIZATIONS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretaries of Defense and Energy and the heads of other relevant United States departments and agencies, as appropriate, should develop measures to improve the process by which United States Government personnel may be detailed to international arms control and nonproliferation organizations without adversely affecting the pay or career advancement of such personnel.

(b) REPORT REQUIRED.—Not later than May 1, 2003, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives setting forth the measures taken under subsection (a).

SEC. 1604.[33] DIPLOMATIC PRESENCE OVERSEAS.

(a) PURPOSE.—The purpose of this section is to—

(1) elevate the stature given United States diplomatic initiatives relating to nonproliferation and political-military issues; and

(2) develop a group of highly specialized, technical experts with country expertise capable of administering the nonproliferation and political-military affairs functions of the Department.

(b) AUTHORITY.—To carry out the purposes of subsection (a), the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in United States diplomatic missions overseas, to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation Bureau or the Political Military Affairs Bureau of the Department.

(c) TRAINING.—After being selected to serve as Counselor, any person so selected shall spend not less than 10 months in language training courses at the Foreign Service Institute, or in technical courses administered by the Department of Defense, the Department of Energy, or other appropriate departments and agencies of the United States, except that such requirement for training may be waived by the Secretary.

[32] 42 U.S.C. 7704 note.
[33] 22 U.S.C. 2655b.

SEC. 1605. COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION.

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

(1) On April 24, 1997, the Senate provided its advice and consent to ratification of the Chemical Weapons Convention subject to the condition, among others, that the President certify that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(2) Congress enacted the same condition into law as section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)).

(3) Part II, paragraph 57, of the Verification Annex of the Convention requires that all samples requiring off-site analysis under the Convention shall be analyzed by at least two laboratories that have been designated as capable of conducting such testing by the OPCW.

(4) The only United States laboratory currently designated by the OPCW is the United States Army Edgewood Forensic Science Laboratory.

(5) In order to comply with the Chemical Weapons Convention, the certification submitted pursuant to condition (18) of the resolution of ratification of the Chemical Weapons Convention, and the requirements of section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)), the United States must possess, at a minimum, a second OPCW-designated laboratory.

(6) The possession of a second OPCW-designated laboratory is necessary in view of the potential for a challenge inspection to be initiated against the United States by a foreign nation.

(7) The possession of a third OPCW-designated laboratory would enable the OPCW to implement its normal sample analysis procedures, which randomly assign real and manufactured samples so that no laboratory knows the origin of a given sample.

(8) To qualify as a designated laboratory, a laboratory must be certified under ISO Guide 25 or a higher standard and complete three proficiency tests. The laboratory must have the full capability to handle substances listed on Schedule 1 of the Annex on Schedules of Chemicals of the Chemical Weapons Convention. In order to handle such substances in the United States, a laboratory also must operate under a bailment agreement with the United States Army.

(9) Several existing United States commercial laboratories have approved quality control systems, already possess bailment agreements with the United States Army, and have the capabilities necessary to obtain OPCW designation.

(10) In order to bolster the legitimacy of United States analysis of samples taken on its national territory, it is preferable that one designated laboratory not be a United States Government facility.

(b) ESTABLISHMENT OF NON-GOVERNMENTAL DESIGNATED LABORATORY.—

(1) REPORT.—Not later than March 1, 2003, the United States National Authority, as designated under section 101 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711) (referred to in this section as the "National Authority"), shall submit to the appropriate congressional committees a report detailing a plan for securing OPCW designation of a nongovernmental United States laboratory by December 1, 2004.

(2) DIRECTIVE.—Not later than June 1, 2003, the National Authority shall select, through competitive procedures, a nongovernmental laboratory within the United States to pursue designation by the OPCW.

(3) DELEGATION.—The National Authority may delegate the authority and administrative responsibility for carrying out paragraph (2) to one or more of the heads of the agencies described in section 101(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711(b)(2)).

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The term "Chemical Weapons Convention" or "Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding:

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) OPCW.—The term "OPCW" means the Organization for the Prohibition of Chemical Weapons established under the Convention.

TITLE XVII—AUTHORITY TO TRANSFER NAVAL VESSELS

SEC. 1701. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) POLAND.—To the Government of Poland, the OLIVER HAZARD PERRY class guided missile frigate WADSWORTH (FFG 9).

(2) TURKEY.—To the Government of Turkey, the KNOX class frigates CAPODANNO (FF 1093), THOMAS C. HART (FF 1092), DONALD B. BEARY (FF 1085), McCANDLESS (FF 1084), REASONER (FF 1063), and BOWEN (FF 1079).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign governments and foreign governmental entities

on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) MEXICO.—To the Government of Mexico, the NEWPORT class tank landing ship FREDERICK (LST 1184).

(2) TAIWAN.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(3) TURKEY.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates ESTOCIN (FFG 15) and SAMUEL ELIOT MORISON (FFG 13).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) COSTS OF TRANSFERS ON GRANT BASIS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a).

(e) WAIVER AUTHORITY.—For a vessel transferred on a grant basis pursuant to authority provided by subsection (a)(2), the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

i. Gerald B. H. Solomon Freedom Consolidation Act of 2002 [1]

Public Law 107–187 [H.R. 3167], 116 Stat. 590, approved June 10, 2002

AN ACT To endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congres assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gerald B. H. Solomon Freedom Consolidation Act of 2002".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) In the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), Congress declared that "full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date . . .".

(2) In the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), Congress called for the prompt admission of Poland, Hungary, the Czech Republic, and Slovenia to NATO, and declared that "in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine . . . the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance".

(3) In the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), Congress declared that "Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO" and that "Romania, Estonia, Latvia, Lithuania, and Bulgaria . . . would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members [and] upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date".

(4) At the Madrid Summit of the NATO Alliance in July 1997, Poland, Hungary, and the Czech Republic were invited to join the Alliance in the first round of NATO enlargement,

[1] 22 U.S.C. 1928 note.

and the NATO heads of state and government issued a declaration stating "[t]he Alliance expects to extend further invitations in coming years to nations willing and able to assume the responsibilities and obligations of membership . . . [n]o European democratic country whose admission would fulfill the objectives of the [North Atlantic] Treaty will be excluded from consideration".

(5) At the Washington Summit of the NATO Alliance in April 1999, the NATO heads of state and government issued a communique declaring "[w]e pledge that NATO will continue to welcome new members in a position to further the principles of the [North Atlantic] Treaty and contribute to peace and security in the Euro-Atlantic area . . . [t]he three new members will not be the last . . . [n]o European democratic country whose admission would fulfill the objectives of the Treaty will be excluded from consideration, regardless of its geographic location . . .".

(6) In late 2002, NATO will hold a summit in Prague, the Czech Republic, at which it will decide which additional emerging democracies in Central and Eastern Europe to invite to join the Alliance in the next round of NATO enlargement.

(7) In May 2000 in Vilnius, Lithuania, the foreign ministers of Albania, Bulgaria, Estonia, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia, Romania, Slovakia, and Slovenia issued a statement (later joined by Croatia) declaring that their countries will cooperate in jointly seeking NATO membership in the next round of NATO enlargement, that the realization of NATO membership by one or more of these countries would be a success for all, and that eventual NATO membership for all of these countries would be a success for Europe and NATO.

(8) On June 15, 2001, in a speech in Warsaw, Poland, President George W. Bush stated "[a]ll of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have . . . I believe in NATO membership for all of Europe's democracies that seek it and are ready to share the responsibilities that NATO brings . . . [a]s we plan to enlarge NATO, no nation should be used as a pawn in the agenda of others . . . [w]e will not trade away the fate of free European peoples . . . [n]o more Munichs . . . [n]o more Yaltas . . . [a]s we plan the Prague Summit, we should not calculate how little we can get away with, but how much we can do to advance the cause of freedom".

(9) On October 22, 1996, in a speech in Detroit, Michigan, former President William J. Clinton stated "NATO's doors will not close behind its first new members . . . NATO should remain open to all of Europe's emerging democracies who are ready to shoulder the responsibilities of membership . . . [n]o nation will be automatically excluded . . . [n]o country outside NATO will have a veto . . . [a] gray zone of insecurity must not reemerge in Europe".

SEC. 3. DECLARATIONS OF POLICY.

Congress—

(1) reaffirms its previous expressions of support for continued enlargement of the NATO Alliance contained in the NATO Participation Act of 1994, the NATO Enlargement Facilitation Act of 1996, and the European Security Act of 1998;

(2) supports the commitment to further enlargement of the NATO Alliance expressed by the Alliance in its Madrid Declaration of 1997 and its Washington Summit Communique of 1999; and

(3) endorses the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and urges our NATO allies to work with the United States to realize this vision at the Prague Summit in 2002.

SEC. 4. DESIGNATION OF SLOVAKIA TO RECEIVE ASSISTANCE UNDER THE NATO PARTICIPATION ACT OF 1994.

(a) IN GENERAL.—Slovakia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(b) RULE OF CONSTRUCTION.—The designation of Slovakia pursuant to subsection (a) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(1) is in addition to the designation of Poland, Hungary, the Czech Republic, and Slovenia pursuant to section 606 of the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note) and the designation of Romania, Estonia, Latvia, Lithuania, and Bulgaria pursuant to section 2703(b) of the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994; and

(2) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

SEC. 5. AUTHORIZATION OF SECURITY ASSISTANCE FOR COUNTRIES DESIGNATED UNDER THE NATO PARTICIPATION ACT OF 1994.

(a) AUTHORIZATION OF FOREIGN MILITARY FINANCING.—Of the amounts made available for fiscal year 2002 under section 23 of the Arms Export Control Act (22 U.S.C. 2763)—

(1) $6,500,000 is authorized to be available on a grant basis for Estonia;

(2) $7,000,000 is authorized to be available on a grant basis for Latvia;

(3) $7,500,000 is authorized to be available on a grant basis for Lithuania;

(4) $8,500,000 is authorized to be available on a grant basis for Slovakia;

(5) $4,500,000 is authorized to be available on a grant basis for Slovenia;

(6) $10,000,000 is authorized to be available on a grant basis for Bulgaria; and

(7) $11,500,000 is authorized to be available on a grant basis for Romania.

(b)[2] CONFORMING AMENDMENT.—Subsection (a) of section 515 of the Security Assistance Act of 2000 (Public Law 106–280) is amended by striking paragraphs (1), (5), (6), (7), and (8) and redesignating paragraphs (2), (3), (4), and (9) as paragraphs (1) through (4), respectively.

[2] For amended text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

j. Trafficking Victims Protection Act of 2000

Division A of Public Law 106–386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000

SEC. 101.[1] SHORT TITLE.

This division may be cited as the "Trafficking Victims Protection Act of 2000".

SEC. 102.[2] PURPOSES AND FINDINGS.

(a) PURPOSES.—The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) FINDINGS.—Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.

[1] 22 U.S.C. 7101 note.
[2] 22 U.S.C. 7101.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In United States v. Kozminski,

487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, United States Code, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and invol-

untary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

SEC. 103.[3] DEFINITIONS.

In this division:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives.

(2) COERCION.—The term "coercion" means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result

[3] 22 U.S.C. 7102.

in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(3) COMMERCIAL SEX ACT.—The term "commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

(4) DEBT BONDAGE.—The term "debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(5) INVOLUNTARY SERVITUDE.—The term "involuntary servitude" includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(6) MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.—The term "minimum standards for the elimination of trafficking" means the standards set forth in section 108.

(7) NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE.—The term "nonhumanitarian, nontrade-related foreign assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961, other than—

(i) assistance under chapter 4 of part II of that Act that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;

(ii) assistance under chapter 8 of part I of that Act;

(iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(v) antiterrorism assistance under chapter 8 of part II of that Act;

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

(viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for

narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.

(8) SEVERE FORMS OF TRAFFICKING IN PERSONS.—The term "severe forms of trafficking in persons" means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(9) SEX TRAFFICKING.—The term "sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(11) TASK FORCE.—The term "Task Force" means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.

(12) UNITED STATES.—The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(13) VICTIM OF A SEVERE FORM OF TRAFFICKING.—The term "victim of a severe form of trafficking" means a person subject to an act or practice described in paragraph (8).

(14) VICTIM OF TRAFFICKING.—The term "victim of trafficking" means a person subjected to an act or practice described in paragraph (8) or (9).

SEC. 104. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

(a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(f)) is amended to read as follows: * * *[4]

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection: * * *[4]

[4] Should refer to 22 U.S.C. 2151n(f). For amended text, see *Legislation on Foreign Relations Through 2001*, vol. I–A.

SEC. 105.[5] INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

(a) ESTABLISHMENT.—The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.[6]

(b) APPOINTMENT.—The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Secretary of State.

(d) ACTIVITIES OF THE TASK FORCE.—The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this division.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

(5) Examine the role of the international "sex tourism" industry in the trafficking of persons and in the sexual exploitation of women and children around the world.

(6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this division.

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[5] 22 U.S.C. 7103.

[6] Sec. 406 of the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108–7; 117 Stat. 92) provided the following:

"SEC. 406. (a) The Interagency Task Force to Monitor and Combat Trafficking shall establish a Senior Policy Operating Group.

"(b) The Operating Group shall consist of the senior officials designated as representatives of the appointed members of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (established under Executive Order No. 13257 of February 13, 2002).

"(c) The Operating Group shall coordinate agency activities regarding policies (including grants and grant policies) involving the international trafficking in persons and the implementation of this division.

"(d) The Operating Group shall fully share information regarding agency plans, before and after final agency decisions are made, on all matters regarding grants, grant policies, and other significant actions regarding the international trafficking of persons and the implementation of this division.

"(e) The Operating Group shall be chaired by the Director of the Office to Monitor and Combat Trafficking of the Department of State.

"(f) The Operating Group shall meet on a regular basis at the call of the chair.".

(e) SUPPORT FOR THE TASK FORCE.—The Secretary of State is authorized to establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

SEC. 106.[7] PREVENTION OF TRAFFICKING.

(a) ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING.—The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include—

(1) microcredit lending programs, training in business development, skills training, and job counseling;

(2) programs to promote women's participation in economic decisionmaking;

(3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;

(4) development of educational curricula regarding the dangers of trafficking; and

(5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) PUBLIC AWARENESS AND INFORMATION.—The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c) CONSULTATION REQUIREMENT.—The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

SEC. 107.[8] PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—

(1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of traf-

[7] 22 U.S.C. 7104.
[8] 22 U.S.C. 7105.

ficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force. In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:[9]

(A) Support for local in-country nongovernmental organization-operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organization networks and databases on trafficking, including support to assist nongovernmental organizations in establishing service centers and systems that are mobile and extend beyond large cities.

(B) Support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention.

(C) Education and training for trafficked women and girls.

(D) The safe integration or reintegration of trafficked individuals into an appropriate community or family, with full respect for the wishes, dignity, and safety of the trafficked individual.

(E) Support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members, in assisting the voluntary repatriation of these family members or their integration or resettlement into appropriate communities, and in providing them with treatment.

(2) ADDITIONAL REQUIREMENT.—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.

(b) VICTIMS IN THE UNITED STATES.—

(1) ASSISTANCE.—

(A) ELIGIBILITY FOR BENEFITS AND SERVICES.—Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) REQUIREMENT TO EXPAND BENEFITS AND SERVICES.—Subject to subparagraph (C) and, in the case of nonentitle-

[9] Sec. 682(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1409) added this sentence through subpara. (E).

ment programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.

(C) DEFINITION OF VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS.—For the purposes of this paragraph, the term "victim of a severe form of trafficking in persons" means only a person—

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(D) ANNUAL REPORT.—Not later than December 31 of each year, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other appropriate Federal agencies shall submit a report, which includes information on the number of persons who received benefits or other services under this paragraph in connection with programs or activities funded or administered by such agencies or officials during the preceding fiscal year, to the Committee on Ways and Means, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate.

(E) CERTIFICATION.—

(i) IN GENERAL.—Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)—

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

(II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) PERIOD OF EFFECTIVENESS.—A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) INVESTIGATION AND PROSECUTION DEFINED.—For the purpose of a certification under this subparagraph, the term "investigation and prosecution" includes—

(I) identification of a person or persons who have committed severe forms of trafficking in persons;

(II) location and apprehension of such persons; and

(III) testimony at proceedings against such persons.

(2) GRANTS.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(B) ALLOCATION OF GRANT FUNDS.—Of amounts made available for grants under this paragraph, there shall be set aside—

(i) three percent for research, evaluation, and statistics;

(ii) two percent for training and technical assistance; and

(iii) one percent for management and administration.

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

(c) TRAFFICKING VICTIM REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) PROTECTIONS WHILE IN CUSTODY.—Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall—

(A) not be detained in facilities inappropriate to their status as crime victims;

(B) receive necessary medical care and other assistance; and

(C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including—

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) ACCESS TO INFORMATION.—Victims of severe forms of trafficking shall have access to information about their rights and translation services.

(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.—Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(4) TRAINING OF GOVERNMENT PERSONNEL.—Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) CONSTRUCTION.—Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS.—

(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—* * *

(2) CONDITIONS OF NONIMMIGRANT STATUS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—* * *

(3) WAIVER OF GROUNDS FOR INELIGIBILITY FOR ADMISSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following: * * *

(4) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO "T" VISA NONIMMIGRANTS.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following new subsection: * * *

(5) STATUTORY CONSTRUCTION.—Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against an alien admitted as a nonimmigrant under section 101(a)(15)(T)(i) of that Act, as added by subsection (e), for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under such section 101(a)(15)(T)(i).

(f) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—Section 245 of such Act (8 U.S.C 1255) is amended by adding at the end the following new subsection: * * *

(g) ANNUAL REPORTS.—On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 101(a)(15)(T) of the Immigration

and Nationality Act, as added by subsection (e), or who were unable to adjust their status under section 245(l) of such Act, solely on account of the unavailability of visas due to a limitation imposed by section 214(n)(1) or 245(l)(4)(A) of such Act.

SEC. 108.[10] MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) MINIMUM STANDARDS.—For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) CRITERIA.—In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

[10] 22 U.S.C. 7106.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

SEC. 109. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 134.[11] ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING. * * *

SEC. 110.[12] ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) STATEMENT OF POLICY.—It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

(1) does not comply with minimum standards for the elimination of trafficking; and

(2) is not making significant efforts to bring itself into compliance with such standards.

(b) REPORTS TO CONGRESS.—

(1)[13] ANNUAL REPORT.—Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congres-

[11] 22 U.S.C. 2152d. See *Legislation on Foreign Relations Through 2001*, vol. I–A.

[12] 22 U.S.C. 7107.

[13] In June 2003, the Department of State issued its annual report pursuant to this section. The report established three tiers, organized to mirror sec. 110(b)(1)(A), (B) and (C):

Tier 1 countries, whose governments fully comply with minimum standards for the elimination of trafficking: Austria, Belgium, Benin, Colombia, Czech Republic, Denmark, France, Germany, Ghana, Hong Kong, Italy, Lithuania, Macedonia, Mauritius, Morocco, The Netherlands, Norway, Poland, Portugal, Republic of Korea, Spain, Sweden, Switzerland, Taiwan, United Arab Emirates, and the United Kingdom.

Tier 2 countries, whose governments do not yet fully comply with minimum standards but are making significant efforts: Albania, Angola, Armenia, Bahrain, Bangladesh, Belarus, Bolivia, Brazil, Brunei, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, People's Re-

Continued

sional committees a report with respect to the status of severe forms of trafficking in persons that shall include—

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) INTERIM REPORTS.—In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance, since the transmission of the last annual report.

(3) SIGNIFICANT EFFORTS.—In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) NOTIFICATION.—Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection

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public of China, Congo, Costa Rica, Cote D'Ivoire, Croatia, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Finland, Gabon, The Gambia, Guatemala, Honduras, Hungary, India, Indonesia, Israel, Jamaica, Japan, Kenya, Kuwait, Kyrgyz Republic, Laos, Latvia, Lebanon, Malawi, Malaysia, Mexico, Moldova, Mozambique, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Philippines, Qatar, Romania, Russia, Rwanda, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Slovak Republic, Slovenia, South Africa, Sri Lanka, Tajikistan, Tanzania, Thailand, Togo, Uganda, Ukraine, Venezuela, Vietnam, Zambia, and Zimbabwe.

Tier 3 countries, whose governments do not fully comply with minimum standards and are not making significant efforts: Belize, Bosnia and Herzegovina, Burma, Cuba, Dominican Republic, Georgia, Greece, Haiti, Kazakhstan, Liberia, North Korea, Sudan, Suriname, Turkey, and Uzbekistan.

(b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report—

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) PRESIDENTIAL DETERMINATIONS.—The determinations referred to in subsection (c) are the following:

(1) WITHHOLDING OF NONHUMANITARIAN, NONTRADE-RELATED ASSISTANCE.—The President has determined that—

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) ONGOING, MULTIPLE, BROAD-BASED RESTRICTIONS ON ASSISTANCE IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) SUBSEQUENT COMPLIANCE.—The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST.—Notwithstanding the failure of the government of the

country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian, nontrade-related foreign assistance, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) EXERCISE OF WAIVER AUTHORITY.—

(A) IN GENERAL.—The President may exercise the authority under paragraph (4) with respect to—

(i) all nonhumanitarian, nontrade-related foreign assistance to a country;

(ii) all multilateral assistance described in paragraph (1)(B) to a country; or

(iii) one or more programs, projects, or activities of such assistance.

(B) AVOIDANCE OF SIGNIFICANT ADVERSE EFFECTS.—The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) DEFINITION OF MULTILATERAL DEVELOPMENT BANK.—In this subsection, the term "multilateral development bank" refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) CERTIFICATION.—Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 103(7)(A), or with respect to any assistance described in section 103(7)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

SEC. 111.[14] ACTIONS AGAINST SIGNIFICANT TRAFFICKERS IN PERSONS.

(a) AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following persons:

(A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide

[14] 22 U.S.C. 7108.

goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

(b) REPORT TO CONGRESS ON IDENTIFICATION AND SANCTIONING OF SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—Upon exercising the authority of subsection (a), the President shall report to the appropriate congressional committees—

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) REMOVAL OF SANCTIONS.—Upon suspending or terminating any action imposed under the authority of subsection (a), the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) SUBMISSION OF CLASSIFIED INFORMATION.—Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

(c) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED.—Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(d) EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph: * * *

(e) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a).

(2) PROMULGATION OF RULES AND REGULATIONS.—The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) OPPORTUNITY FOR REVIEW.—Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or

other action associated with the exercise of the authority in subsection (a).

(f) DEFINITION OF FOREIGN PERSONS.—In this section, the term "foreign person" means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) CONSTRUCTION.—Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a).

SEC. 112.[15] STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.

(a) TITLE 18 AMENDMENTS.—Chapter 77 of title 18, United States Code, is amended—

(1) in each of sections 1581(a), 1583, and 1584—

(A) by striking "10 years" and inserting "20 years"; and

(B) by adding at the end the following: "If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.";

(2) by inserting at the end the following:

"§ 1589. Forced labor

"Whoever knowingly provides or obtains the labor or services of a person—

"(1) by threats of serious harm to, or physical restraint against, that person or another person;

"(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

"(3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

"§ 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

"Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall

[15] 22 U.S.C. 7109.

be fined under this title or imprisoned for any term of years or life, or both.

"§ 1591. Sex trafficking of children or by force, fraud or coercion

"(a) Whoever knowingly—

"(1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

"(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

"(b) The punishment for an offense under subsection (a) is—

"(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

"(2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

"(c) In this section:

"(1) The term 'commercial sex act' means any sex act, on account of which anything of value is given to or received by any person.

"(2) The term 'coercion' means—

"(A) threats of serious harm to or physical restraint against any person;

"(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

"(C) the abuse or threatened abuse of law or the legal process.

"(3) The term 'venture' means any group of two or more individuals associated in fact, whether or not a legal entity.

"§ 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

"(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—

"(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

"(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

"(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be fined under this title or imprisoned for not more than 5 years, or both.

"(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

"§ 1593. Mandatory restitution

"(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

"(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.

"(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

"(3) As used in this subsection, the term 'full amount of the victim's losses' has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

"(c) As used in this section, the term 'victim' means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

"§ 1594. General provisions

"(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

"(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States—

"(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

"(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

"(c)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

"(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

"(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

"(d) WITNESS PROTECTION.—Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection)."; and

(3) by amending the table of sections at the beginning of chapter 77 by adding at the end the following new items: * * *

(b) AMENDMENT TO THE SENTENCING GUIDELINES.—

(1) Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

SEC. 113.[16] AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS IN SUPPORT OF THE TASK FORCE.—To carry out the purposes of sections 104, 105, and 110, there are authorized to be appropriated to the Secretary of State $1,500,000 for fiscal year 2001 and $3,000,000 for each of the fiscal years 2002 and 2003.[17]

(b) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Health and Human Services $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

(c) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF STATE.—

(1) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State $5,000,000 for fiscal year 2001 $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003.[18]

(2) VOLUNTARY CONTRIBUTIONS TO OSCE.—To carry out the purposes of section 109, there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001, 2002, and 2003[19] $300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for such fiscal year.[20]

(3) PREPARATION OF ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS.—To carry out the purposes of section 104, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices, including the preparation and publication of the list described in subsection (a)(1) of that section.

(d) AUTHORIZATION OF APPROPRIATIONS TO ATTORNEY GENERAL.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Attorney General $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

(e) AUTHORIZATION OF APPROPRIATIONS TO PRESIDENT.—

(1) FOREIGN VICTIM ASSISTANCE.—To carry out the purposes of section 106, there are authorized to be appropriated to the President $5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003.[21]

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[16] 22 U.S.C. 7110.

[17] Sec. 682(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "for fiscal year 2002" and inserted in lieu thereof "for each of the fiscal years 2002 and 2003".

[18] Sec. 682(b)(2)(A) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "and $10,000,000 for fiscal year 2002" and inserted in lieu thereof "$10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003".

[19] Sec. 682(b)(2)(B)(i) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "there are authorized to be appropriated to the Secretary of State" and inserted in lieu thereof "there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001, 2002, and 2003".

[20] Sec. 682(b)(2)(B)(ii) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "for fiscal year 2001" and inserted "for such fiscal year".

[21] Sec. 682(b)(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1410), struck out "and $10,000,000 for fiscal year 2002" each place it ap-

(2) ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.—To carry out the purposes of section 109, there are authorized to be appropriated to the President $5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003.[21]

(f) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF LABOR.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Labor $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

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peared and inserted in lieu thereof “, $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003”.

k. Jobs Through Trade Expansion Act of 1994

Partial text of Public Law 103–392 [H.R. 4950], 108 Stat. 4098, approved October 22, 1994

NOTE.—Except for the provisions noted below, the Jobs Through Trade Expansion Act of 1994 consists of amendments to the Foreign Assistance Act of 1961, Export Administration Amendments Act of 1985, and Export Enhancement Act of 1988. These amendments have been incorporated into those Acts at the appropriate locations.

AN ACT To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Jobs Through Trade Expansion Act of 1994".

* * * * * * *

TITLE V—INTERNATIONAL PROTECTION OF INTELLECTUAL PROPERTY

SEC. 501.[2] ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—In carrying out part I of the Foreign Assistance Act of 1961 and other relevant foreign assistance laws, the President, acting through the Administrator of the United States Agency for International Development, shall establish a program of training and other technical assistance to assist foreign countries in—

(1) developing and strengthening laws and regulations to protect intellectual property; and

(2) developing the infrastructure necessary to implement and enforce such laws and regulations.

(b) PARTICIPATION OF OTHER AGENCIES.—The Administrator of the United States Agency for International Development—

(1) shall utilize the expertise of the Patent and Trademark Office and other agencies of the United States Government in designing and implementing the program of assistance provided for in this section;

[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2151t–1.

(2) shall coordinate assistance under this section with efforts of other agencies of the United States Government to increase international protection of intellectual property, including implementation of international agreements containing high levels of protection of intellectual property; and

(3) shall consult with the heads of such other agencies in determining which foreign countries will receive assistance under this section.

l. Jobs Through Exports Act of 1992

Partial text of Public Law 102–549 [H.R. 4996], 106 Stat. 3651, approved October 28, 1992; amended by Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995

NOTE.—Except for the provisions noted below, the Jobs Through Exports Act of 1992 consists of amendments to the Foreign Assistance Act of 1961, Trade and Development Enhancement Act of 1983, Agricultural Trade Development and Assistance Act of 1954, and 5 USC. These amendments have been incorporated into those Acts and sections of the USC at the appropriate locations.

AN ACT To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Jobs Through Exports Act of 1992".

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TITLE II—TRADE AND DEVELOPMENT AGENCY

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SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a)[2] RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section, be known as the Trade and Development Agency.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) * * *

(d) * * *

(e)[2] REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2421 note.

TITLE III—AID, TRADE, AND COMPETITIVENESS

SEC. 301.[3] SHORT TITLE.

This title may be cited as the "Aid, Trade, and Competitiveness Act of 1992".

SEC. 302.[4] CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of AID shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), in coordination with the appropriate members of the Trade Promotion Coordination Committee—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall ensure that each capital project for which AID provides funding is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid purposes; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infra-

[3] 22 U.S.C. 2421a note.
[4] 22 U.S.C. 2421a.

structure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act.

SEC. 303.[5] CAPITAL PROJECTS FOR POVERTY ALLEVIATION AND ENVIRONMENTAL SAFETY AND SUSTAINABILITY.

(a) PURPOSES.—The Administrator of AID shall develop a program, in accordance with subsection (b), that focuses on developmentally sound capital projects for basic infrastructure that will measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level, taking into consideration development needs of the host country and export opportunities for services and goods from the United States.

(b) ACTIVITIES OF AID.—In order to carry out subsection (a), the Administrator of AID shall, working with AID technical support staff, regional bureau staff, and country missions, identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level in countries receiving assistance under part I of the Foreign Assistance Act of 1961. Such projects may include basic sanitation systems, basic water supply and treatment, pollution control, and rural infrastructure benefiting poor communities or establishing environmentally sustainable patterns of rural development. Such projects should have measurable positive effects on indicators of human and environmental health.

SEC. 304.[6] COORDINATION.

The President shall use the Trade Promotion Coordination Committee to coordinate activities under this title with other relevant activities of the United States Government.

SEC. 305.[3] REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support the projects described in this title in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 304; and

[5] 22 U.S.C. 2421b.
[6] 22 U.S.C. 2421c.

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

SEC. 306.[7] FUNDING FOR CAPITAL PROJECTS.

(a) FUNDING LEVEL.—The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1993 and at least $700,000,000 for fiscal year 1994 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Support for East European Democracy (SEED) Act of 1989, assistance under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, and assistance under the Multilateral Assistance Initiative for the Philippines, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

(b) DEVELOPMENT ASSISTANCE CAPITAL PROJECTS.—Funds appropriated to carry out chapter 1 or chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to development assistance and the Development Fund for Africa) may not be used for capital projects that do not meet the criteria contained in section 303 of this Act. This subsection does not apply with respect to capital projects for which funds have been obligated or expended before the date of the enactment of this Act.

SEC. 307.[3] REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

SEC. 308.[8] DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development; and

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services.

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401.[9] UNITED STATES COMMERCIAL CENTERS.

(a) ESTABLISHMENT.—The Secretary of Commerce, in his or her role as chairperson of the Trade Promotion Coordinating Committee, is authorized and encouraged to establish United States Com-

[7] 22 U.S.C. 2421d.
[8] 22 U.S.C. 2421e.
[9] 22 U.S.C. 4723a.

mercial Centers (hereinafter in this section referred to as "Centers") in Asia, in Latin America, and in Africa.

(b) PURPOSE OF THE CENTERS.—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) FUNCTIONS OF THE CENTERS.—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) SPECIFIC SERVICES TO BE PROVIDED.—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) BUSINESS FACILITIES.—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impeding deficiencies in the public system, high quality international telecommunications facilities.

(2) BUSINESS SERVICES.—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) COMMERCIAL LAW INFORMATION SERVICES.—Commercial law information services, including—

(A) a clearinghouse for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) OTHER TRADE PROMOTION ACTIVITIES.—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) STAFFING OF CENTERS.—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, and

employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee.

(g) CENTER FACILITIES AND THEIR RELATIONSHIP TO UNITED STATES DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—

(1) PHYSICAL ACCOMMODATIONS FOR THE CENTERS.—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) CONSOLIDATION OF DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities.

(h) USE OF MARKET DEVELOPMENT COOPERATOR PROGRAM.—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $8,000,000 for fiscal year 1993, and $5,500,000 for fiscal year 1994. Funds made available under this subsection may be used for the acquisition of real property.

(j)[10] * * * [Repealed—1995]

(k) DEFINITIONS.—For purposes of this section—

(1) the term "United States exporter" means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State, or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

[10] Sec. 1021(b) of Public Law 104–66 (109 Stat. 707) repealed subsec. (j), which had required the Secretary of Commerce to report annually to the House Committee on International Relations and the Senate Committee on Banking, Housing, and Urban Affairs on the status, activities, and effectiveness of the Centers.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501.[11] ADDITIONAL PROCUREMENT OFFICERS.

(a) APPOINTMENT.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint one or more full-time additional procurement officers, for each multilateral development bank, to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) DEFINITION.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $1,000,000 for each of the fiscal years 1993 and 1994 to carry out this section. Amounts appropriated pursuant to this subsection shall be available only for the purpose of making the appointment of additional procurement officers required by subsection (a).

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601.[12] SHORT TITLE.

This title may be cited as the "Enterprise for the Americas Act of 1992".

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SEC. 604.[13] INTERNATIONAL UNIVERSITY FOR THE AMERICAS.

(a) PURPOSE.—The purpose of this section is to promote economic integration and the consolidation and strengthening of democratic

[11] 22 U.S.C. 262s–2 note.

[12] 22 U.S.C. 2151 note. Title VI, sec. 602, amended the Foreign Assistance Act of 1961, adding a new Part IV—Enterprise for the Americas Initiative, codified at 22 U.S.C. 2430.

[13] 22 U.S.C. 2077.

institutions in the Western Hemisphere, and to commemorate the 500th anniversary of the discovery of the Americas by Christopher Columbus through the establishment of an institution of higher education, which shall be known as the "International University for the Americas".

(b) ESTABLISHMENT.—The Secretary of State, in consultation with other governments in the Western Hemisphere, shall determine the most appropriate location for the International University for the Americas. In making that determination, the Secretary shall ensure that—

(1) the location chosen is in the Americas and is easily accessible to all peoples in the region; and

(2) the relevant government—

(A) has demonstrated a commitment to economic integration and democratic values though its policies and programs; and

(B) has expressed an interest in that location being chosen as a site and has agreed to contribute some amount of assistance, either in cash or kind, toward the costs of developing the institution.

(c) FACULTY, STUDENTS, AND CURRICULUM.—In developing the bylaws of the International University for the Americas, the Secretary of State shall ensure that they contain provisions to ensure that faculty and students are drawn from all the nations in the Western Hemisphere, and that the curriculum is designed to develop expertise in fields that will promote the economic integration of the Americas and the consolidation of democracy throughout the Hemisphere.

(d) ANNUAL REPORT.—The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a progress report on the selection of a site and design for the establishment of the International University for the Americas.

(e) FUNDING.—Of the funds that are allocated for assistance for Latin America and the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 4 of part II of that Act (relating to the economic support fund), $500,000 may be made available to carry out the site location and design phase of the International University for the Americas.

TITLE VII—TRADE PROMOTION EXPANSION

SEC. 701. INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1993 and 1994 for use by the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service in accordance with subsection (b).

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for placing and maintaining 20 additional Commercial Service Officers abroad. The Secretary of Commerce, acting through the Assistant Secretary of Commerce

and Director General of the United States and Foreign Commercial Service, may place such additional Commercial Service Officers—

(1) in countries with which the United States has the largest trade deficit, and

(2) in newly emerging market economy countries, with democratically elected governments, in Central and Eastern Europe and elsewhere.

(c) REPORT TO CONGRESS.—The Secretary of Commerce, acting through the Assistant Secretary of Commerce and the Director General of the United States and Foreign Commercial Service, shall, not later than December 31, 1994, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of subsection (b). Each report shall specify—

(1) in what countries the additional Commercial Service Officers were placed, and the number of such officers placed in each such country; and

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to the countries in which such officers were placed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801.[14] IMPACT ON EMPLOYMENT IN THE UNITED STATES.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States, if such incentive or inducement is likely to reduce the number of employees in the United States because United States production is being replaced by such enterprise outside the United States.

SEC. 802.[14] INTERNATIONALLY RECOGNIZED WORKER RIGHTS.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone in that country.

[14] 22 U.S.C. 2151 note.

m. Overseas Private Investment Corporation Amendments Act of 1988

Partial text of S. 2757, enacted into law by reference in sec. 555, Public Law 100–461 [H.R. 4637], 102 Stat. 2268–36, approved October 1, 1988 [1]

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SECTION 1. SHORT TITLE.

This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1988".

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SEC. 109. SMALL AND MINORITY-OWNED BUSINESSES.

(a) FINDINGS.—The Congress finds that—

(1) the Overseas Private Investment Corporation has a consistent record of encouraging United States business investment in the world's developing countries;

(2) 62 percent of the open projects supported by the Corporation during fiscal year 1987 were located in the poorest of developing countries; and

(3) United States small businesses participated in 34 percent of the open projects supported by the Corporation during fiscal year 1987.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Overseas Private Investment Corporation should continue to encourage United States small businesses to invest in the world's developing countries; and

(2) the Corporation should continue to encourage United States small businesses that are minority-owned to invest in the world's developing countries as these businesses are well suited to the economic and social development needs of such countries.

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SEC. 111. OPIC PROGRAMS IN HAITI.

Prohibitions on United States assistance for Haiti during fiscal year 1988 shall not be construed to apply with respect to the Overseas Private Investment Corporation unless the prohibition specifi-

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[1] Sec. 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268–36), enacted into law by reference title I of H.R. 5263, as passed by the House of Representatives on September 20, 1988, and provided further:

"That notwithstanding any other provision of this Act, titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law".

Title I of H.R. 5263 and title I of S. 2757, in large part, amended chapter 2, title IV of the FA Act of 1961. Sections 109 and 111, shown here, were freestanding provisions and were identical in both bills.

For text of title III of S. 2757 (concerning certain USIA programs), see *Legislation on Foreign Relations Through 2002*, vol. II, sec. E.

cally states that it applies with respect to the Overseas Private Investment Corporation.

n. Special Foreign Assistance Act of 1986

Partial text of Public Law 99–529 [S. 1917], 100 Stat. 3010, approved October 24, 1986; amended by Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B); H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT To promote immunization and oral rehydration in developing countries, to promote democracy in Haiti, to protect tropical forests and biological diversity in developing countries, to authorize increased funding for the Child Survival Fund and for international narcotics control assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Special Foreign Assistance Act of 1986".

TITLE I—PROMOTING IMMUNIZATION AND ORAL REHYDRATION IN DEVELOPING COUNTRIES

SEC. 101. FINDINGS.

The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that 3.5 million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) at the 1984 "Bellagio Conference" it was determined that the goal of universal childhood immunization by 1990 is indeed achievable; and

(7) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immu-

[1] 22 U.S.C. 2151 note.

nization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program.

SEC. 102. UNITED STATES PARTICIPATION IN GLOBAL EFFORT.

(a) UNITED STATES GOVERNMENT SUPPORT.—The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(1) assisting in the delivery, distribution, and use of vaccines, including—

(A) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 percent of their annually projected target population with the full schedule of required immunizations; and

(B) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(2) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(b) PRIVATE SECTOR SUPPORT.—In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 103.[2] * * *

TITLE II—PROMOTING DEMOCRACY IN HAITI

SEC. 201. FINDINGS CONCERNING HAITI.

The Congress finds that—

(1) the establishment of an interim government in Haiti committed to a restoration of democracy provides Haiti with an opportunity to build the political, social, and economic institutions necessary to promote Haiti's development, to provide a better future for the people of Haiti, and to provide the framework for more effective mutual cooperation with the United States, Haiti's neighbor in the Caribbean, and the other nations of the Hemisphere;

(2) the magnitude of the political, economic, and social tasks facing the people of Haiti will make the achievement of a better future a difficult task which will require a determined and sustained effort by the Haitian people over a long period of time and will require significant external assistance from the United States and other donors; and

[2] Sec. 103 amended sec. 104(c) of the Foreign Assistance Act of 1961, fiscal year 1987 funding authorization for Child Survival Fund and development assistance for health.

(3) it is in the interest of the United States to provide appropriate support for the development of Haiti, a close neighbor which is one of the world's poorest nations and which is committed to the establishment of a democratic government.

SEC. 202. ECONOMIC ASSISTANCE FOR HAITI.

(a) EARMARKING OF FUNDS.—Not less than $108,000,000 of the aggregate amounts available for fiscal year 1987 to carry out sections 103 through 106 of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 4 of part II of that Act (relating to the Economic Support Fund), and titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (relating to the Food for Peace Program) shall be available only for Haiti.

(b) USE OF DEVELOPMENT ASSISTANCE.—Assistance under sections 103 through 106 of the Foreign Assistance Act of 1961 which is provided for Haiti pursuant to subsection (a) shall be used to support a transition to democracy in Haiti, emphasizing foreign investment, job creation (especially in the private sector), rural development, health care and sanitation, small-scale irrigation, reforestation and land conservation, and literacy education. Such assistance should reflect the need to distribute development assistance resources more equitably among the various regions in Haiti in order to support sustainable development in all of Haiti.

(c) REQUIREMENT FOR SEGREGATED ACCOUNT FOR ECONOMIC SUPPORT ASSISTANCE FUNDS PAID TO GOVERNMENT OF HAITI.—Funds under chapter 4 of part II of the Foreign Assistance Act of 1961 which are made available for Haiti pursuant to subsection (a) may be paid to the Government of Haiti only if the Government of Haiti will maintain those funds in a separate account and not commingle them with other funds.

(d) CONDITIONS ON ECONOMIC SUPPORT AND DEVELOPMENT ASSISTANCE.—Funds may be obligated for assistance for Haiti under sections 103 through 106 of chapter 4 of part II of the Foreign Assistance Act of 1961 pursuant to subsection (a) only if the President determines that the interim Government of Haiti—

(1) is improving the human rights situation in Haiti;

(2) is implementing its timetable for completion of a new constitution that promotes genuine democratic reforms and guarantees the fundamental principles of democracy;

(3) is establishing a framework for free and open elections leading to a democratically-elected civilian government, which would include free and functioning political parties and associations, free labor unions, and freedom of the press;

(4) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years);

(5) is maintaining a system of fiscal accountability to ensure that all resources allocated to the development of Haiti are used in the most effective and efficient manner;

(6) is continuing its investigation of alleged human rights abuses and corruption by the Duvalier government and is prosecuting, in accordance with due process, those responsible for human rights abuses and corruption;

(7) is maintaining a free and independent judiciary system;

(8) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti; and

(9) is encouraging private sector development.

(e)[3] * * *

(f) ADDITIONAL ASSISTANCE FOR ECONOMIC DEVELOPMENT IN HAITI.—In order to assist economic development in Haiti, a Foreign Commercial Service officer should be assigned to the United States Embassy in Haiti.

SEC. 203. MILITARY TRAINING AND OTHER NONLETHAL ASSISTANCE FOR HAITI.

(a) AUTHORIZATION OF ASSISTANCE.—Up to $4,000,000 of the aggregate amounts available for fiscal year 1987 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), chapter 5 of part II of that Act (relating to international military education and training), and the Arms Export Control Act (relating to FMS assistance) may be made available for Haiti for education, training, and other nonlethal assistance (such as transportation equipment, communications equipment, and uniforms).

(b) CONDITIONS ON MILITARY ASSISTANCE.—Funds made available pursuant to subsection (a) may be obligated only if the President certifies to the Congress the following:

(1) The Government of Haiti has submitted a formal request to the United States specifying a comprehensive plan for the reform and reorganization of the mission, command, and control structures of the Haitian armed forces consistent with a transition to democracy, the rule of law, constitutional government, and an elected civilian government. Such a plan should include a publicly announced commitment by the armed forces of Haiti to abide by international human rights standards and adoption of a code of conduct to assure adherence to these standards.

(2) The Government of Haiti is making substantial efforts—

(A) to prevent the involvement of the Haitian armed forces in human rights abuses and corruption by removing from those forces and prosecuting, in accordance with due process, those military personnel responsible for the human rights abuses and corruption;

(B) to ensure that freedom of speech and assembly are respected;

(C) to conduct investigations into the killings of unarmed civilians in Gonaives, Martissant, and Fort Dimanche, to prosecute, in accordance with due process, those responsible for those killings, and to prevent any similar occurrences in the future;

(D) to provide education and training to the Haitian armed forces with respect to internationally recognized human rights and the civil and political rights essential to democracy, in order to enable those forces to function consistent with those rights; and

[3] Subsec. (e) amended the Foreign Assistance Act of 1961, sec. 401(s)(2), fiscal year 1987 funding authorization for the Inter-American Foundation.

(E) to take steps to implement the policy of the Government of Haiti requiring former members of the Volunteers for National Security (VSN) to turn in their weapons and to take the necessary actions to enforce this requirement.

(c)[4] * * * [Repealed—1998]

(d) NOTIFICATION TO CONGRESS.—Funds made available pursuant to subsection (a) may be obligated only if the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate are notified fifteen days in advance.

(e) RELATION TO EXISTING PROVISION.—Assistance under subsection (a) may be provided notwithstanding the limitations contained in section 705(e) of the International Security and Development Cooperation Act of 1985 and is in addition to the assistance allowed under that section.

SEC. 204. RECOVERY BY HAITI OF ASSETS STOLEN BY DUVALIER REGIME.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Haiti believes that former president-for-life Jean Claude Duvalier and other individuals associated with the Duvalier regime illegally diverted to their own use substantial amounts of the assets of the Government of Haiti:

(2) the Government of Haiti is attempting to locate and recover those assets through legal means;

(3) virtually every relevant jurisdiction, both in the United States and abroad, requires the posting of some form of security to secure the issuance of orders of attachment or other judicial seizures of property;

(4) the Government of Haiti is unable, without outside assistance, to post the necessary security because of its lack of assets;

(5) Haiti's economic situation could be significantly improved, and the need for external resources reduced, if the Government of Haiti is able to pursue its legal remedies against those who are in large part responsible for the economic crisis in Haiti; and

(6) the United States has a substantial foreign policy interest in helping the Government of Haiti recover any assets which were illegally diverted by those associated with the Duvalier regime.

(b) ACTIONS TO ASSIST HAITI.—The President shall exercise the authorities granted by section 203 of the International Emergency Economic Powers Act (50 U.S.C. App. 1702) to assist the Government of Haiti in its efforts to recover, through legal proceedings, assets which the Government of Haiti alleges were stolen by former president-for-life Jean Claude Duvalier and other individuals asso-

[4] Sec. 2219(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B of Public Law 105–277; 112 Stat. 2681), repealed subsec. (c), which had read as follows:

"(c) REPORTS.—Not later than three months after the President submits his certification under subsection (b) and every three months thereafter, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each of the objectives specified in subsection (b). Half of the assistance provided pursuant to subsection (a) shall be withheld from delivery until the President submits the first such report.".

ciated with the Duvalier regime. This subsection shall be deemed to satisfy the requirements of section 202 of that Act.

* * * * * * *

o. International Security and Development Cooperation Act of 1985

Partial text of Public Law 99–83 [S. 960], 99 Stat. 190, approved August 8, 1985 as amended by Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99–570 [Anti-Drug Abuse Act of 1986, H.R. 5484], 100 Stat. 3207, approved October 27, 1986; Public Law 99–591 [Continuing Appropriations Act, 1987; H.J. Res. 738], 100 Stat. 3341, approved October 30, 1986; Public Law 100–202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 101–246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102–145 [Further Continuing Appropriations, 1992; H.J. Res. 360], 105 Stat. 968, approved October 28, 1991; Public Law 103–149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103–272 [H.R. 1758], 108 Stat. 745, approved July 5, 1994; and by Public Law 105–277 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (division A, sec. 101(b)), and Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B); H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1985 consists of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act, the Peace Corps Act, Public Law 480, and to several former foreign aid annual authorization acts. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize international development and security assistance programs and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Security and Development Cooperation Act of 1985".

* * * * * * *

TITLE I—MILITARY ASSISTANCE AND SALES AND RELATED PROGRAMS

SEC. 101. FOREIGN MILITARY SALES CREDITS.

(a) * * *
(b) * * *

(c) FMS FINANCING FOR ISRAEL.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,800,000,000 for fiscal year 1986[1] and not less than $1,800,000,000 for fiscal year 1987[2] shall be available only for Israel.

(2) Israel shall be released from its contractual liability to repay the United States Government with respect to the credits provided pursuant to paragraph (1).

(3) If the Government of Israel requests that funds be used for such purposes—

(A) up to $150,000,000 of the amount of credits made available for Israel pursuant to paragraph (1) for each of the fiscal years 1986 and 1987 shall be available for research and development in the United States for the Lavi[1] program, and

(B) not less than $250,000,000 of the amount of credits made available for Israel pursuant to paragraph (1) for each of the fiscal years 1986 and 1987 shall be available for the procurement in Israel of defense articles and defense services (including research and development) for the Lavi[1] program.

(d) FMS FINANCING FOR EGYPT.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,300,000,000 for fiscal year 1986[3] and not less than $1,300,000,000 for fiscal year 1987 shall be available only for Egypt.

(2) Egypt shall be released from its contractual liability to repay the United States Government with respect to the credits extended pursuant to paragraph (1).

(e) FMS FINANCING FOR GREECE.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, $500,000,000 for each of the fiscal years 1986[4] and 1987 shall be available only for Greece.

(2) For each of the fiscal years 1986 and 1987, of the total amount of credits extended for Greece under section 23 of the Arms Export Control Act, Greece shall receive the same proportion of credits extended at concessional rates of interest as the proportion

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[1] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of the Further Continuing Appropriations Act, 1986; Public Law 99–190; 99 Stat. 1301), provided that "not less than $1,800,000,000 shall be available only for Israel.". The Act further provided that: if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel * * *".

[2] The Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99–591; 100 Stat. 3341–224), contained language identical to that cited in note 1 and provided further:

"That funds for the Lavi program shall be expended upon the Department of Defense's determination that the proposed contracts meet application technical standards: *Provided further,* That during fiscal year 1987, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,040,441,284: *Provided further,* That any funds made available by this paragraph, other than funds made available for Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act".

[3] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided an appropriation of $1,300,000,000 for Egypt, as did title III of the 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–224).

[4] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided $450,000,000 for Greece; the 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–225) appropriated $343,000,000 for Greece.

of credits extended at concessional rates of interest which Turkey receives out of the total amount of credits extended for Turkey under that section, and the average annual rate of interest on the credits extended for Greece at concessional rates of interest shall be comparable to the average annual rate of interest on the credits extended for Turkey at concessional rates of interest. Credits extended for Greece for each of the fiscal years 1986 and 1987 at concessional rates of interest shall not be counted toward any ceiling established by law on concessional financing under the Arms Export Control Act.

(f) FMS FINANCING AND MAP FOR TURKEY.—For each of the fiscal years 1986[5] and 1987, the aggregate total of financing under the Arms Export Control Act and assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 provided for Turkey may not exceed $714,280,000. Of this amount, up to $215,000,000 may be used for assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, with the understanding that the United States Government is acting with urgency and determination to oppose any actions aimed at effecting a permanent bifurcation of Cyprus.

* * * * * * *

SEC. 106. GUARANTY RESERVE FUND.

(a) REPORT ON REPLENISHMENT.—For the purpose of providing recommendations for improving the security interests of the United States and the friends and allies of the United States, the President shall prepare and transmit to the Congress within 90 days after the date of enactment of this Act a report which sets forth the history of United States foreign military sales financing under the Foreign Assistance Act of 1961 and the Arms Export Control Act. Such report shall include recommendations on replenishing the Guaranty Reserve Fund under section 24 of the Arms Export Control Act and recommendations on other matters agreed to in consultation with the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and of the Committee on Foreign Affairs of the House of Representatives.

* * * * * * *

SEC. 129.[6] CONVENTIONAL ARMS TRANSFERS.

(a) NEGOTIATIONS.—At the earliest possible date, the President should, in consultation with United States allies, initiate discussions with the Soviet Union and France aimed at beginning multilateral negotiations to limit and control the transfer of conventional arms to less developed countries.

(b) REPORT.—Within one year after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which specifies steps being taken to fulfill the requirements of subsection (a) and which examines and

[5] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided Foreign Military Sales appropriation of $427,852,000 for Turkey; the 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–225) appropriated $490,000 for Turkey.

[6] 22 U.S.C. 2751 note.

analyzes United States policies concerning the export of conventional arms, especially sophisticated weapons, and possible approaches to developing multilateral limitations on conventional arms sales. This report shall examine and analyze—

(1) the lessons of earlier efforts to negotiate restraints on the export of conventional arms;

(2) the evolution of supplier practices and policies;

(3) the evolution of recipient country attitudes regarding conventional arms transfers;

(4) the effect upon regional stability and security of conventional arms transfer by the United States and its allies and the Soviet Union and its allies;

(5) the relationship between arms imports and the external debt of recipient countries, the allocation of their internal resources, and their economic well-being;

(6) the relationship between arms exports by Western European countries and the needs of those countries to support their domestic military procurement programs;

(7) the prospects for engaging the Soviet Union in serious discussions concerning arms transfers, both globally and as they relate to regional security problems;

(8) possible measures by the United States and Western European suppliers to control levels of sophisticated weapons sales, both regionally and globally; and

(9) the timing and phasing of international conventional arms control negotiations.

SEC. 130.[7] FOREIGN MILITARY SALES FOR JORDAN.

(a) MIDDLE EAST PEACE.—The foreign military sales financing authorized by this Act for Jordan is provided and increased in the recognition of progress Jordan has made in the search for a just and lasting peace in the Middle East, to encourage further progress, in recognition of the continuing defense needs of Jordan, and in the expectation that Jordan will enter into direct negotiations with Israel based on United Nations Security Council Resolutions 242 and 338 in order to resolve the state of war between those two countries.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that no foreign military sales financing authorized by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

[7] Sec. 545 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1311), substantively contained the same provisions as this section.

(c)[8] CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons, shall be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

SEC. 131. CERTIFICATION CONCERNING AWACS SOLD TO SAUDI ARABIA.

(a) THE PRESIDENT'S 1981 AWACS COMMUNICATION TO THE SENATE.—(1) The Congress finds that in his October 28, 1981, communication to the Senate concerning the proposed sale of AWACS aircraft and F15 enhancement items to Saudi Arabia which was then being reviewed by the Congress (hereafter in this section referred to as the "1981 AWACS communication"), the President stated the following:

"Transfer of the AWACS will take place . . . only after the Congress has received in writing a Presidential certification, containing agreements with Saudi Arabia, that the following conditions have been met:

"1. **Security of Technology**

"A. That a detailed plan for the security of equipment, technology, information, and supporting documentation has been agreed to by the United States and Saudi Arabia and is in place; and

"B. The security provisions are no less stringent than measures employed by the U.S. for protection and control of its equipment of like kind outside the continental U.S.; and

"C. The U.S. has the right of continual on-site inspection and surveillance by U.S. personnel of security arrangements for all operations during the useful life of the AWACS. It is further provided that security arrangements will be supplemented by additional U.S. personnel if it is deemed necessary by the two parties; and

"D. Saudi Arabia will not permit citizens of third nations either to perform maintenance on the AWACS or to modify any such equipment without prior, explicit mutual consent of the two governments; and

"E. Computer software, as designated by the U.S. Government, will remain the property of the USG.

"2. **Access to Information**

"That Saudi Arabia has agreed to share with the United States continuously and completely the information that it acquires from use of the AWACS.

"3. **Control Over Third-Country Participation**

"A. That Saudi Arabia has agreed not to share access to AWACS equipment, technology, documentation, or any information developed from such equipment or technology with any

[8] On June 23, 1995, the President certified "that Jordan is publicly committed to the recognition of Israel and to negotiate [sic] promptly and directly with Israel under basic tenets of United Nations Security Council Resolutions 242 and 338." (Presidential Determination No. 95–27; 60 F.R. 35461).

nation other than the U.S. without the prior, explicit mutual consent of both governments; and

"B. There are in place adequate and effective procedures requiring the screening and security clearance of citizens of Saudi Arabia and that only cleared Saudi citizens and cleared U.S. nationals will have access to AWACS equipment, technology, or documentation, or information derived therefrom, without the prior, explicit mutual consent of the two governments.

"4. **AWACS Flight Operations**

"That the Saudi AWACS will be operated solely within the boundaries of Saudi Arabia, except with the prior, explicit mutual consent of the two governments, and solely for defensive purposes as defined by the United States, in order to maintain security and regional stability.

"5. **Command Structure**

"That agreements as they concern organizational command and control structure for the operation of AWACS are of such a nature to guarantee that the commitments above will be honored.

"6. **Regional Peace and Security**

"That the sale contributes directly to the stability and security of the area, enhances the atmosphere and prospects for progress toward peace, and that initiatives toward the peaceful resolution of disputes in the region have either been successfully completed or that significant progress toward that goal has been accomplished with the substantial assistance of Saudi Arabia.".

(2) The Congress finds that the President also stated in the 1981 AWACS communications that should circumstances arise that might require changes in the arrangements described in that communication, "they would be made only with Congressional participation".

(b) REQUIREMENT FOR PRESIDENTIAL CERTIFICATION.—As provided in the 1981 AWACS communication, before the E3A airborne warning and control system (AWACS) aircraft which were the subject of that communication are transferred to Saudi Arabia, the President shall submit to the Congress a written Presidential certification, containing agreements with Saudi Arabia, that the conditions set forth in that communication have been met.

(c) CONGRESSIONAL PARTICIPATION IN CHANGES IN AWACS ARRANGEMENTS.—In order to facilitate the congressional participation provided for in the 1981 AWACS communication, the President shall notify the Congress promptly of any changes being considered by the United States in the arrangements described in that communication.

SEC. 132. COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE.

(a) GENERAL AUTHORITIES.—The Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) SPECIAL AUTHORITIES.—In connection with the administration of the European air defense agreements, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act;

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency—

(A) for the supply of logistical support in Europe for the Patriot missile system, and

(B) for the acquisition of such logistical support,

to the extent that the Secretary determines that the procedures of that Agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of setup charges of facilities for use by that Agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) delivery to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the requirement in section 22 of that Act for payment in advance of delivery for any purchase under that Act.

(c) RATE CHARGED FOR CERTAIN SERVICES.—Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under the Arms Export Control Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

(d) LIMITATION ON CONTRACT AUTHORITY.—The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds, other than those made available under section 31 of the Arms Export Control Act, are available for that purpose.

(e) RELATION TO FISCAL YEAR 1985 AUTHORIZATION.—The authorities provided by this section are an extension of, and not in addition to, the authorities provided by section 1007 of the Department of Defense Authorization Act, 1985 (98 Stat. 2579), relating to the authority of the Secretary of Defense to carry out the European air defense agreements during fiscal year 1985.

(f) DEFINITION OF EUROPEAN AIR DEFENSE AGREEMENTS.—For the purposes of this section, the term "European air defense agreements" means—

(1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983; and

(2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

TITLE II—ECONOMIC SUPPORT FUND

* * * * * * *

SEC. 202. ASSISTANCE FOR THE MIDDLE EAST.

(a) ISRAEL.[9, 10]—(1) Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $1,200,000,000 for fiscal year 1986[11] and not less than $1,200,000,000 for fiscal year 1987 shall be available only for Israel.

(2) The total amounts of funds allocated for Israel under that chapter for fiscal year 1986 and fiscal year 1987 shall be made available as a cash transfer on a grant basis. Such transfer shall be made on an expedited basis in the first 30 days of the respective fiscal year. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfer made to Israel

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[9] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190), contained the following:

"That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords.".

Identical language was contained in title II of the 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–221).

[10] Sec. 532 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1308), provided the following:

"SEC. 532. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.".

Section 531 of the 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–231), contained identical language to sec. 532 above.

[11] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1298), provided appropriations for the Economic Support Fund:

"* * * not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1985, whichever is later * * *.".

Title II of the 1987 Act (Public Law 99–591; 100 Stat. 3341–220) contained identical language to that above except that the amount is "$1,200,000,000", and the date is "October 31, 1986".

does not cause an adverse impact on the total level of nonmilitary exports from the United States to Israel.

(b) EGYPT.—(1) Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $815,000,000 for fiscal year 1986[12] and not less than $815,000,000 for fiscal year 1987 shall be available only for Egypt.

(2) All of the funds made available to Egypt under that chapter for the fiscal years 1986 and 1987 shall be provided on a grant basis.

(3) Up to $115,000,000 of the amounts provided for Egypt for each of the fiscal years 1986 and 1987 pursuant to paragraph (1) may be provided as a cash transfer with the understanding that Egypt will undertake economic reforms or development activities which are additional to those which would be undertaken in the absence of the cash transfer.

(c) COOPERATIVE SCIENTIFIC AND TECHNOLOGICAL PROJECTS.—It is the sense of the Congress that, in order to continue to build the structure of peace in the Middle East, the United States should finance, and where appropriate participate in, cooperative projects of a scientific and technological nature involving Israel and Egypt and other Middle East countries wishing to participate. These cooperative projects should include projects in the fields of agriculture, health, energy, the environment, education, water resources, and the social sciences.

SEC. 203. ASSISTANCE FOR CYPRUS.

(a) EARMARKS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $15,000,000 for fiscal year 1986[13] and not less than $15,000,000 for fiscal year 1987 shall be available only for Cyprus.

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[12] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1298), provided the following for Economic Support Fund for Egypt:

"not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99–83, and not less than $200,000,000 shall be provided as a Commodity Import Program:".

Title II of the 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–220) contained identical language, as well as the following:

"* * * *Provided further*, That notwithstanding any other provision of law, the Agency for International Development is authorized to obligate such funds as it deems necessary in excess of $115,000,000 from the funds appropriated for assistance to Egypt for the fiscal year 1987 as direct cash transfer for Egypt: *Provided further*, That such obligations in excess of $115,000,000 shall only be made in support of the implementation of a comprehensive structural economic reform program by the Government of Egypt: *Provided further*, That all such cash transfers in excess of $115,000,000 shall be subject to the regular notification procedures of the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Appropriations Committee of the House and Senate: *Provided further*, That such notifications for the provision of cash transfers in excess of $115,000,000 shall include detailed descriptions of the comprehensive structural economic reform program of the Government of Egypt: *Provided further*, That if the Agency for International Development obligates cash transfer assistance for Egypt exceeding $115,000,000, as permitted above, then such increased funding shall be derived through proportionate reductions in both the Commodity Import Program and project assistance: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: * * *".

[13] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190), provided the following for Economic Support Fund for Cyprus for fiscal year 1986:

Continued

(b) CYPRUS PEACE AND RECONSTRUCTION FUND.—It is the sense of the Congress that, at the appropriate time, $250,000,000 should be authorized to be appropriated to provide assistance for Cyprus under chapter 4 of part II of the Foreign Assistance Act of 1961 if the President certifies to the Congress that an agreement has been concluded by the Greek and Turkish Cypriots which is supported by Greece and Turkey and which achieves substantial progress toward settlement of the Cyprus dispute. Such an agreement should include an agreement on Varosha/Famagusta, foreign troop levels in the Republic of Cyprus, the disposition of the international airport on Cyprus, or other significant steps which are evidence of substantial progress toward an overall settlement of the Cyprus dispute.

SEC. 204. ASSISTANCE FOR PORTUGAL.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $80,000,000 for fiscal year 1986 and $80,000,000 for fiscal year 1987 shall be available only for Portugal.

SEC. 205. ACQUISITION OF AGRICULTURAL COMMODITIES UNDER COMMODITY IMPORT PROGRAMS.

The President shall use not less than 18 percent of the funds which are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 and 1987, and which are made available for commodity import programs, for the purchase of agricultural commodities of United States-origin.

SEC. 206. TIED AID CREDIT PROGRAM.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated for Commodity Import Programs—

(1) not less than $50,000,000 for fiscal year 1986, and

(2) an aggregate of not less than $100,000,000 for both fiscal years 1986 and 1987,

shall be deposited in the fund authorized by subsection (c)(2) of section 645 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635r) and shall be used by the Agency for International Development in carrying out the program of tied aid credits for United States exports which is provided for in that section. Funds that have not been obligated pursuant to the tied aid credit program by the end of the third quarter of the fiscal year for which they were appropriated may be used for other purposes under chapter 4 of part II of the Foreign Assistance Act of 1961 if the Administrator of the Agency for International Development certifies to the Congress that (A) no trade credit application acceptable and timely under the Trade and Development Enhancement Act of 1983 is pending, or (B) those funds are not needed for that program be-

"* * * of the funds appropriated or otherwise made available under this heading, $15,000,000 shall be available only for Cyprus (except that any offshore procurement must meet Agency for International Development procurement source and origin regulations)".

Title II of the 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–221) provided: "That not less than $15,000,000 of the funds appropriated under this paragraph shall be available for Cyprus".

cause other countries are not engaging in predatory financing practices in order to compete with United States exports.

SEC. 207. RESTRICTION ON USE OF FUNDS FOR NUCLEAR FACILITIES.

Funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1986 or fiscal year 1987 may not be used to finance the construction of, the operation or maintenance of, or the supplying of fuel for, any nuclear facility in a foreign country unless the President certifies to the Congress that such country is a party to the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America (the "Treaty of Tlatelolco"), cooperates fully with the International Atomic Energy Agency, and pursues nonproliferation policies consistent with those of the United States.

SEC. 208. FISCAL YEAR 1985 SUPPLEMENTAL AUTHORIZATION.

(a) AUTHORIZATION.—In addition to the amount appropriated for such purpose by Public Law 98–473, there are authorized to be appropriated $2,008,000,000 for fiscal year 1985 to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961. Of this amount, $1,500,000,000 shall be available only for Israel, $500,000,000 shall be available only for Egypt, and $8,000,000 shall be available only for the Middle East Regional Program. Amounts appropriated pursuant to this section are authorized to remain available until September 30, 1986.

(b) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

TITLE III—DEVELOPMENT ASSISTANCE

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SEC. 305. PROMOTION OF IMMUNIZATION AND ORAL REHYDRATION.

(a) * * *

(b) ANNUAL REPORTS.—Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act.

* * * * * * *

SEC. 311.[14] USE OF PRIVATE AND VOLUNTARY ORGANIZATIONS, COOPERATIVES, AND THE PRIVATE SECTOR.

(a) STUDY.—The Administrator of the Agency for International Development shall undertake a comprehensive study of additional ways to provide development assistance through nongovernmental organizations, including United States and indigenous private and voluntary organizations, cooperatives, the business community, and other private entities. Such study shall include—

(1) an analysis of the percentage of development assistance allocated to governmental and nongovernmental programs;

(2) an analysis of structural impediments, within both the United States and foreign governments, to additional use of nongovernmental programs; and

[14] 22 U.S.C. 2151u note.

(3) an analysis of the comparative economic benefits of governmental and nongovernmental programs.

(b) REPORT.—The Administrator shall report the results of this study to the Congress no later than September 30, 1986.

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SEC. 315. MINORITY SET-ASIDE.

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for each of the fiscal years 1986 and 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

TITLE IV—OTHER FOREIGN ASSISTANCE PROGRAMS

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SEC. 402. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS.

(a) * * *

(b) FISCAL YEAR 1985 CONTRIBUTION TO UNITED NATIONS ENVIRONMENT PROGRAM.—Notwithstanding section 614 of the Foreign Assistance Act of 1961 or any other provision of law, $10,000,000[15] of the funds appropriated for the fiscal year 1985 to carry out chapter 3 of part I of such Act shall be available only for the United Nations Environment Program. This subsection shall take effect on the date of enactment of this Act.

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TITLE V—INTERNATIONAL TERRORISM AND FOREIGN AIRPORT SECURITY

PART A—INTERNATIONAL TERRORISM GENERALLY[16]

* * * * * * *

[15] Title I of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1294), made available $9,000,000.

SEC. 502. COORDINATION OF ALL UNITED STATES TERRORISM-RELATED [17] ASSISTANCE TO FOREIGN COUNTRIES.

(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance related to international terrorism [17] which is provided by the United States Government.

(b) REPORTS.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism [17] which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

(c) [18] RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.[19]

SEC. 503.[20] PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM. * * *

SEC. 504. PROHIBITION ON IMPORTS FROM AND EXPORTS TO LIBYA.

(a) PROHIBITION ON IMPORTS.—Notwithstanding any other provision of law, the President may prohibit any article grown, produced, extracted, or manufactured in Libya from being imported into the United States.

(b) PROHIBITION ON EXPORTS.—Notwithstanding any other provision of law, the President may prohibit any goods or technology, including technical data or other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, from being exported to Libya.

(c) DEFINITION.—For purposes of this section, the term "United States", when used in a geographical sense, includes territories and possessions of the United States.

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[16] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1300), appropriated $7,420,000 for anti-terrorism assistance for fiscal year 1986.

Title II of the 1987 Act (Public Law 99–591; 100 Stat. 3341–223) provided the following:

"ANTI-TERRORISM ASSISTANCE

"For necessary expenses to carry out the provisions of chapter 8 of part II, $9,840,000.".

In addition, Title I, chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99–349; 100 Stat. 725), provided the following:

"DEPARTMENT OF STATE

"ANTI-TERRORISM ASSISTANCE (TRANSFERS OF FUNDS)

"For an additional amount to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $2,739,000, to be derived by transfer from any of the funds appropriated or otherwise made available in titles I, II, III, and IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99–190).".

[17] Sec. 503 of Public Law 99–399 (100 Stat. 871) inserted references to "terrorism-related" or "related to international terrorism" in lieu of references to "anti-terrorism".

[18] Subsection (c) was added by sec. 503 of Public Law 99–399 (100 Stat. 871).

[19] For text, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. D.

[20] Sec. 503(a) amended sec. 620A of the FAA of 1961. Sec. 503(b) amended sec. 3(f) of the AECA.

SEC. 505.[21] BAN ON IMPORTING GOODS AND SERVICES FROM COUNTRIES SUPPORTING TERRORISM.

(a) AUTHORITY.—The President may ban the importation into the United States of any good or service from any country which supports terrorism or terrorist organizations or harbors terrorists or terrorist organizations.

(b) CONSULTATION.—The President, in every possible instance, shall consult with the Congress before exercising the authority granted by this section and shall consult regularly with the Congress so long as that authority is being exercised.

(c) REPORTS.—Whenever the President exercises the authority granted by this section, he shall immediately transmit to the Congress a report specifying—

(1) The country with respect to which the authority is to be exercised and the imports to be prohibited;

(2) the circumstances which necessitate the exercise of such authority;

(3) why the President believes those circumstances justify the exercise of such authority; and

(4) why the President believes the prohibitions are necessary to deal with those circumstances.

At least once during each succeeding 6-month period after transmitting a report pursuant to this subsection, the President shall report to the Congress with respect to the actions taken, since the last such report, pursuant to this section and with respect to any changes which have occurred concerning any information previously furnished pursuant to this subsection.

(d) DEFINITION.—For purposes of this section, the term "United States" includes territories and possessions of the United States.

SEC. 506. INTERNATIONAL ANTI-TERRORISM COMMITTEE.

The Congress calls upon the President to seek the establishment of an international committee, to be known as the International Anti-Terrorism Committee, consisting of representatives of the member countries of the North Atlantic Treaty Organization, Japan, and such other countries as may be invited and may choose to participate. The purpose of the Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism, by serving as a forum at both the political and law enforcement levels.

SEC. 507. INTERNATIONAL TERRORISM CONTROL TREATY.

It is the sense of the Congress that the President should establish a process by which democratic and open societies of the world, which are those most plagued by terrorism, negotiate a viable treaty to effectively prevent and respond to terrorist attacks. Such a treaty should incorporate an operative definition of terrorism, and should establish effective close intelligence-sharing, joint counterterrorist training, and uniform laws on asylum, extradition, and swift punishment for perpetrators of terrorism. Parties to such a treaty should include, but not be limited to, those democratic nations who are most victimized by terrorism.

[21] 22 U.S.C. 2349aa–9.

SEC. 508. STATE TERRORISM.

It is sense of the Congress that all civilized nations should firmly condemn the increasing use of terrorism by certain states as an official instrument for promoting their policy goals, as evidenced by such examples as the brutal assassination of Major Arthur D. Nicholson, Junior, by a member of the Soviet armed forces.

PART B—FOREIGN AIRPORT SECURITY

SEC. 551. SECURITY STANDARDS FOR FOREIGN AIR TRANSPORTATION.

(a)[22] SECURITY AT FOREIGN AIRPORTS.—* * * [Repealed—1994]

(b) CONFORMING AMENDMENTS.—* * * [Repealed—1994]

(c) CLOSING OF BEIRUT INTERNATIONAL AIRPORT.—It is the sense of the Congress that the President is urged and encouraged to take all appropriate steps to carry forward his announced policy of seeking the effective closing of the international airport in Beirut, Lebanon, at least until such time as the Government of Lebanon has instituted measures and procedures designed to prevent the use of that airport by aircraft hijackers and other terrorists in attacking civilian airlines or their passengers, hijacking their aircraft, or taking or holding their passengers hostage.

SEC. 552.[23] * * * [Repealed—1994]

SEC. 553.[24] * * * [Repealed—1994]

SEC. 554. ENFORCEMENT OF INTERNATIONAL CIVIL AVIATION ORGANIZATION STANDARDS.

The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to enforce that Organization's existing standards and to support United States actions enforcing such standards.

SEC. 555. INTERNATIONAL CIVIL AVIATION BOYCOTT OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

It is the sense of the Congress that the President—

(1) should call for an international civil aviation boycott with respect to those countries which the President determines—

(A) grant sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(B) otherwise support international terrorism; and

(2) should take steps, both bilateral and multilateral, to achieve a total international civil aviation boycott with respect to those countries.

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[22] Sec. 7(b) of Public Law 103–272 (108 Stat. 1379) repealed sec. 551(a) and (b), which enacted an amendment to sec. 1115 of the Federal Aviation Act of 1958, and related amendments, concerning security standards in foreign air transportation, codified at 49 U.S.C. App. 1515.

[23] Formerly at 49 U.S.C. app. 1515a. Sec. 552, relating to travel advisories and suspension of foreign assistance, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

[24] Formerly at 49 U.S.C. app. 1356b. Sec. 553, relating to the United States airmarshal program, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

SEC. 556.[25] * * * [Repealed—1994]

SEC. 557. RESEARCH ON AIRPORT SECURITY TECHNIQUES FOR DETECTING EXPLOSIVES.

In order to improve security at international airports, there are authorized to be appropriated to the Secretary of Transportation from the Airport and Airway Trust Fund (in addition to amounts otherwise available for such purpose) $5,000,000, without fiscal year limitation, to be used for research on and the development of airport security devices or techniques for detecting explosives.

SEC. 558. HIJACKING OF TWA FLIGHT 847 AND OTHER ACTS OF TERRORISM.

The Congress joins with all Americans in celebrating the release of the hostages taken from Trans World Airlines flight 847. It is the sense of the Congress that—

(1) purser Uli Derickson, pilot John Testrake, co-pilot Philip Maresca, flight engineer Benjamin Zimmermann, and the rest of the crew of Trans World Airlines flight 847 displayed extraordinary valor and heroism during the hostages' ordeal and therefore should be commended;

(2) the hijackers who murdered United States Navy Petty Officer Stethem should be immediately brought to justice;

(3) all diplomatic means should continue to be employed to obtain the release of the 7 United States citizens previously kidnapped and still held in Lebanon;

(4) acts of international terrorism should be universally condemned; and

(5) the Secretary of State should be supported in his efforts to gain international cooperation to prevent future acts of terrorism.

SEC. 559. EFFECTIVE DATE.

This part shall take effect on the date of enactment of this Act.

TITLE VI—INTERNATIONAL NARCOTICS CONTROL

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SEC. 607. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $1,000,000 for each of the fiscal years 1986 and 1987 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

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[25] Formerly 49 U.S.C. app. 1515 note. Sec. 556, relating to multilateral and bilateral agreements with respect to aircraft sabotage, aircraft hijacking, and airport security, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

SEC. 610.[26] **ASSISTANCE FOR JAMAICA.**

In allocating assistance for Jamaica for fiscal year 1986 under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), the President shall give major consideration to whether the Government of Jamaica has prepared, presented, and committed itself to a comprehensive plan or strategy for the control and reduction of illicit cultivation, production, processing, transportation, and distribution of marijuana within a specifically stated period of time.

SEC. 611.[27] **ASSISTANCE FOR BOLIVIA.**

Assistance may be provided to Bolivia for fiscal years 1986 and 1987 under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

(1) For fiscal year 1986—

(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

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[26] Sec. 537 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1308), provided in part:

"Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: *Provided,* That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961.".

The 1987 version of the Act (Public Law 99–591; 100 Stat. 3341–232) contained identical text in sec. 536.

[27] Sec. 537 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1308), provided:

"That assistance may be provided to Bolivia for Fiscal Year 1986, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

"For Fiscal Year 1986—

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

"(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.".

Sec. 535 of the 1987 Act (Public Law 99–591; 100 Stat. 3341–232) provided:

"* * * That assistance may be provided to Bolivia for fiscal year 1987, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only in accordance with the provisions of section 611 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83) as amended by section 2011 of H.R. 5484 as passed by the Senate on September 30, 1986.".

(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia has achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.

(2) For fiscal year 1987, such assistance may not be provided unless the President certifies to the Congress that the Government of Bolivia has developed a plan to eliminate illicit narcotics production countrywide and is prepared to enter into an agreement with the United States to implement that plan. If that certification is made, then—

(A)[28] up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

(B)[28] the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

In the certification required by subparagraph (B), the President shall explain why the terms of the 1983 agreement provided unattainable and the reasons why a new agreement was necessary.

SEC. 612.[26] ASSISTANCE TO PERU.

(a) CONDITIONS ON ASSISTANCE.—United States assistance (as defined by section 481(i)(4) of the Foreign Assistance Act of 1961) may be provided for Peru—

(1) for fiscal year 1986, only if the President reports to the Congress that the Government of Peru has demonstrated substantial progress in developing a plan that will establish its legal coca requirements, license the number of hectares necessary to produce the legal requirement, and eliminate illicit and unlicensed coca production; and

(2) for fiscal year 1987, only if the President reports to the Congress that the Government of Peru has developed such a plan and is implementing it.

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[28] Sec. 2012(b) of Public Law 99–570 (100 Stat. 3207) amended subpars. (A) and (B) of par. (2), which previously read as follows:

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has achieve at least half of the eradication target for the calendar year 1986 agreed to by the United States and the Government of Bolivia; and

"(B) the remaining amount of such assistance may be provided at any time the President certifies to the Congress that the Government of Bolivia fully achieved that eradication target.".

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds authorized to be appropriated for fiscal year 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Administrator of that Agency, after consultation with the Congress, determines that a comprehensive review of that project has been completed which establishes the effectiveness of that project in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley. The assistance for Peru described in this subsection may be provided only if the report required by subsection (a)(2) has been submitted to the Congress.

SEC. 613. REALLOCATION OF FUNDS IF CONDITIONS NOT MET.

If any of the assistance described in section 611 is not provided for Bolivia because the conditions specified in that section are not met, or if any of the assistance described in section 612(a) is not provided for Peru because the conditions specified in that section are not met, the President shall reprogram such assistance in order to provide additional assistance to countries which have taken significant steps to halt illicit drug production or trafficking.

* * * * * * *

SEC. 615. LATIN AMERICAN REGIONAL NARCOTICS CONTROL ORGANIZATION.

(a) FEASIBILITY STUDY.—The Secretary of State, with the assistance of the National Drug Enforcement Policy Board, shall conduct a study of the feasibility of establishing a regional organization in Latin America which would combat narcotics production and trafficking through regional information-sharing and a regional enforcement unit.

(b) REPORT.—No later than six months after the date of enactment of this Act, a report on the advisability of encouraging the establishment of such an organization shall be submitted to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

SEC. 616. GREATER EFFORT BY UNITED STATES ARMED FORCES TO SUPPORT NARCOTICS CONTROL EFFORTS ABROAD.

No later than 60 days after the date of enactment of this Act, the President shall report to the Congress on why the United States Armed Forces should not exert greater effort in facilitating and supporting interception of narcotics traffickers, and in gathering narcotics-related intelligence, outside the United States.

SEC. 617. CUBAN DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the subject of the flow, use, and control of narcotic and psychotropic substances is a matter of great international importance;

(2) the problem of drug abuse and drug trafficking continues to worsen throughout most parts of the world;

(3) the concerns of the governments of many countries have become manifest in several bilateral and multilateral narcotics control projects;

(4) United Nations agencies monitor and apply controls on the flow and use of drugs and coordinate multilateral efforts to control production, trafficking, and abuse of drugs;

(5) the United Nations Fund for Drug Abuse Control funds narcotics projects throughout the world and has been a vehicle since 1971 for multilateral implementation of narcotics control and reduction programs;

(6) the International Narcotics Control Board is charged with monitoring compliance with the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, and Cuba is a party to both Conventions;

(7) the United Nations Commission on Narcotic Drugs is responsible for formulating policies, coordinating activities, supervising the implementation of international conventions, and making recommendations to governments for international drug control;

(8) the promotion of drug abuse and participation in drug trafficking is universally considered egregious criminal behavior wherever it occurs, whether it occurs locally, nationally, or internationally;

(9) a Federal grand jury of the United States has indicted four prominent Cuban officials on charges of conspiring to smuggle drugs into the United States;

(10) United States Government officials have testified at several congressional hearings that the Government of Cuba is facilitating the flow of illicit drugs into the United States in order to obtain hard currency, support guerrilla/terrorist activities, and undermine United States society; and

(11) such alleged conduct on the part of the Government of Cuba would be injurious to the world community and counter to the general principle of international law that no country has the right to use or permit the use of its territory in such a manner as to injure another country or persons therein.

(b) RECOMMENDED ACTIONS.—It is the sense of the Congress that the President should—

(1) acting through the Permanent Representative of the United States to the United Nations, take such steps as may be necessary to place the question of the involvement by the Government of Cuba in illicit drug trafficking on the agenda of the United Nations;

(2) acting through the Representative of the United States to the Organization of American States, request the Organization of American States to consider this question as soon as possible; and

(3) request other appropriate international organizations and international forums to consider this question.

(c) REPORT.—The President shall report to the Congress on the actions taken pursuant to this section.

* * * * * * *

SEC. 619.[29] DRUG TRAFFICKING AND THE PROBLEM OF TOTAL CONFIDENTIALITY OF CERTAIN FOREIGN BANK ACCOUNTS.

(a) FINDINGS.—The Congress finds that—

(1) several banks in Latin America and the Caribbean are used by narcotics traffickers as depositories for money obtained in providing illicit drugs to the United States and other countries of the region;

(2) offshore banks which provide total confidentiality provide a service which materially assists the operations of illicit drug traffickers; and

(3) cooperation in gaining access to the bank accounts of such narcotics traffickers would materially assist United States authorities in controlling the activities of such traffickers.

(b) POLICY.—The Congress—

(1) requests the President to negotiate treaties or appropriate international agreements with all countries providing confidential banking services (giving high priority to countries in the Caribbean region) to provide disclosure to the United States Government of information contained in official records, and in records of bank accounts, concerning persons under investigation for violations of United States law, in particular those regarding international drug trafficking;

(2) directs the President to include reports on the results of such efforts in the annual International Narcotics Control Strategy Report; and

(3) reaffirms its intention to obtain maximum cooperation on the part of all governments for the purpose of halting international drug trafficking, and constantly to evaluate the cooperation of those governments receiving assistance from the United States.

TITLE VII—WESTERN HEMISPHERE

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SEC. 702.[30] EL SALVADOR.

(a) SUPPORT FOR EL SALVADOR.—(1) The Congress finds that—

(A) a free and democratic El Salvador is in the security interest of the United States;

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[29] 22 U.S.C. 2291 note.

[30] The Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–232), provided the following:

"SEC. 537. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

* * * * * * *

"SEC. 545. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.".

(B) Jose Napoleon Duarte was elected President of El Salvador in 1984 in the most democratic election held in El Salvador in many years;

(C) political violence in El Salvador has declined dramatically under President Duarte's leadership;

(D) President Duarte's policies of respect for human rights, political pluralism, dialogue and reconciliation with the Salvadoran guerrilla force, legal and social reform and effective defense against the violent overthrow of the Salvadoran government are deserving of praise from all who believe in a democratic form of government;

(E) the March 31, 1985, legislation and municipal elections were successfully carried out, with 64 percent of the electorate defying guerrilla attacks to vote;

(F) the victory of President Duarte's Christian Democratic Party reaffirms the support for these policies by his fellow citizens, the essential test of any government or movement;

(G) in spite of the state of siege technically in effect due to the insurgent threat, observance of free speech, free press, and free assembly are widely enjoyed in El Salvador and permit public airing of opposing political views;

(H) President Duarte is firmly committed to judicial reform and prosecution of cases involving "death squads";

(I) President Duarte's leadership and popular support has notably weakened the popular support given the guerrillas, as evidenced by the high levels of voter participation in the free elections held in El Salvador since 1982, the reduction in territory in which the guerrillas can freely operate, their inability to mount frontal military attacks, and their resort to economic sabotage, ambushes, political assassination, and urban terrorism with blatant disregard for basic human rights; and

(J) President Duarte has succeeded in reversing the decline in his country's economy which, though still weak, has better prospects than in recent years.

(2) Therefore, it is the sense of the Congress that—

(A) President Duarte is to be congratulated for his outstanding leadership under difficult circumstances and for his efforts to foster democratic government and institutions in his country, and he is encouraged to continue his efforts to promote political pluralism, democratic institutions, and respect for human rights in his country; and

(B) the armed services of El Salvador are to be congratulated for their improved performance and professionalism in defending Salvadoran citizens and their democratically elected government from attack by armed insurgents, and especially for their role in helping to protect and uphold the electoral process.

(3) The Congress reaffirms the importance of continued support for democratic principles and institutions and respect for human rights by the various sectors of Salvadoran society, which is a major factor in United States support for El Salvador.

(b) OBJECTIVES.—The Congress expects that—

(1) the Government of El Salvador will be willing to pursue a dialogue with the armed opposition forces and their political

representatives for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C111–03–984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in implementing the land reform program.

(c) REPORTS.—On October 1, 1985, April 1, 1986, October 1, 1986, and April 1, 1987, the President shall report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (b) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall discuss whether the commission proposed by the President of El Salvador to investigate human rights cases has been established, funded, and given sufficient investigative powers; whether the evidence that commission collects may be used in the Salvadoran judicial process; whether that commission has issued a comprehensive report with regard to its investigation of all Americans murdered in El Salvador; and whether those responsible for the Las Hojas massacre are being prosecuted.

(d) AIRCRAFT FOR AERIAL WARFARE.—(1) The authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(2) Paragraph (1) shall take effect on the date of enactment of this Act and shall remain in effect until October 1, 1987.

(e) SPECIAL ACCOUNT FOR LOCAL CURRENCIES.—(1) All local currencies, which are generated with the funds provided to El Salvador for balance-of-payments support for fiscal years 1986 and 1987 under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), shall be deposited in accordance with section 609 of that Act in a special account established by the Government of El Salvador.

(2) Local currencies deposited pursuant to paragraph (1) shall be used for projects assisting agrarian reform and the agricultural sector (and particular emphasis shall be placed on projects for these

purposes); judicial reform, employment generation; health, education, and other social services; infrastructure repair; and credits and other support for the private sector (principally for small and medium sized businesses).

(3) For purposes of subsection—

(A) the term "agrarian reform" means projects assisting or enhancing the abilities of agencies, cooperatives, and farms to implement land reform decrees in El Salvador, notwithstanding section 620(g) of the Foreign Assistance Act of 1961; and

(B) the term "judicial reform" means projects assisting or enhancing the abilities of agencies of the Salvadoran Government to investigate and prosecute politically motivated violence.

(f) DEVELOPMENT ASSISTANCE.—Of the amounts available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, $79,600,000 for fiscal year 1986 and $79,600,000 for fiscal year 1987 shall be available only for El Salvador.

(g) SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.—All assistance authorized by this Act which is allocated for El Salvador shall be suspended if the elected President of that country is deposed by military coup or decree.

SEC. 703. ASSISTANCE FOR GUATEMALA.[31]

(a) CONDITIONS ON MILITARY ASSISTANCE AND SALES.—For fiscal years 1986 and 1987, assistance may be provided for Guatemala under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) and sales may be made and financing may be provided for Guatemala under the Arms Export Control Act (relating to foreign military sales) only if the President makes the following certifications to the Congress:

(1) For fiscal year 1986, an elected civilian government is in power in Guatemala and has submitted a formal written request to the United States for the assistance, sales, or financing to be provided.

(2) For both fiscal years 1986 and 1987, the Government of Guatemala made demonstrated progress during the preceding year—

(A) in achieving control over its military and security forces,

(B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights, and

(C) in respecting the internationally recognized human rights of its indigenous Indian population.

(b) CONSTRUCTION EQUIPMENT AND MOBILE MEDICAL FACILITIES AND RELATED TRAINING.—If the conditions specified in subsection

[31] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1302), provided the following appropriation for fiscal year 1986 (assuming certification requirements are met):

"* * * That not more than $553,900,000 of the funds made available under this paragraph shall be available at concessional rates of interest: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification process of the Committee on Appropriations.".

Sec. 538 of the 1987 Act (Public Law 99–591; 100 Stat. 3341–232) provided the following:

"Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.".

(a) are met, Guatemala may be provided with the following for fiscal years 1986 and 1987 (in addition to such other assistance, sales, or financing as may be provided for Guatemala):

(1) Sales of construction equipment and mobile medical facilities to assist in development programs that will directly assist the poor in Guatemala.

(2) Sales of training, to be provided outside of Guatemala, which is related to the sales described in paragraph (1).

(3) A total for both fiscal years 1986 and 1987 of no more than $10,000,000 in credits under the Arms Export Control Act for sales described in paragraphs (1) and (2).

Such sales and credits shall be provided only to enable the military forces of Guatemala to obtain equipment and training for civilian engineering and construction projects and mobile medical teams, which would not be used in the rural resettlement program.

(c) PROHIBITION ON FURNISHING WEAPONS.—Funds authorized to be appropriated by title I of this Act may not be used for the procurement by Guatemala of any weapons or ammunition.

(d) SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.—All assistance authorized by this Act which is allocated for Guatemala shall be suspended if the elected civilian government of that country is deposed by military coup or decree.

(e) RURAL RESETTLEMENT PROGRAM.—Assistance provided for Guatemala for the fiscal year 1986 and fiscal year 1987 under chapter 1 of part I (relating to development assistance) or under chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961—

(1) may not be provided to the Government of Guatemala for use in its rural resettlement program; and

(2) shall be provided through private and voluntary organizations to the maximum extent possible.

(f) INVITATION FOR ICRC TO VISIT GUATEMALA.—The Congress calls upon the President to urge the Government of Guatemala to allow the International Committee of the Red Cross—

(1) to conduct an unimpeded visit to Guatemala in order to investigate humanitarian needs in that country and to report on human rights abuses in that country; and

(2) to investigate the possibilities of its providing humanitarian services in that country.

(g) RELATIONS BETWEEN BELIZE AND GUATEMALA.—It is the sense of the Congress that the United States should use its good offices and influence to encourage the Government of Guatemala to recognize the independence of Belize and to enter into a mutual nonaggression treaty with Belize.

(h) HUMAN RIGHTS GROUPS IN GUATEMALA.—(1) The Congress finds that—

(A) the Group for Mutual Support was formed in 1984 to protest the disappearances of Guatemalan civilians;

(B) the Group for Mutual Support has carried out its work in a peaceful, non-ideological manner, and is the only indigenous human rights group operating in Guatemala; and

(C) two of the Group's six steering committee members, Hector Gomez and Maria Rosario Godyo[32] de Cuevas, were recently killed.

(2) It is the sense of the Congress that—

(A) human rights groups in Guatemala, particularly the Group for Mutual Support, should be allowed to carry out their work against human rights abuses with the full cooperation, protection, and support of the Government of Guatemala; and

(B) whether the Government of Guatemala allows human rights groups, including the Group for Mutual Support, to carry out their work should be taken into account by the United States in determining whether there is human rights progress in Guatemala.

SEC. 704. REFUGEES IN HONDURAS.

Funds authorized to be appropriated by this Act and funds authorized to be appropriated for the "Migration and Refugee Assistance" account for fiscal years 1986 and 1987—

(1) which are to be used for refugee assistance or other assistance for Nicaraguan Indian refugees in Honduras shall be channeled, to the maximum extent possible, through the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the Intergovernmental Committee for Migration, or other established and recognized international refugee relief organizations; and

(2) may not be used to facilitate the involuntary repatriation of Salvadoran refugees who are in Honduras.

SEC. 705. PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI.[33]

(a) USE OF PVOS.—To the maximum extent practicable, assistance for Haiti under chapter 1 of part I (relating to development assistance) and under chapter 4 of part II (relating to the economic

[32] Should read "Godoy".

[33] Title I, chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99–349; 100 Stat. 726), provided:

"ASSISTANCE FOR HAITI

"Of the funds made available in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99–190), subject to the notification process of the Committees on Appropriations, up to $21,700,000 shall be made available for assistance to Haiti. Of this amount, $1,700,000, or the equivalent amount in local currencies, may be transferred to the Inter-American Foundation for use by the Foundation for programs for Haiti. The assistance made available pursuant to this paragraph shall be used to promote the transition to democracy by means such as generating local currency for use for literacy projects, rural development, and job creation. The assistance provided for Haiti pursuant to this paragraph shall be in addition to the assistance previously allocated for Haiti.

"It is the sense of the Congress that the United States Government should cooperate with the Government of Haiti in recovering for the Haitian people the wealth that was illegally obtained by former president Jean-Claude Duvalier and his former government ministers and associates through diversions of funds and property, regardless of whether that wealth is located in the United States or abroad.

"Notwithstanding any limitations on assistance to Haiti contained in Public Law 98–473 or Public Law 99–83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: *Provided,* That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided further,* That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti.".

support fund) of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(b) CONDITIONS ON ASSISTANCE.—Funds available for fiscal year 1986 and for fiscal year 1987 to carry out chapter 1 of part I (relating to development assistance), chapter 4 of part II (relating to the economic support fund), or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 may be obligated for Haiti only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making progress toward improving the human rights situation in Haiti and progress toward implementing political reforms which are essential to the development of democracy in Haiti, such as progress toward the establishment of political parties, free elections, free labor unions, and freedom of the press.

(c)[34] * * * [Repealed—1998]

(d) ASSISTANCE IN HALTING ILLEGAL EMIGRATION FROM HAITI.—Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961 (relating to police training), funds made available under such Act may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

(e) LIMITATION ON MAP AND FMS FINANCING.—Assistance may not be provided for Haiti for fiscal year 1986 or fiscal year 1987 under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) or under the Arms Export Control Act (relating to foreign military sales financing), except for necessary transportation, maintenance, communications, and related articles and services to enable the continuation of migrant and narcotics interdiction operations.

(f) LITERACY AND OTHER EDUCATION PROGRAMS.—Of the amounts authorized to be appropriated to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) which are allocated for Haiti, $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 shall be available only for literacy and other education programs in Haiti.

SEC. 706. MILITARY ASSISTANCE FOR PARAGUAY.

For the fiscal years 1986 and 1987, none of the funds authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) or to carry out the Arms Export Control Act (relating to foreign military

[34] Sec. 2219(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B of public Law 105–277; 112 Stat. 2681), repealed subsec. (c), which had read as follows:

"(c) REPORTS TO THE CONGRESS.—Not later than one year after the date of the enactment of this Act and one year thereafter, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each paragraph of subsection (b).".

sales financing) may be used for assistance for Paraguay unless the President certifies to the Congress that the Government of Paraguay has ended the practice of torture and abuse of individuals held in detention by its military and security forces and has instituted procedures to ensure that those arrested promptly charged and brought to trial.

SEC. 707. ASSISTANCE FOR PERU.[35]

(a) HUMAN RIGHTS TRAINING IN IMET PROGRAMS.—Respect for internationally recognized human rights shall be an important component of the training provided for Peru under chapter 5 of part II of the Foreign Assistance Act of 1961 for fiscal year 1986 and for fiscal year 1987.

(b) STRENGTHENING THE PERUVIAN JUDICIAL SYSTEM.—Of the amount authorized to be appropriated by this Act to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 shall be used to strengthen the judicial system in Peru under section 534 of the Foreign Assistance Act of 1961 (relating to administration of justice).

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SEC. 709. COMPREHENSIVE REPORTS ON ASSISTANCE FOR LATIN AMERICA AND THE CARIBBEAN.

(a) REQUIREMENT FOR COMPREHENSIVE ACCOUNTING OF ASSISTANCE.—In the annual reports required by section 634 of the Foreign Assistance Act of 1961, the President shall provide to the Congress a full, complete, and detailed accounting of all assistance provided during the fiscal years 1986 and 1987 for Latin America and the Caribbean under the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(b) INFORMATION TO BE INCLUDED.—The report provided pursuant to subsection (a) shall include for each fiscal year, among other things, the following with respect to each authorization account:

(1) The specific projects and other activities carried out in each country.

(2) The number of persons from each country who were provided with training, and the types of training provided.

(3) The defense articles and defense services provided for each country.

(4) The types of goods and commodities provided to each country for economic stabilization purposes under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), and a copy of each agreement for the furnishing of any assistance under that chapter.

(5) The amounts of local currency generated by United States assistance to each country, the uses of those currencies, and the total amount of those currencies still available for use as of the time of the report.

(6) A report on any transfers or reprogrammings of funds, and a description of how transferred or reprogrammed funds modified the amounts requested for each account.

[35] See also sec. 612 of this Act.

(7) A report on the funds which have been obligated but remain unexpended for each country in each account.

(8) An analysis of the amount of funds and programs provided through nongovernmental as contrasted to governmental channels.

SEC. 710. USE OF PRIVATE AND VOLUNTARY ORGANIZATIONS.

To the maximum extent practicable, assistance under chapter 1 of part I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean should be provided through private and voluntary organizations which have a proven record of development assistance efforts overseas.

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SEC. 713. USE OF EMPLOYEE STOCK OWNERSHIP PLANS IN DEVELOPMENT EFFORTS.

(a) FINDINGS.—The Congress declares that—

(1) employee stock ownership plans in industrial, farming, banking, and other enterprises in Central America and the Caribbean can be an important component in achieving United States goals in Central America and the Caribbean; and

(2) employee stock ownership plans should be used as an instrument in financing growth and transfers of equity in the region, in reorganizing state-owned enterprises into viable employee-owned businesses, in expanding political and economic pluralism, and in strengthening democratic institutions in the region.

(b) PLAN FOR EXPANDED USE OF ESOPS.—The President is urged to develop a plan for the expanded use of employee stock ownership plans in development efforts of the United States in Central America and the Caribbean, with an emphasis on policy and infra-structural changes needed to encourage voluntary employee stock ownership initiatives by multinational corporations and other private sector enterprises which have investments, are considering making new investments, or are interested in management contracts and joint ventures in the region.

(c) TASK FORCE.—To assist in this effort, there is established a Presidential Task Force on Project Economic Justice (hereafter in this section referred to as the "Task Force"), which shall consist of individuals appointed by the President who are distinguished leaders of the private sector of the United States, including significant representation of union representatives of workers in successful companies with employee stock ownership plans and of nationally recognized experts in all phases of design, implementation, and operation of employee stock ownership plans. The President shall designate one of the members of the Task Force to serve as Chairman. The Chairman of the Task Force shall appoint a volunteer fundraising committee, and all the expenses of the Task Force shall be paid without the use of public funds.

(d) REPORT.—Not later than December 31, 1985, the Task Force shall prepare and transmit to the President and the Congress a report on the expanded use of employee stock ownership plans in the development efforts of the United States in Central America and

the Caribbean, including specific recommendations on strategies for using employee stock ownership plans as a means of accelerating the rate of private sector capital formation in Central America and the Caribbean that is systematically linked to expanding ownership and profit-sharing opportunities for all employees.

SEC. 714. INTERNATIONAL ADVISORY COMMISSION FOR THE CARIBBEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) many of the social, agricultural, educational, and economic problems which confront nations in the Caribbean Region result primarily from social and economic injustice and inadequate economic and agricultural development;

(2) such problems are not addressed sufficiently by current United States policies toward that region;

(3) the development of the Caribbean Region is of vital importance to the economic and strategic interests of the United States and its allies; and

(4) for purposes of defining development plans, providing an international forum for Caribbean Region development issues, and providing expert advice to donor-aid countries, an international commission is needed as the prime institution for promoting economic cooperation and development in the Caribbean Region.

(b) INVITATIONS TO PARTICIPATE IN COMMISSION.—

(1) INVITATION TO CARIBBEAN COUNTRIES.—The President may invite the countries which comprise the Caribbean Region to participate with the United States in a commission to be known as the International Advisory Commission for the Caribbean Region (hereafter in this section referred to as the "Commission").

(2) INVITATION TO CERTAIN OTHER COUNTRIES.—The President may also invite the Netherlands, the United Kingdom, France, Canada, the Commonwealth of Puerto Rico, and the Virgin Islands to participate in the Commission.

(c) FUNCTIONS OF COMMISSION.—It is the sense of the Congress that the Commission should—

(1) examine social, agricultural, educational, and economic issues which affect the Caribbean Region; and

(2) consult with leaders of the countries in the Caribbean Region and with representatives from public and private organizations involved in matters related to the Caribbean Region in order to evaluate the problems and needs of such countries.

(d) FUNDING FOR ORGANIZATIONAL MEETING OF COMMISSION.—Of the funds authorized to be appropriated to carry out section 106 of the Foreign Assistance Act of 1961 (relating to development assistance for energy, private and voluntary organizations, and selected development activities), up to a total of $100,000 for fiscal years 1986 and 1987 may be made available to—

(1) pay reasonable administrative expenses associated with the organizational meeting of the Commission; and

(2) pay reasonable travel and lodging expenses incurred by commissioners from other participant governments incident to their attendance at the organizational meeting of the Commission.

(e) REQUEST TO CONGRESS RELATING TO UNITED STATES PARTICIPATION IN THE COMMISSION.—The President should provide cost estimates and request authorization from the Congress in order to provide for the participation of the United States in the Commission (other than United States participation associated with the organizational meeting).

(f) APPOINTMENT OF UNITED STATES REPRESENTATIVE AND OBSERVERS.—Upon the creation of the Commission—

(1) the President should consider appointing one individual as the United States representative to the Commission;

(2) the Speaker of the House of Representatives should consider appointing two Members of the House, one from each major political party, as observers at the Commission; and

(3) the majority leader of the Senate should consider appointing two Members of the Senate, one from each major political party, as observers at the Commission.

SEC. 715.[36] * * *

SEC. 716. RURAL ELECTRIFICATION.

It is the sense of the Congress that funds appropriated for the fiscal years 1986 and 1987 under section 103(a)(2) of the Foreign Assistance Act of 1961 (relating to development assistance for agriculture, rural development, and nutrition) should be used for a comprehensive rural electrification program in Central America in order to establish conditions of stability and a foundation for economic development.

SEC. 717. FACILITATING INTERNATIONAL COMMERCE THROUGH MEXICO.

(a) FINDING.—Recognizing that increased levels of balanced international trade are an essential component in an economic development program for the region and that the United States has traditionally been the most important trading partner for each of the nations of Latin America, it is the sense of the Congress that current procedures and laws of the Government of Mexico, and practices of its officials, constitute a significant impediment to the transit of vehicles carrying the commodities of international trade through Mexican territory.

(b) NEGOTIATIONS AND COOPERATIVE STEPS CONCERNING TRANSIT.—As the Government of Mexico has played a valuable role in assisting and encouraging the economic and political development of the region, and in offering advice to the United States as to constructive policies this nation might pursue with respect to peace and prosperity in the area, the Secretary of State, acting independently or with representatives of other Latin America nations, shall initiate negotiations with the Government of Mexico aimed at eliminating or reducing those impediments to international trade. The agenda for such negotiations should include discussions to encourage the Government of Mexico to accede to existing international custom conventions on international in-transit shipments. Such actions are to be taken in concert with the institution by the United States, and the nations of the region where the transiting

[36] Sec. 715 amended sec. 726 of the International Security and Development Cooperation Act, 1981.

shipments originate, of appropriate and cooperative steps to make sealed-truck, no-inspection transit administratively acceptable to the Government of Mexico and other transited countries. Similar bilateral or multilateral negotiations by the Secretary of State with nations respecting the same international customs conventions is also encouraged.

(c) REPORT.—The Secretary of State shall report the status of these negotiations to Congress by January 1, 1986.

SEC. 718. CONDEMNING HUMAN RIGHTS VIOLATIONS AND THE SUBVERSION OF OTHER GOVERNMENTS BY THE GOVERNMENT OF CUBA.

(a) CONDEMNATION OF CERTAIN ACTION BY THE GOVERNMENT OF CUBA.—The Congress condemns—

(1) the consistent pattern of gross violations of internationally recognized human rights by the Cuban Government, including—

(A) cruel, inhumane, and degrading treatment and punishment of prisoners;

(B) the suppression of free speech, press, and assembly; and

(C) restrictions on religious activity and the freedom to emigrate; and

(2) the provision by the Cuban government of material aid and personnel support for the purposes of subversion.

(b) CALL UPON THE GOVERNMENT OF CUBA.—The Congress calls upon the Government of Cuba to restore civil liberties and cease in the violation of human rights of the Cuban people and cease the subversion of other governments through material and personnel support.

SEC. 719. REPORTS ON FOREIGN DEBT IN LATIN AMERICA.

(a) FINDINGS.—The Congress finds that—

(1) the foreign debt of Latin American countries has soared from $27,000,000,000 in 1970 to over $350,000,000,000 in 1983;

(2) the foreign debt of Latin American countries is a serious obstacle to their economic progress, threatens their stability, and endangers the democratic processes in those nations;

(3) the economic and political futures of many of the Latin American countries hang in the balance and depend upon a successful resolution of the foreign debt crisis; and

(4) the confidence of the American people in the United States system of banking is also involved in a successful resolution of the foreign debt crisis.

(b) REPORT.—Not later than January 1, 1986, the Secretary of State shall prepare and transmit to the Congress a report on—

(1) the magnitude of the foreign debt crisis in the Western Hemisphere;

(2) the impact of the foreign debt crisis on the economies of the countries of Latin America;

(3) the degree to which the national security interests of the United States are implicated in this crisis;

(4) the steps being taken and the policy being pursued by the United States aimed at dealing with this crisis;

(5) the degree to which the foreign debt crisis affects the system of banking in the United States; and

(6) the steps being taken and the policy being pursued by the United States Government aimed at dealing with this crisis.

SEC. 720. ECONOMIC ASSISTANCE FOR URUGUAY.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $15,000,000 for fiscal year 1986 and $15,000,000 for fiscal year 1987 shall be available only for Uruguay.

SEC. 721. CANADIAN EXPORTS TO THE UNITED STATES.

(a) CATTLE AND HOGS.—(1) The Congress finds that—

(A) livestock prices have been in decline for some time due to excessive supply partially caused by dramatic increases in importation of live cattle and hogs from Canada, which has increased by 1,000 percent in the last decade in the case of hogs alone;

(B) American livestock producers are suffering from the same general economic crisis affecting all of agriculture, and many will face liquidation or foreclosure in the near future; and

(C) the disparity between the United States and the Canadian dollar amounts to 32 to 34 percent and results in even further increases in Canadian hogs and cattle being imported into the United States.

(2) Therefore, it is the sense of the Congress that the President should direct appropriate officials of the executive branch, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward immediate reduction in the Canadian export of cattle and hogs to the United States.

(b) SOFTWOOD TIMBER.—(1) The Congress finds that—

(A) softwood timber prices have been in decline for some time due to excessive supply partially caused by dramatic increases in importation of processed softwood timber from Canada, which has increased from 18 percent of the United States market in the last two years to 35 to 40 percent today;

(B) American timber producers are suffering from this economic crisis, and the difficulty in acquiring timber from the National Forest System; and

(C) the disparity between the United States and the Canadian dollar amounts to 32 to 34 percent and results in even further increases in processed softwood timber being imported into the United States.

(2) Therefore, it is the sense of the Congress that the President should direct appropriate officials of the executive branch, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward immediate reduction in the Canadian export of softwood timber to the United States.

SEC. 722. NICARAGUA.

(a) SETTLEMENT OF THE CONFLICT.—The Congress—

(1) strongly supports national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful settlement to the Nicaraguan conflict; and

(2) finds that the United States should, in assisting efforts to reach comprehensive and verifiable final agreements based on the Contadora Document of Objectives, encourage the Government of Nicaragua to pursue a dialogue with the armed opposition forces and their political representatives for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections.

(b) UNITED STATES CONCERNS ABOUT NICARAGUAN FOREIGN AND DOMESTIC POLICIES.—The Congress finds and declares the following:

(1) Despite positive actions by the Congress signaling support for negotiated solutions to conflicts in Central America, there are disturbing trends in Nicaragua's foreign and domestic policies, including—

(A) President Daniel Ortega's April 1985 trip to the Soviet Union at a time when the Congress signaled its strong disapproval of increasing Nicaraguan-Soviet ties;

(B) the Sandinista government's close military ties with Cuba, the Soviet Union, and its Warsaw Pact allies; the disappointing and insufficient reduction of the number of Cuban advisors in Nicaragua by only 100 out of an approximately 2,500; and the continuing military buildup that Nicaragua's neighbors consider threatening;

(C) the Sandinista government's curtailment of individual liberties, political expression, freedom of worship, and the independence of the media;

(D) the subordination of military, judicial, and internal security functions to the ruling political party; and

(E) the Sandinista government's efforts to export its influence and ideology.

(2) If Nicaragua does not address the concerns described in paragraph (1), the United States has several options to address this challenge to peace and stability in the region, including political, diplomatic, and trade sanctions. In addition, the United States—

(A) should through appropriate regional organizations, such as the Organization of American States, seek to maintain multilateral pressure on Nicaragua to address these concerns; and

(B) should, if called upon to do so, give serious consideration to supporting any sanctions adopted by such an organization.

(3) In assessing whether or not progress is being made in addressing these concerns, the Congress will expect prompt and significant initiatives by the Government of Nicaragua such as—

(A) the removal of foreign military advisors from Nicaragua;

(B) the end to Sandinista support for insurgencies in other countries in the region, including the cessation of military supplies to the rebel forces fighting the democratically elected government in El Salvador;

(C) restoration of individual liberties, political expression, freedom of worship, and the independence of the media; and

(D) progress toward international reconciliation and a pluralistic democratic system, including steps to liberalize institutions in order to allow the internal opposition in Nicaragua to become a viable partner in the Nicaraguan political process.

(c) RESOLUTION OF THE CONFLICT IN NICARAGUA.—

(1) BASIS FOR POLICY.—The Congress finds that—

(A) the people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and loss of life, has thrown the country into a serious political, social, and economic upheaval, and is of serious concern to the nations of the region and to the United States;

(B) this conflict is fundamentally a continuation of efforts of the Nicaraguan people to attain a representative government at peace with its neighbors, efforts which began under the Somoza regime; and

(C) the United States recognized these noble aspirations of the Nicaraguan people in the June 23, 1979, resolution of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States, which reads as follows:

"WHEREAS:

"The people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and loss of life, and has thrown the country into a serious political, social and economic upheaval;

"The inhumane conduct of the dictatorial regime governing the country, as evidenced by the report of the Inter-American Commission on Human Rights, is the fundamental cause of the dramatic situation faced by the Nicaraguan people; and

"The spirit of solidarity that guides Hemisphere relations places an unavoidable obligation on the American countries to exert every effort within their power, to put an end to the bloodshed and to avoid the prolongation of this conflict which is disrupting the peace of the Hemisphere;

"THE SEVENTEENTH MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS,

"DECLARES:

"That the solution of the serious problem is exclusively within the jurisdiction of the people of Nicaragua.

"That in the view of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs this solution should be arrived at on the basis of the following:

"1. Immediate and definitive replacement of the Somoza regime.

"2. Installation in Nicaraguan territory of a democratic government, the composition of which should include the

principal representative groups which oppose the Somoza regime and which reflects the free will of the people of Nicaragua.

"3. Guarantee of the respect for human rights of all Nicaraguans without exception.

"4. The holding of free elections as soon as possible, that will lead to the establishment of a truly democratic government that guarantees peace, freedom, and justice.

"RESOLVES:

"1. To urge the member states to take steps that are within their reach to facilitate an enduring and peaceful solution of the Nicaraguan problem on the bases set forth above, scrupulously respecting the principle of nonintervention and abstaining from any action that might be in conflict with the above bases or be incompatible with a peaceful and enduring solution to the problem.

"2. To commit their efforts to promote humanitarian assistance to the people of Nicaragua and to contribute to the social and economic recovery of the country.

"3. To keep the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs open while the present situation continues.".

(2) THE GOVERNMENT OF NICARAGUA.—The Congress further finds that—

(A) the Government of National Reconstruction of Nicaragua formally accepted the June 23, 1979, resolution as a basis for resolving the Nicaraguan conflict in its "Plan to Achieve Peace" which was submitted to the Organization of American States on July 12, 1979;

(B) the June 23 1979, resolution and its acceptance by the Government of National Reconstruction of Nicaragua was the formal basis for the removal of the Somoza regime and the installation of the Government of National Reconstruction;

(C) the Government of National Reconstruction, now known as the Government of Nicaragua and controlled by the Frente Sandinista (the FSLN), has flagrantly violated the provisions of the June 23, 1979, resolution, the rights of the Nicaraguan people, and the security of the nations in the region, in that it—

(i) no longer includes the democratic members of the Government of National Reconstruction in the political process;

(ii) is not a government freely elected under conditions of freedom of the press, assembly, and organization, and is not recognized as freely elected by its neighbors, Costa Rica, Honduras, and El Salvador;

(iii) has taken significant steps towards establishing a totalitarian Communist dictatorship, including the formation of FSLN neighborhood watch committees and the enactment of laws that violate human rights and grant undue executive power;

(iv) has committed atrocities against its citizens as documented in reports by the Inter-American Commis-

sion on Human Rights of the Organization of American States;

(v) has aligned itself with the Soviet Union and Soviet allies, including the German Democratic Republic, Bulgaria, Libya, and the Palestine Liberation Organization;

(vi) has committed and refuses to cease aggression in the form of armed subversion against its neighbors in violation of the Charter of the United Nations, the Charter of the Organization of American States, the Inter-American Treaty of Reciprocal Assistance, and the 1965 United Nations General Assembly Declaration on Intervention; and

(vii) has built up an army beyond the needs of immediate self-defense, at the expense of the needs of the Nicaraguan people and about which the nations of the region have expressed deepest concern.

(3) THE NICARAGUAN DEMOCRATIC OPPOSITION.—The Congress further finds that—

(A) as a result of these violations, the Government of Nicaragua has lost the support of virtually all independent sectors of Nicaraguan society who initially supported the removal of the Somoza regime (including democratic political parties of the left, center, and right; the leadership of the Church; free unions; and the business, farmer, and professional sectors) and who still seek democracy, reject the rule of the Frente Sandinista, and seek the free elections promised in 1979;

(B) the Nicaraguan political opposition has joined with the armed opposition groups in issuing the San Jose Manifesto of March 1, 1985, calling for a national dialogue under mediation by the Nicaraguan Bishops Conference to peacefully attain the fulfillment of the Government of Nicaragua's commitments to the Organization of American States, including "the democratization of Nicaragua, conscious that democracy is the only means to carry out an authentic revolution and secure our national identity and sovereignty";

(C) on June 12, 1985, in San Salvador, El Salvador, the political and armed opposition groups representing the entire democratic political spectrum of Nicaragua formed the United Nicaraguan Opposition and affirmed their "historical commitment to achieve for Nicaragua the reconciliation of her children, to establish the foundation for democracy and the moral and material reconstruction of the nation"; and

(D) the United Nicaraguan Opposition further declared its intention to "give priority at all times to a political solution which will ease the suffering of our people".

(4) CONCERNS IN THE REGION AND UNITED STATES RESPONSIBILITIES.—The Congress further finds that—

(A) Nicaragua's neighbors, Costa Rica, El Salvador, and Honduras, have expressed, individually and through the Contadora process, their belief that their peace and free-

dom is not safe so long as the Government of Nicaragua excludes from power most of Nicaragua's political leadership and is controlled by a small sectarian party, without regard to the will of the majority of Nicaraguans; and

(B) the United States, given its role in the installation of the current Government of Nicaragua, has a special responsibility regarding the implementation of the commitments made by that Government in 1979, especially to those who fought against Somoza to bring democracy to Nicaragua with United States support.

(5) RESOLUTION OF THE CONFLICT.—The Congress—

(A) condemns the Government of Nicaragua for violating its solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(B) affirms that the Government of Nicaragua will be regarded as having achieved political legitimacy when it fulfills its 1979 commitment to the Organization of American States to implement genuinely democratic elections, under the supervision of the Organization of American States, in which all elements of the Nicaraguan resistance can peacefully participate under conditions recognized as necessary for free elections by international bodies;

(C) urges the Government of Nicaragua to enter a national dialogue, as proposed by the Nicaraguan democratic resistance in San Jose, Costa Rica, on March 1, 1985, under mediation by the Nicaraguan Bishops Conference in order to peacefully resolve the current crisis through internationally recognized elections in which all elements of Nicaraguan society can freely participate;

(D) supports the Nicaraguan democratic resistance in its efforts to peacefully resolve the Nicaraguan conflict and to achieve the fulfillment of the Government of Nicaragua's solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(E) supports efforts by the Contadora nations, the Organization of American States, and other appropriate regional organizations to maintain multilateral pressure on Nicaragua to fulfill its commitments; and

(F) requests that the Secretary of State transmit the text of this subsection to the Foreign Ministers of the member states of the Organization of American States.

(d) PROHIBITION RELATING TO MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA.—Notwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available by this Act (except the funds authorized to be appropriated in this section), by the Foreign Assistance Act of 1961, or by the Arms Export Control Act shall be used to provide assistance of any kind, either directly or indirectly, to any person or group engaging in an insurgency or other act of rebellion against the Government of Nicaragua. The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insur-

gency or other act of rebellion against the Government of Nicaragua.

(e) LIMITATION ON USE OF FUNDS AGAINST NICARAGUA.—None of the funds authorized to be appropriated in this or any other Act can be used to fund directly, or indirectly, activities against the Government of Nicaragua which have not been authorized by, or pursuant to, law and which would place the United States in violation of our obligations under the Charter of the Organization of American States, to which the United States is a signatory, or under international law as defined by treaty commitments agreed to, and ratified by, the Government of the United States.

(f) FOOD AID TO THE NICARAGUAN PEOPLE.—In cooperation with Cardinal Miguel Obando y Bravo and private and voluntary organizations, the President should explore and promote means for providing food aid to the Nicaraguan people through private and voluntary organizations and the Catholic Church.

(g) HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—(1) Effective upon the date of enactment of this Act, there are authorized to be appropriated $27,000,000 for humanitarian assistance to the Nicaraguan democratic resistance. Such assistance shall be provided to such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense.

(2) The assistance authorized by this subsection is authorized to remain available for obligation until March 31, 1986.

(3) One-third of the assistance authorized by this subsection shall be available for obligation at any time after the appropriation of funds pursuant to such authorization, an additional one-third shall be available for obligation upon submission of the first report required by subsection (j), and the remaining one-third shall be available for obligation upon submission of the second such report.

(4) The President shall establish appropriate procedures to ensure that any humanitarian assistance provided by the United States Government to the Nicaraguan democratic resistance is used only for the intended purpose and is not diverted (through barter, exchange, or any other means) for acquisition of weapons systems, ammunition, or other equipment, vehicle, or material which can be used to inflict serious bodily harm or death.

(5) As used in this subsection, the term "humanitarian assistance" means the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

(h) ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT.—Effective upon the date of enactment of this Act, there are authorized to be appropriated $2,000,000, which are authorized to remain available until expended, for payment by the Secretary of State for the expenses arising from implementation by the Contadora nations (Mexico, Panama, Colombia, and Venezuela) of an agreement among the countries of Central America based on the Contadora Document of Objectives of September 9, 1983, including peacekeeping, verification, and monitoring systems.

(i) POLICIES WITH RESPECT TO NICARAGUA.—The President is hereby urged and requested—

(1) to pursue vigorously the use of diplomatic and economic measures to resolve the conflict in Nicaragua, including simultaneous negotiations—

(A) to implement the Contadora Document of Objectives of September 8, 1983; and

(B) to develop, in close consultation and cooperation with other nations, trade and economic measures to complement such policies of the United States and to encourage the Government of Nicaragua to take the necessary steps to resolve the conflict;

(2) to suspend the economic sanctions imposed by the President on May 1, 1985, and the United States military maneuvers in Honduras and off the coast of Nicaragua, if the Government of Nicaragua agrees—

(A) to a cease fire,

(B) to open a dialogue with all elements of the opposition, including the Nicaraguan democratic resistance, and

(C) to suspend the state of emergency in Nicaragua;

(3) to call upon the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) to resume bilateral discussions with the Government of Nicaragua with a view to encouraging—

(A) a church-mediated dialogue between the Government of Nicaragua and all elements of the opposition, including the Nicaraguan democratic resistance, in support of internal reconciliation as called for by the Contadora Document of Objectives; and

(B) a comprehensive, verifiable agreement among the nations of Central America, based on the Contadora Document of Objectives.

(j) REPORTS.—The President shall submit a report to the Congress 90 days after the date of enactment of this Act, and every 90 days thereafter, on any actions taken to carry out subsections (g) and (h). Each such report shall include—

(1) a detailed statement of any progress made in reaching a negotiated settlement referred to in subsection (i)(1), including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide humanitarian assistance with the funds provided pursuant to subsection (g); and

(3) a discussion of the alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to comply with the request referred to in subsection (i)(3).

(k) SUBMISSION OF REQUEST FOR ADDITIONAL ASSISTANCE FOR THE CENTRAL AMERICA PEACE PROCESS.—If the President determines at any time after the enactment of this Act that—

(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have produced an agreement, or show promise of producing an agreement, or

(2) other trade and economic measures will assist in a resolution of the conflict, or to stabilization in the region,

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the furtherance of the Central America peace process.

(l) STATEMENT TO BE INCLUDED.—The President's request pursuant to subsection (k) shall include a detailed statement as to progress made to resolve the conflict in the region.

(m) CONSULTATION WITH THE CONGRESS.—In formulating a request pursuant to subsection (k), the President shall consult with the Congress.

(n) HOUSE PROCEDURES.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (k).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (k)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Central America peace process that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until

disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(o) SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (k) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (k) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473), except that—

(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

(2) amendments to the joint resolution are in order.

(p)[37] * * * [Repealed—1987]

(q) STATEMENT TO BE INCLUDED.—The President's request pursuant to subsection (p) shall include a detailed statement as to why the negotiations or other measures have failed to resolve the conflict in the region.

(r) CONSULTATION WITH THE CONGRESS.—In formulating a request pursuant to subsection (p), the President shall consult with the Congress.

(s)[38] * * * [Repealed—1987]

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[37] Subsec. (p) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–441). It formerly read as follows:

"SUBMISSION OF REQUEST FOR ADDITIONAL ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—If the President determines at any time after the enactment of this Act that—

"(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have failed to produce an agreement, or

"(2) other trade and economic measures have failed to resolve the conflict

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.".

[38] Subsec. (s) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–441). It formerly read as follows:

"HOUSE PROCEDURES.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (p).

"(2) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (p)—

"(A) the matter after the resolving clause of which is as follows: 'That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91672.';

"(B) which does not have a preamble; and

(t)[39] * * * [Repealed—1987]

(u) CONGRESSIONAL RULEMAKING POWERS.—Subsections (n), (o), (s), and (t) are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule in the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

TITLE VIII—AFRICA

SEC. 801. BALANCE-OF-PAYMENTS SUPPORT FOR COUNTRIES IN AFRICA.

(a) ESF COMMODITY IMPORT AND SECTOR PROGRAMS.—Agreements with countries in Africa which provide for the use of funds made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for the fiscal years 1986 and 1987 to finance

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"(C) the title of which is as follows: 'Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.'.

"(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

"(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

"(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points or order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

"(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

"(C) An amendment to the joint resolution is not in order.

"(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

"(6) As used in this subsection, the term 'legislative day' means a day on which the House is in session.".

[39] Subsec. (t) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100–202). It formerly read as follows:

"SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (p) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (p) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473), except that—

"(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

"(2) amendments to the joint resolution are in order.".

imports by those countries (under commodity import programs or sector programs) shall require that those imports be used to meet long-term development needs in those countries in accordance with the following criteria:

(1) Spare parts and other imports shall be allocated on the basis of evaluations, by the agency primarily responsible for administering part I of that Act, of the ability of likely recipients to use such spare parts and imports in a maximally productive, employment generating, and cost effective way.

(2) Imports shall be coordinated with investments in accordance with the recipient country's plans for promoting economic development. The agency primarily responsible for administering part I of that Act shall assess such plans to determine whether they will effectively promote economic development.

(3) Emphasis shall be placed on imports for agricultural activities which will expand agricultural production, particularly activities which expand production for export or production to reduce reliance on imported agricultural products.

(4) Emphasis shall also be placed on a distribution of imports having a broad development impact in terms of economic sectors and geographic regions.

(5) In order to maximize the likelihood that the imports financed by the United States under such chapter are in addition to imports which would otherwise occur, consideration shall be given to historical patterns of foreign exchange uses.

(6)(A) Seventy-five percent of the foreign currencies generated by the sale of such imports by the government of the country shall be deposited in a special account established by that government and, except as provided in subparagraph (B), shall be available only for use in accordance with the agreement for economic development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and which are the types of activities for which assistance may be provided under sections 103 through 106 of that Act.

(B) The agreement shall require that the government of the country make available to the United States Government such portion of the amount deposited in the special account as may be determined by the President to be necessary for requirements of the United States Government.

(b) ANNUAL EVALUATIONS.—The agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall conduct annual evaluations of the extent to which the criteria set forth in this subsection have been met.

SEC. 802.[40] ECONOMIC SUPPORT ASSISTANCE FOR SOUTHERN AFRICA.

(a) FUNDS FOR SOUTHERN AFRICA REGIONAL PROGRAMS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $30,000,000 for fiscal year 1986 and not less than $30,000,000 for

[40] Sec. 4(b)(1) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505) repealed subsec. (c) and (d) of this section. Those subsections stated eligibility criteria for funds for South Africa educational training programs and for the Human Rights Fund for South Africa through chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal years 1986 and 1987.

fiscal year 1987 shall be available only for regional programs in southern Africa. Not less than 50 percent of each of these amounts shall be allocated to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming this important regional institution, especially in the following sectors: transportation, agriculture research and training, manpower development, and institutional support for the SADCC secretariat.

(b) STUDIES RELATING TO SOUTHERN AFRICA REGIONAL PROGRAMS.—(1) The administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall conduct a study which evaluates—

(A) the assistance which that agency provides to the Southern Africa Development Coordination Conference and other African regional institutions and economic development organizations, and

(B) ways to improve such assistance.

(2) The administrator shall also conduct a study which assesses what type of bureaucratic mechanism within that agency might be established to coordinate assistance to all African regional institutions.

(3) The administrator shall submit the results of the studies conducted pursuant to this subsection to the Congress within 3 months after the date of enactment of this Act.

SEC. 803. POLICY TOWARD SOUTH AFRICAN "HOMELANDS".

(a) FINDINGS.—The Congress finds that—

(1) the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race, are principles which are fully supported by the American people;

(2) the forced relocation of blacks by the Government of the Republic of South Africa to designated "homelands" divides families, as families are required to remain in the "homelands" while fathers seek work in the so-called "white areas";

(3) the forced removal of persons living in so-called "black spots" in "white" rural areas in South Africa denies them the fundamental right to live and to farm on land they have legally occupied for years, and subjects them to arbitrary arrest and detention when they seek these rights;

(4) compared to "white" South Africa, the designated "homelands", which are meant to accommodate the largest South African population group on a fraction of South African territory and were established without the consent of the vast majority of the governed, are characterized by high rates of infant mortality, unemployment, and malnutrition and by a severe shortage of medical services;

(5) the policy of the Government of the Republic of South Africa denies blacks their rightful claim to full South African citizenship; and

(6) the recent violence in South Africa must be seen as an inevitable result of the denial of the full rights of citizenship.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the policy of separate development and the forced relocation of the people of the Republic of South Africa are inconsistent with fundamental American values and internationally recognized principles of human rights;

(2) the Government of the United States should continue to regard as citizens of South Africa all persons born within the internationally recognized boundaries of the Republic of South Africa, and not differentiate among these citizens on the basis of the South African Government's claim to have granted independence to various "homelands";

(3) at such times that any "homeland" official applies for a visa for travel to the United States, such visa should not be granted unless that official holds a passport which is recognized as valid by the Government of the United States; and

(4) the Government of the United States should urge that the forced relocation of South African citizens be discontinued and that policies be adopted for all South Africa's citizens which protect the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race.

SEC. 804. ASSISTANCE FOR ZAIRE.

(a) ECONOMIC SUPPORT ASSISTANCE.—Funds allocated for assistance for Zaire under chapter 4 of part II of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 and 1987 shall be used only for assistance which is provided in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961. Such assistance shall be provided, to the maximum extent practicable, through private and voluntary organizations.

(b) MILITARY ASSISTANCE.—For each of the fiscal years 1986 and 1987—

(1) the value of assistance provided under chapter 2 of part II of the Foreign Assistance Act of 1961 for Zaire may not exceed $7,000,000; and

(2) financing may not be provided under the Arms Export Control Act of Zaire.

SEC. 805. ASSISTANCE FOR TUNISIA.

(a) POLICY CONCERNING SECURITY ASSISTANCE.—The United States provides security assistance to Tunisia in recognition of the traditional friendship between the United States and Tunisia and our common interests in the region. The provision of such assistance is also based on the expectation that political stability and development in Tunisia will be best advanced through continued growth of democratic institutions.

(b) EARMARKING OF MAP AND ESF.—For each of the fiscal years 1986 and 1987—

(1) not less than $15,000,000 of the amounts authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, and

(2) not less than $20,000,000[41] of the amounts authorized to be appropriated to carry out chapter 4 of part II of that Act, shall be available only for Tunisia.

SEC. 806. POLITICAL SETTLEMENT IN SUDAN.

(a) FINDINGS.—The Congress finds that—

(1) friendship and mutual interests bind the United States and Sudan; and

(2) the peace, security, and economic development of Sudan depend in large part on addressing the problems associated with the traditional north- south division in that country through political rather than military means.

(b)[42] UNITED STATES POLICY.—It is, therefore, the policy of the United States that the provision of security assistance to Sudan shall be based on the expectation that the Government of Sudan will make progress toward reaching a political settlement with all parties to the conflict in the south of Sudan.

SEC. 807. ELECTIONS IN LIBERIA.

In recognition of the special relationship that the United States has with Liberia and of the wide variety of interests that the United States has in Liberia, security assistance for Liberia for fiscal years 1986 and 1987 is based on the expectation of a successful completion of free and fair elections, on a multiparty basis, in October 1985 as proposed by the Government of Liberia and on a return to full civilian, constitutional rule as a consequence of those elections.

SEC. 808. WESTERN SAHARA.

(a) UNITED STATES POLICY.—The policy of the United States shall be to support a negotiated political solution to the conflict in the Western Sahara taking into account the principle of self-determination as outlined in the 1981 Nairobi resolution and to encourage all parties to the conflict to reach a peaceful internationally recognized settlement. As part of this policy, the United States should carefully consider each type of military assistance it furnishes to any of the parties to the conflict and should seek to insure that the furnishing of such military assistance is consistent with United States policy which seeks a negotiated settlement.

(b) FURTHER STATEMENT OF POLICY.—It is the further policy of the United States to support Morocco's legitimate defense needs and to discourage aggression by any country in North Africa against another.

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[41] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190; 99 Stat. 1301), appropriated for Foreign Military Sales for fiscal year 1986: "not less than $27,000,000 of concessional credits shall be provided only for Tunisia.".

[42] Sec. 542 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–236), provided:

"None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.".

SEC. 812.[43] **FAILURE OF THE ETHIOPIAN GOVERNMENT TO RESPONSIBLY AMELIORATE FAMINE CONDITIONS.** * * * [Repealed—1991]

SEC. 813. ASSISTANCE FOR THE PEOPLE'S REPUBLIC OF MOZAMBIQUE.

(a) ECONOMIC ASSISTANCE.—The funds authorized to be appropriated for fiscal years 1986 and 1987 to carry out chapter 1 of part I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 that are allocated for bilateral assistance to the People's Republic of Mozambique shall be used solely for assistance to the private sector of the economy of Mozambique to the maximum extent practicable. To the maximum extent practicable, such funds shall be channeled to non-governmental entities in Mozambique.

(b) MILITARY ASSISTANCE.—(1) None of the funds authorized to be appropriated for fiscal year 1986 or fiscal year 1987 to carry out chapter 2 of part II (relating to grant military assistance) or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 shall be used to provide assistance to the People's Republic of Mozambique unless the President makes the certification described in paragraph (2) before providing any such assistance for that fiscal year.

(2) The certification required by paragraph (1) is a certification by the President to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate that the Government of the People's Republic of Mozambique—

(A) is making a concerted and significant effort to comply with internationally recognized human rights;

(B) is making continued progress in implementing essential economic and political reforms, including the restoration of private property and respect for the right to engage in free enterprise in all sectors of the economy;

(C) has implemented a plan by September 30, 1986, to reduce the number of foreign military personnel to no more than 55; and

(D)(i) in the case of a certification with respect to assistance for fiscal year 1986, is committed to holding free elections at a date no later than September 30, 1986, and to that end has

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[43] Sec. 118 of the Further Continuing Appropriations, 1992 (Public Law 102–145, as amended), repealed sec. 812, subsecs. (c) and (d) of which provided the following:

"(c) PROHIBITION ON IMPORTS AND EXPORTS.—(1) The President shall determine, within 30 days after the date of enactment of this Act, whether the Ethiopian regime is conducting a deliberate policy of starvation of its people and has not granted fundamental human rights to its citizens. The President shall submit that determination, and the basis for the determination, to the Congress.

"(2) If the President determines that such a policy is being conducted and that such rights are not being granted, paragraph (3) shall take effect if the Congress enacts a joint resolution approving that determination.

"(3) If the conditions specified in paragraph (1) and (2) are met—

"(A) goods and services of Ethiopian origin may not be imported into the United States; and

"(B) except for emergency relief, rehabilitation, and recovery assistance, goods, and services of United States origin may not be exported (directly or indirectly) to Ethiopia.

"(d) PROHIBITION ON ECONOMIC ASSISTANCE.—The President shall suspend all forms of economic assistance to the Government of Ethiopia. This section shall not be construed to prevent the furnishing of international disaster assistance under section 491 of the Foreign Assistance Act of 1961 or economic assistance which will directly benefit people in accordance with section 116 of that Act.".

demonstrated its good faith efforts to begin discussions with all major political factions in Mozambique which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to—

(I) the electoral process with internationally recognized observers; and

(II) the elimination of all restrictions on the formation and activities of opposition political parties; and

(ii) in the case of a certification with respect to assistance for fiscal year 1987, held free elections by September 30, 1986.

TITLE IX—ASIA

SEC. 901. THE PHILIPPINES.[44]

(a) DEMOCRACY IN THE PHILIPPINES.—It is the sense of the Congress that the United States should encourage the revitalization of democracy in the Philippines. To that end, the Congress affirms its intention to grant future aid to the Philippines according to the determination of the Congress that United States security interests are enhanced and sufficient progress is made by the Government of the Philippines in—

(1) guaranteeing free, fair, and honest elections in 1986 and 1987, or sooner should any such elections occur;

(2) ensuring the full, fair, and open prosecution of those responsible for the murder of Benigno Aquino, including those involved in the cover-up;

(3) ensuring freedom of speech and freedom of the press, and unrestricted access to the media on the part of all candidates for public office in the local and provincial elections of 1986 and the Presidential election of 1987;

(4) establishing the writ of habeas corpus and the termination of the Presidential Detention Action and all other forms of detention without charge or trial;

(5) releasing all individuals detained or imprisoned for peaceful political activities;

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[44] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–221), provided:

"ECONOMIC SUPPORT FUND

"That not less than an additional sum of $200,000,000 shall be available only for the Philippines: * * *."

Title I, Chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99–349; 100 Stat. 726), further provided:

"SPECIAL ASSISTANCE TO THE PHILIPPINES

"ECONOMIC SUPPORT FUND

"For an additional amount for the 'Economic Support Fund', $100,000,000, to remain available until March 31, 1987: *Provided,* That this amount shall be available only for the Philippines: *Provided further,* That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

"MILITARY ASSISTANCE

"For an additional amount for 'Military Assistance', $50,000,000, to remain available until March 31, 1987: *Provided,* That this amount shall be available only for the Philippines: *Provided further,* That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.".

(6) making substantial progress in terminating extrajudicial killings by the Philippine military and security forces and the prosecution of those responsible for such killings in the past;

(7) implementing structural economic reforms and a strengthening of the private sector, including elimination of corruption and monopolies; and

(8) enhancing the professional capability of the Philippine armed forces and security forces (including the Philippine Constabulary and the Civilian House Defense Forces).

(b) PRIMARY PURPOSE OF UNITED STATES ASSISTANCE.—The Congress finds and declares that the primary purpose of United States assistance to the Philippines should be to maintain and foster friendly relations between the people of the Philippines and the people of the United States and to encourage the restoration of internal security, both of which goals can be best served by the achievement of an open and stable democracy.

(c) CONGRESSIONAL OVERSIGHT.—The Congress, in determining future aid levels for the Philippines, will take into account not only our military bases agreement with that country, but also the extent to which the objectives and goals specified in subsections (a) and (b) have been implemented. The Congress may defer assistance for the Philippines under both chapter 2 of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act if—

(1) significant progress is not achieved with respect to the objectives and goals specified in subsections (a) and (b), or

(2) the Congress finds that such assistance is used to violate the internationally recognized human rights of the Filipino people.

(d)[45] * * * [Repealed—1986]

(e) NONLETHAL ASSISTANCE.—Assistance provided for the Philippines for fiscal year 1986 under the Arms Export Control Act or under chapter 2, of part II of the Foreign Assistance Act of 1961 shall be nonlethal in character.

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SEC. 903. DISADVANTAGED CHILDREN IN ASIA.

(a) * * *

(b) ADDITIONAL STEPS TO HELP AMERASIAN CHILDREN.—The Congress finds that Amerasian children are currently the object of discrimination in the countries in Asia where they now reside. Therefore, the President shall report to the Congress on the quality of life of these children and on what additional steps, such as facilitating adoptions, the United States could take to enhance the lives of these children.

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[45] Sec. 556 of the Foreign Assistance and Related Programs Appropriations Act (in sec. 101(f) of Public Law 99–591; 100 Stat. 334), repealed sec. (d). It formerly read as follows:

"(d) AMOUNTS OF ASSISTANCE.—Of the amounts authorized to be appropriated for each of the fiscal years 1986 and 1987—

"(1) to carry out the Arms Export Control Act (relating to foreign military sales financing), not more than $20,000,000 may be used for assistance for the Philippines;

"(2) to carry out chapter 2 of part II of the Foreign Assistance Act of 1981 (relating to grant military assistance), not more than $50,000,000 may be used for assistance for the Philippines; and

"(3) to carry out chapter 4 of part II of the Foreign Assistance Act of 1981 (relating to the economic support fund), $110,000,000 shall be available only for the Philippines.".

SEC. 904.[46] ASSISTANCE FOR AFGHANISTAN.

(a) AUTHORIZATION.—The President may make available funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

(b)[47] EARMARKING OF FUNDS.—Each fiscal year, not less than $15,000,000 of the aggregate amount of funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 shall be available only for humanitarian assistance to the Afghan people pursuant to subsection (a) of this section.

(c) EFFECTIVE DATES.—This section shall take effect on the date of enactment of this Act, except that subsection (b) shall not apply to fiscal year 1985.

SEC. 905. ASSISTANCE FOR THE CAMBODIAN PEOPLE.

The President may make available to the noncommunist resistance forces in Cambodia up to $5,000,000 for fiscal year 1986, and up to $5,000,000 for fiscal year 1987, of the funds authorized to be appropriated to carry out chapter 2 (relating to grant military assistance) or chapter 4 (relating to the economic support fund) of part II of the Foreign Assistance Act of 1961, notwithstanding any other provision of law.

SEC. 906. PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE.

(a) PROHIBITION.—Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military of paramilitary operations in Cambodia or elsewhere in Indochina.

(b) DEOBLIGATION OF CERTAIN FUNDS.—All funds appropriated before the date of enactment of this section which were obligated but not expended for activities having the purpose or effect described in subsection (a) shall be deobligated and shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—This section shall not be construed as limiting the provision of food, medicine, or other humanitarian assistance to the Cambodian people.

SEC. 907. POLITICAL SETTLEMENT IN SRI LANKA.

(a) FINDINGS.—The Congress finds that—

(1) the Government and people of Sri Lanka and the Government and people of the United States share a common devotion to independence, democracy, and human rights;

(2) the United States is concerned over the armed clashes between the security forces of the Government of Sri Lanka and

[46] 22 U.S.C. 2374 note.

[47] Sec. 541 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–236), provided:

"Not less than $300,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.".

some Sri Lankans who seek through violent means, including terrorist attacks, to divide that nation;

(3) there have been acts of terrorism committed against members of the Sri Lankan security forces, as well as against civilians, and there have been human rights abuses by members of the security forces against civilians, particularly Tamils, despite the efforts of the Government, which the Congress believes must be intensified, to put an end to those abuses;

(4) the differences and grievances in Sri Lanka cannot be resolved through the use of force; and

(5) the United States is a proud participant through its economic assistance programs in Sri Lanka's highly regarded development efforts and looks forward to enhanced cooperation and assistance in the context of a political settlement in Sri Lanka leading to the kind of peaceful climate in which additional aid could be effectively utilized.

(b) POLITICAL SETTLEMENT.—It is, therefore, the sense of the Congress that—

(1) all parties in Sri Lanka, from all communities in and out of government, should renew their efforts to achieve a joint political settlement which meets the legitimate concerns of all the people of Sri Lanka, while preserving the territorial integrity of Sri Lanka; and

(2) all parties outside Sri Lanka should do nothing which would impede progress toward such a settlement.

SEC. 908. UNITED STATES POLICY TOWARD THE REPUBLIC OF KOREA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of Korea has taken several significant and encouraging steps in liberalizing the political system in that country;

(2) among the steps which have facilitated a more democratic environment are the release of hundreds of student demonstrators, the lifting of a political ban on more than 300 opposition leaders, and the holding of a vigorously contested election for the National Assembly in which the opposition made substantial gains;

(3) despite these steps, the people of the Republic of Korea, who have become increasingly better educated and prosperous as a result of Korea's extraordinarily rapid economic development, have the desire and the capability to participate more fully and effectively in the government of their own country; and

(4) while internationally recognized human rights are clearly respected much more in the Republic of Korea than in the Democratic People's Republic of Korea, continued progress toward democratization in the south is in the interests of both the Republic of Korea and the United States, inasmuch as long-term political stability cannot be assured in the absence of further progress towards democratic government.

(b) UNITED STATES POLICY.—It is the policy of the United States to provide assistance to the Republic of Korea in order to help that country defend itself against external aggression. It is the hope of

the United States that the continuing close relations between our two countries, including such assistance, will encourage the establishment of a genuinely democratic system in the Republic of Korea, in which internationally recognized human rights, including freedom of the press, freedom of association, and freedom of assembly are observed.

TITLE X—FOOD AND AGRICULTURAL ASSISTANCE

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SEC. 1008. LONG-TERM AGRICULTURAL COMMODITY AGREEMENTS WITH FOOD DEFICIT COUNTRIES.

As part of the United States foreign assistance program, the President should explore the possibility of concluding long-term agricultural commodity agreements to help stabilize and increase the flow of concessional and commercial foodstuffs with food deficit countries. The President shall prepare and transmit to the Congress a report on his efforts to achieve such long-term agreements by June 1, 1986.

TITLE XI—PEACE CORPS

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SEC. 1103.[48] LIMITATION ON LENGTH OF PEACE CORPS EMPLOYMENT.

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SEC. 1104.[48] PEACE CORPS NATIONAL ADVISORY COUNCIL.

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TITLE XII—MISCELLANEOUS PROVISIONS RELATING TO FOREIGN ASSISTANCE

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SEC. 1205.[49] REPORTS ON ECONOMIC CONDITIONS IN CERTAIN COUNTRIES.

(a) EXTERNAL DEBT BURDEN OF CERTAIN COUNTRIES RECEIVING UNITED STATES ASSISTANCE.—The Congress finds that the Governments of Egypt, Israel, Turkey, and Portugal each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs.

(b) ANNUAL REPORTS ON ECONOMIC CONDITIONS.—In order to assist the Congress in examining United States assistance for those countries, the President shall report to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, not later than January 15 of each year, regarding economic conditions prevailing in Egypt, Israel, Turkey, and Portugal which may affect their respective ability to

[48] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[49] 22 U.S.C. 2346 note. Sec. 209(e)(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), exempted the reports required pursuant to sec. 1205 from the application of sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.".

meet their international debt obligations and to stabilize their economies.

SEC. 1206. EGYPTIAN-ISRAELI RELATIONS.

The Congress notes the recent effort of Egypt to move the peace process forward. However, the Congress continues to be concerned about the less than normal relations between Egypt and Israel. It is the sense of the Congress that all United States foreign assistance to Egypt is provided in the expectation that the Egyptian Government will continue in its efforts to bring peace to the region and that it will continue to support and fulfill the provisions of the Camp David Accords and the Egyptian-Israeli Peace Treaty.

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SEC. 1210. REPORT ON UNITED STATES ASSISTANCE TO COAL EXPORTING NATIONS.

Not later then 30 days after the date of enactment of this Act, the President shall submit to the appropriate committees of the Congress a report describing the status and terms of, and containing all other pertinent information relating to, any United States Government assistance which is provided to foreign nations that produce or export coal for the purpose of financing or assisting in the development of coal production, transportation, export, or other coal-related activities or operations.

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TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301.[50] EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on October 1, 1985.

SEC. 1302.[51] CODIFICATION OF POLICY PROHIBITING NEGOTIATIONS WITH THE PALESTINE LIBERATION ORGANIZATION

(a) UNITED STATES POLICY.—The United States in 1975 declared in a memorandum of agreement with Israel, and has reaffirmed since, that "The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organi-

[50] 22 U.S.C. 2151 note.

[51] 22 U.S.C. 2151 note. Sec. 531 of the Foreign Assistance Appropriations Act, 1986 (Sec. 101(i) of Public Law 99–190; 99 Stat. 1307), provided the following:

"In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.". Sec. 530 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–231) contained identical language.

Sec. 527 of the Foreign Assistance and Related Agencies Appropriations Act 1987 (see. 101(f) of Public Law 99–591; 100 Stat. 3341–230) provided:

"Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.".

zation does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338.".

(b) REAFFIRMATION AND CODIFICATION OF POLICY.—The United States hereby reaffirms that policy. In accordance with that policy, no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the Palestine Liberation Organization or any representatives thereof (except in emergency or humanitarian situations) unless and until the Palestine Liberation Organization recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338 and renounces the use of terrorism, except that no funds authorized to be appropriated by this or any other Act may be obligated or made available for the conduct of the current dialogue on the Middle East process with any representative of the Palestine Liberation Organization if the President knows and advises the Congress that the representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of a United States citizen.[52]

SEC. 1303.[53] COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD.

(a) PURPOSE.—Because the fabric of a society is strengthened by visible reminders of the historical roots of the society, it is in the national interest of the United States to encourage the preservation and protection of the cemeteries, monuments, and historic buildings associated with the foreign heritage of United States citizens.

(b) ESTABLISHMENT.—There is established a commission to be known as the Commission for the Preservation of America's Heritage Abroad (hereafter in this section referred to as the "Commission").

(c) DUTIES.—The Commission shall—

(1) identify and publish a list of those cemeteries, monuments, and historic buildings located abroad which are associated with the foreign heritage of United States citizens from eastern and central Europe, particularly those cemeteries, monuments, and buildings which are in danger of deterioration or destruction;

(2) encourage the preservation and protection of such cemeteries, monuments, and historic buildings by obtaining, in cooperation with the Department of State, assurances from foreign governments that the cemeteries, monuments, and buildings will be preserved and protected; and

(3) prepare and disseminate reports on the condition of and the progress toward preserving and protecting such cemeteries, monuments, and historic buildings.

(d) MEMBERSHIP.—(1) The Commission shall consist of 21 members appointed by the President, 7 of whom shall be appointed after consultation with the Speaker of the House of Representa-

[52] Sec. 108 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 15; approved February 16, 1990), added text to this point from ", except that no funds * * *".

[53] 16 U.S.C. 469j.

tives and 7 of whom shall be appointed after consultation with the President pro tempore of the Senate.

(2)(A) Except as provided in subparagraphs (B) and (C), members of the Commission shall be appointed for terms of 3 years.

(B) Of the members first appointed after consultation with the Speaker of the House of Representatives, 5 shall be appointed for 2 years.

(C) A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the member's predecessor was appointed.

(D) A member may retain membership on the Commission until the member's successor has been appointed.

(3) The President shall designate the Chairman of the Commission from among its members.

(e) MEETINGS. The Commission shall meet at least once every six[54] months.

(f) COMPENSATION AND PER DIEM.—(1) Members of the Commission shall receive no pay on account of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(g) AUTHORITIES.—(1) The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may appoint such personnel (subject to the provisions of title 5 of the United States Code which govern appointments in the competitive service) and may fix the pay of such personnel (subject to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates) as the Commission deems desirable.

(3) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332(a)).

(4) Upon request of the Commission, the head of any Federal department or agency, including the Secretary of State, may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section.

(5) The Commission may secure directly from any department or agency of the United States, including the Department of State, any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of

[54] Sec. 620 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (division A, sec. 101(b) of Public Law 105–277; 112 Stat. 2681) struck out "three" and inserted in lieu thereof "six".

such department or agency shall furnish such information to the Commission.

(6) The Commission may accept, use, and dispose of gifts or donations of money or property.

(7) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(8) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) REPORTS.—The Commission shall transmit an annual report to the President and to each House of Congress as soon as practicable after the end of each fiscal year. Each report shall include a detailed statement of the activities and accomplishments of the Commission during the preceding fiscal year and any recommendations by the Commission for legislation and administrative actions.

SEC. 1304.[55] FEDERAL COAL EXPORT COMMISSION.

(a) ESTABLISHMENT.—The Secretary of Commerce shall establish, within ninety days after the date of enactment of this Act, a Federal Coal Export Commission (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of thirty members appointed by the Secretary of Commerce, as follows:

(1) FEDERAL GOVERNMENT REPRESENTATIVES.—Ten members shall be representatives of the International Trade Administration, the Department of Energy, the Department of State, the Department of Transportation, the Office of the United States Trade Representative, and a Federal institution involved in export financing.

(2) PRIVATE SECTOR REPRESENTATIVES.—

(A) Five members shall be representatives of export coal producers, including traders and brokers.

(B) Five members shall be representatives of coal labor.

(C) Five members shall be representatives of transporters of export coal, including representatives of rail and barge carriers and port authorities.

(D) Five members shall be representatives of institutions having a substantial interest in United States export coal financing.

(c) EXPENSES.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) COOPERATION.—All Federal departments and agencies are authorized to cooperate with the Commission and to furnish information, appropriate personnel, and such assistance as may be agreed upon by the Commission and the Federal department or agency involved.

[55] 15 U.S.C. 4011 note.

(e) ACTIVITIES.—The Commission shall convene not less than four times a year for consultation on activities leading to increased cooperation among entities involved in United States coal exports, with the goal of expanding the United States share of the international coal market. Activities of the Commission shall include, but are not limited to, the identification of—

(1) diplomatic channels to facilitate the exportation of United States coal and methods to increase the coordination of diplomatic efforts relating to such exports;

(2) domestic and international impediments to coal exports;

(3) foreign markets for United States export coal, with emphasis on increasing United States coal sales to developing nations and expanding the participation of the United States International Development Cooperation Agency in such an effort;

(4) availability of, and methods of, financing United States coal exports, including the feasibility of increasing Federal export financial and economic assistance; and

(5) methods to promote, market, and coordinate United States coal on the international market.

The Commission shall also examine the potential for small- and medium-sized coal companies to enter the export coal trade through export trading companies with respect to the marketing, transportation, and financial services which such trading companies may provide pursuant to the Export Trading Company Act of 1982.

(f) REPORT.—The Commission shall submit to the President and the Congress, within two years after its first meeting, a report which details its findings pursuant to subsection (e) and, based upon such findings, makes recommendations which would lead to the expansion of the United States share of the international metallurgical and steam coal market.

(g) TERMINATION.—The Commission shall cease to exist upon submission of its report pursuant to subsection (f).

p. International Security and Development Assistance Authorizations Act of 1983

Partial text of Public Law 98–151 [H.J. Res. 413], 97 Stat. at 964, approved November 14, 1983

A JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1984.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1984, and for other purposes, namely:

Sec. 101. (a) * * *

(b)(1)[1] * * *

(2) Section 101(b)(2) of this joint resolution may be cited as the "International Security and Development Assistance Authorizations Act of 1983".

AUTHORIZATIONS OF APPROPRIATIONS

There is authorized to be appropriated to the President $1,315,000,000 for the fiscal year 1984 to carry out section 23 of the Arms Export Control Act. The total principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act shall not exceed $4,446,500,000 for the fiscal year 1984.

There are authorized to be appropriated for the fiscal year 1984 the following amounts to carry out the following provisions of the Foreign Assistance Act of 1961:

(1) $725,213,000 to carry out section 103.
(2) $244,600,000 to carry out section 104(b).
(3) $133,400,000 to carry out section 104(c).
(4) $121,477,000 to carry out section 105.
(5) $160,000,000 to carry out section 106.
(6) $103,000,000 to carry out section 121.
(7) $30,000,000 to carry out section 214.
(8) $266,214,000 to carry out chapter 3 of part I.
(9) $47,000,000 to carry out section 481.
(10) $25,000,000 to carry out section 491.
(11) $3,074,000,000 to carry out chapter 4 of part II.
(12) $639,700,000 to carry out section 503.
(13) $56,452,000 to carry out chapter 5 of part II.
(14) $46,200,000 to carry out chapter 6 of part II.
(15) $22,000,000 to carry out section 661.

[1] Sec. 101(b)(1) was cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984."

(16) $370,000,000 to carry out section 667.

There is authorized to be appropriated to the President to carry out the African Development Foundation Act $3,000,000 for the fiscal year 1984.

There is authorized to be appropriated to carry out the Peace Corps Act $116,000,000 of the fiscal year 1984.

Section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds appropriated for "Migration and Refugee Assistance" or for the Inter-American Foundation by the joint resolution of October 1, 1983 (Public Law 98–107), as amended by this joint resolution.

ASSISTANCE FOR ISRAEL AND EGYPT [2]

* * * * * * *

CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR

Not more than 70 percent of the amount available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until—

(1) Salvadoran authorities have substantially concluded all investigative actions in the case of the National Guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the Department of State (including the letters dated July 8 and September 23, 1983); and

(2) Salvadoran authorities have brought the accused to trial and have obtained a verdict.

Not more than 90 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until the President has determined and certified to the Congress that—

(1) the Government of El Salvador has not taken any action which would alter, suspend, or terminate the land reform program for phase I or phase III promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) the Government of El Salvador continues to make documented progress on implementing the land reform program.

MINORITY SET-ASIDE

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for the fiscal year 1984 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of

[2] This paragraph amended sec. 31 of the Arms Export Control Act and sec. 532 of the Foreign Assistance Act of 1961, to provide authorization levels for Israel and Egypt for fiscal year 1984.

section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically Black colleges and universities, and private and voluntary organizations which are controlled by individuals who are Black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

MINORITY RESOURCE CENTER

None of the funds authorized to be appropriated for the fiscal year 1984 to carry out the Foreign Assistance Act of 1961 may be used to eliminate the Minority Resource Center as a separate and distinct entity within the Agency for International Development, including implementation of a consolidation of the Minority Resource Center with the Office of Small and Disadvantaged Business Utilization under section 133(c)(8) of the International Development and Food Assistance Act of 1977.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

It is the sense of the Congress that for the fiscal year 1984 up to $24,000,000 of the funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, and up to $10,000,000 of the funds available to carry out chapter 4 of part II of such Act, should be made available for development assistance for Haiti, subject to the limitation contained in the third paragraph of this heading.

To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

Funds available for fiscal year 1984 to carry out chapter 1 of part I or chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti, and credits may be extended and guarantees may be issued under the Arms Export Control Act for Haiti, only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making a concerted and significant effort to improve the human rights situation in Haiti by implementing the political reforms which are essential to the development of democracy in Haiti, including the establishment of political parties, free elections, and freedom of the press.

Six months after the date of enactment of this section, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each numbered provision contained in the third paragraph of this heading.

Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1984 may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

PRIVATE SECTOR REVOLVING FUND

The amendment contained in section 407 of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, is hereby enacted.[3]

ANTITERRORISM ASSISTANCE PROGRAM

The amendments contained in title II of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, are hereby enacted,[4] except that, for purposes of such enactment, section 575 of the Foreign Assistance Act of 1961 shall read as follows:

"SEC. 575. APPROPRIATIONS.—There is authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1984. Amounts appropriated under this section are authorized to remain available until expended.".

* * * * * * *

[3] This amendment added a new sec. 108 to the Foreign Assistance Act of 1961.
[4] These amendments added a new chapter 8 to part II of the Foreign Assistance Act of 1961.

q. International Security and Development Cooperation Act of 1981

Partial text of Public Law 97–113 [S. 1196], 95 Stat. 1519, approved December 29, 1981; as amended by Public Law 97–233 [H.J. Res. 494], 96 Stat. 260, approved August 10, 1982; Public Law 98–53 [Conditions on Aid to El Salvador, H.R. 1271], 97 Stat. 287, approved July 15, 1983; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 247, approved August 8, 1985; Public Law 101–162 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990; H.R. 2991], 103 Stat. 1030, approved November 21, 1989; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1981 consists of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act, the Peace Corps Act, Public Law 480, and to several former foreign aid annual authorization acts. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for the fiscal years 1982 and 1983 for international security and development assistance and for the Peace Corps, to establish the Peace Corps as an autonomous agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security and Development Cooperation Act of 1981".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

* * * * * * *

SPECIAL DEFENSE ACQUISITION FUND

Sec. 108. (a)[1] * * *

[1] Sec. 108(a) amended the Arms Export Control Act by adding a new ch. 5 concerning the Special Defense Acquisition Fund.

(b) Section 138 of title 10, United States Code, is amended by adding immediately following subsection (f) the following new subsection:

"(g) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act may not exceed $300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter.".[2]

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TITLE II—ECONOMIC SUPPORT FUND

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ACQUISITION OF AGRICULTURAL COMMODITIES AND RELATED PRODUCTS UNDER COMMODITY IMPORT PROGRAMS

Sec. 203.[3] The Congress directs the President to allocate at least 15 percent of the funds which are made available each fiscal year under this title for commodity import programs for use in financing the purchase of agricultural commodities and agricultural related products which are of United States-origin.

TITLE III—DEVELOPMENT ASSISTANCE

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

Sec. 301. (a) * * *

(b)(1) It is the sense of the Congress that the United States should strongly support the efforts of developing countries to improve infant feeding practices, in particular through the promotion of breast feeding. As a demonstration of that support, the President is authorized to use up to $5,000,000 of the funds made available for the fiscal year 1982 to carry out the purposes of sections 103 and 104(c) of the Foreign Assistance Act of 1961 in order to assist developing countries establish or improve programs to encourage improved infant feeding practices. In carrying out this paragraph, the Agency for International Development should provide funds for necessary research to obtain better information on the precise nature and magnitude of problems relating to infant feeding practices, including the use of infant formula, in developing countries.

(2) The President shall, as part of the congressional presentation documentation for the fiscal years 1983 and 1984, include information relevant to the implementation of this subsection, including—

(A) a description of actions taken by the Agency for International Development to promote breast feeding and to improve supplemental infant feeding practices in developing countries through funds made available in this subsection and through its regular programs in the fields of health, nutrition, and population activities;

[2] Sec. 1103 of the Department of Defense Authorization Act, 1983 (Public Law 97–252; 96 Stat. 738), amended subsec. (g) by inserting the ceiling figure for fiscal year 1984.

[3] 22 U.S.C. 2346 note.

(B) a summary of the results of studies authorized by this subsection on the nature and magnitude of problems in developing countries related to infant feeding practices; and

(C) a summary of reports by member countries of the World Health Organization on their actions to implement the International Code of Marketing of Breast Milk Substitutes.

* * * * * * *

TITLE IV—FOOD FOR PEACE PROGRAMS

* * * * * * *

SELF-HELP MEASURES TO INCREASE AGRICULTURAL PRODUCTION; VERIFICATION OF SELF-HELP PROVISIONS

Sec. 403. (a) * * *

(b) * * *

(c)[4] The amendments made by this section shall not be effective if the Agriculture and Food Act of 1981 is enacted (either before or after the enactment of this Act) and contains the same amendments.

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TITLE V—OTHER ASSISTANCE PROGRAMS

* * * * * * *

INTERNATIONAL NARCOTICS CONTROL

Sec. 502. (a)(1)[5] * * *

(2)[6] Assistance provided from funds appropriated, before the enactment of this Act, to carry out section 481 of the Foreign Assistance Act of 1961 may be made available for purposes prohibited by subsection (d) of such section as in effect immediately before the enactment of this subsection.

(3)[6] Funds appropriated for the fiscal year 1980 to carry out section 481 of the Foreign Assistance Act of 1961 which were obligated for assistance for the Republic of Colombia may be used for purposes other than those set forth in section 482(a)(2) of that Act as in effect immediately before the enactment of the International Security and Development Cooperation Act of 1980.

(4)[6] Paragraphs (2) and (3) of this subsection shall apply only to the extent provided in advance in an appropriations Act. For such purpose, the funds described in those paragraphs are authorized to be made available for the purposes specified in those paragraphs.

* * * * * * *

[4] Subsecs. (a) and (b) of sec. 403 contained amendments to Public Law 83–480. The Agriculture and Food Act of 1981, referred to in subsec. (c) was enacted on December 22, 1981 (Public Law 97–98; 95 Stat. 1213), and contained the same amendments as sec. 403. The amendments made by subsecs. (a) and (b), therefore, did not come into force.

[5] Par. (1) amended sec. 481(d) of the FA Act of 1961.

[6] 22 U.S.C. 2291 note.

TITLE VI—PEACE CORPS

ESTABLISHMENT AS AN INDEPENDENT AGENCY

Sec. 601. (a)[7] * * *
(b)[8] * * *

* * * * * * *

RESTORATION OF CERTAIN AUTHORITIES FORMERLY CONTAINED IN THE FOREIGN SERVICE ACT

Sec. 604. (a)[9] * * *
(b)[10] * * *
(c)[11] * * *

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TITLE VII—MISCELLANEOUS PROVISIONS

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INSPECTOR GENERAL

Sec. 705.[12] * * *

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EMERGENCY HUMANITARIAN HELP FOR THE PEOPLE OF POLAND

Sec. 708. (a) The people of Poland, with whom the people of the United States have a longstanding friendship, now face serious domestic food shortages which will be worsened by large-scale loss of their livestock this winter if feed supplies do not arrive quickly. Therefore, the President is urged, for urgent humanitarian reasons, to use existing authorities promptly in order to provide to the people of Poland, under as favorable terms as possible, feed grains from Commodity Credit Corporation stocks or other appropriate commodities.

(b) For the longer term, the President is encouraged to pursue discussions with other Western countries about a multilateral effort to help the people of Poland achieve self-sustaining economic recovery in the years ahead.

(c)[13] * * *

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[7] Sec. 601(a) amended the Peace Corps Act by adding a new sec. 2A providing for the Peace Corps as an independent agency. For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[8] For text of freestanding provisions of sec. 601, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[9] Sec. 604(a) amended sec. 10 of the Peace Corps Act by adding new subsecs. (i) and (j). For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[10] Sec. 604(b) amended sec. 5(h) of the Peace Corps Act. For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[11] For text of sec. 604(c), see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[12] Sec. 705 amended sec. 2 and 11 of and added a new sec. 8A to the Inspector General Act of 1978 (Public Law 95–452; 99 Stat. 1101). Sec. 705 also amended the FA Act of 1961 to conform with the new sec. 8A.

[13] Subsec. (c) amended the Foreign Assistance Act of 1961 by adding a new sec. 540 providing $5,000,000 for Poland during fiscal year 1982.

USE OF CERTAIN POLISH CURRENCIES

Sec. 709. (a) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, or any other provision of law, the currencies or credits received by the United States from the April 1981 sale and from the October 1981 sale of United States Government-held surplus dairy products to Poland shall, to such extent as may be provided in advance in an appropriation Act, be used by the President in Poland to serve United States interests, including use for activities of common benefit to the people of the United States and the people of Poland, such as joint programs in energy, agriculture, education, science, health, and culture, or for humanitarian activities.

(b) Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies or credits shall not affect or reduce appropriations otherwise available for the purposes described in subsection (a).

FINDINGS REGARDING GLOBAL SECURITY

Sec. 710. (a) The Congress finds that the security of the United States and other countries is increasingly affected by a broad range of global problems including shortages or potential shortages of food, oil, water, wood, and other basic mineral and natural resources; desperate poverty; sickness; population pressures; environmental deterioration, including soil erosion and water pollution; and large-scale and destabilizing refugee problems.

(b) The Congress finds that hunger, disease, and extreme poverty are among the most critical of these global problems. As ever greater numbers of people perceive the disparity between their own continuing deprivation and the prosperity of others, and judge their predicament to be neither just nor inevitable, it becomes increasingly likely that there will be unrest and violence with consequent disruption of the flow of essential materials, adverse effects on the world economy, decreased likelihood of cooperative efforts toward meeting the other critical problems threatening national and global security, and increased likelihood of confrontation between nations which possess nuclear arms.

(c) Therefore, the Congress finds that the Nation's understanding of global and national security must be broad enough to include the problems cited in this section, and that adequate protection of the security of the United States requires effective action on these global problems, and in particular on the problems of hunger, disease, and extreme poverty.

WORLD FOOD SECURITY RESERVES

Sec. 711. (a) The Congress finds that—

(1) the Congress recently passed and the President signed into law an Act which provides for establishment of a United States food security reserve of up to four million metric tons of wheat to be used for emergency food assistance;

(2) the food import needs of developing countries will increase over the next ten years; and

(3) other grain exporting countries could take additional steps to assure continuity of food assistance during food crisis years.

(b) The President shall encourage other grain exporting countries to establish their own food security reserves or take other measures that complement the United States food security reserve.

(c) The President shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate within one year after the enactment of this Act on the actions he has taken and the response of other countries to these proposals.

FINDINGS AND DECLARATION OF POLICY REGARDING WORLD HUNGER

Sec. 712. The Congress, affirming the value of human life, finds and declares that the elimination of hunger and its causes is of fundamental moral significance and, further, that it is in the political, economic, and security interests of the United States. Therefore, the Congress declares that the elimination of hunger and its causes shall be a primary objective of United States relations with the developing countries.

REAFFIRMATION OF SUPPORT FOR HUMAN RIGHTS PROVISIONS

Sec. 713. (a) The Congress reaffirms its support for the various statutory provisions which have been enacted in order to promote internationally recognized human rights.

(b) It is the sense of the Congress that a strong commitment to the defense of human rights should continue to be a central feature of United States foreign policy.

IMMIGRANT VISAS FOR TAIWAN

Sec. 714.[14] The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China).

LEBANON

Sec. 715. It is the sense of the Congress that the Government of the United States should continue to support diplomatic efforts to resolve the current crisis in Lebanon, and to pursue a comprehensive and coordinated policy in Lebanon guided by the following principles:

(1) maintenance of an effective cease-fire throughout Lebanon;

(2) resolution of the issue of the Syrian missiles deployed in Lebanon;

(3) freedom, security, and opportunity for the Christian and all other Lebanese communities, including the Moslem, Druze, Armenian, and Jewish communities in Lebanon;

[14] 8 U.S.C. 1152 note.

(4) reaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, without partition, free from terrorism and violence, and free to determine its future without Soviet or other outside interference;

(5) generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for those Lebanese citizens who have suffered from the terrorism and violence of recent events;

(6) restoration of Lebanon's sovereignty free from outside domination or occupation; and

(7) support for a free and open national election.

USE OF CHEMICAL AND TOXIN WEAPONS

Sec. 716. (a) The Congress condemns the use of, and the provision for use of, chemical agents and toxin weapons against the peoples of Laos, Kampuchea, or Afghanistan.

(b) It is the sense of the Congress that the President should, acting through the Permanent Representative of the United States to the United Nations and all other appropriate diplomatic agents, seek definite measures to bring to an end actions by any party or government in using, and providing for use, chemical agents or toxin weapons against the peoples of Laos, Kampuchea, and Afghanistan, in violation of the spirit and the provisions of—

(1) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow on April 10, 1972);[15]

(2) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (signed at Geneva on June 17, 1925);[15] and

(3) customary international law.

(c) It is further the sense of Congress that the President should—

(1) allocate the highest possible priority to the development of further evidence clarifying the nature and origins of the chemical agents and toxin weapons being used against the peoples of Laos, Kampuchea, and Afghanistan; and

(2) vigorously seek a satisfactory explanation from the Government of the Soviet Union regarding the strong circumstantial and presumptive evidence of its role in the use, or provision for use, of such weapons.

(d) The Congress reiterates the concern expressed in House Resolution 644 (96th Congress), adopted by the House of Representatives on May 19, 1980, regarding the outbreak of pulmonary anthrax near Sverdlosk on April 3, 1979, and expresses its disappointment that the Soviet Union has failed adequately to respond to requests for data explaining this incident as provided in the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

[15] For text, see *Legislation on Foreign Relations Through 1988*, vol. V, sec. F.

(e) It is further the sense of Congress that the negotiation of a treaty prohibiting the development, production, and stockpiling of chemical weapons, with reliable verification provisions, should be given a high priority by the United States Government and by all foreign governments.

FINANCIAL OBLIGATIONS [16] TO THE UNITED NATIONS

Sec. 717. (a) The Congress finds and declares that—

(1) the financing of the United Nations is the collective responsibility of all member nations;

(2) the International Court of Justice has determined that the expenses of the United Nations incurred in its peacekeeping operations are properly included as a part of the regular expenses of the United Nations; and [17]

(3) peacekeeping operations are vital to the mission of the United Nations and must be adequately financed if such operations are to continue.[17]

(b) It is the sense of the Congress that the President, acting through the Permanent Representative of the United States to the United Nations, should undertake appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their [18] assessments with respect to the peacekeeping operations of the United Nations.

CONDEMNATION OF LIBYA FOR ITS SUPPORT OF INTERNATIONAL TERRORIST MOVEMENTS

Sec. 718. (a) The Congress condemns the Libyan Government for its support of international terrorist movements, its efforts to obstruct positive movement toward the peaceful resolution of problems in the Middle East region, and its actions to destabilize and control governments of neighboring states in Africa.

(b) The Congress believes that the President should conduct an immediate review of concrete steps the United States could take, individually and in concert with its allies, to bring economic and political pressure on Libya to cease such activities, and should submit a report on that review to the Congress within one hundred and eighty days after the date of enactment of this Act. Such a review should include the possibility of tariffs on or prohibitions against the import of crude oil from Libya.

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[16] Sec. 701(1) of the FRIENDSHIP Act (Public Law 103–199; 103 Stat. 2317) struck out "OF THE SOVIET UNION" from the section heading.

[17] Sec. 701(2) of the FRIENDSHIP Act (Public Law 103–199; 103 Stat. 2317) inserted "and" at the end of paragraph (2), replaced "; and" at the end of para. (3) with a period, and struck out para. (4), which had read as follows:

"(4) the Government of the Union of Soviet Socialist Republics is currently $180,000,000 in arrears on its payments to the United Nations, primarily as a result of its refusal to pay for the peacekeeping operations of the United Nations.".

[18] Sec. 701(3) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "a diplomatic initiative to obtain payment by the Government of the Union of Soviet Socialist Republics of all its outstanding financial obligations to the United Nations, including its" and inserted in lieu thereof "appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their".

UNITED STATES CITIZENS ACTING IN THE SERVICE OF INTERNATIONAL TERRORISM

Sec. 719. (a) It is the sense of the Congress that the spread of international terrorism poses a grave and growing danger for world peace and for the national security of the United States. As a part of its vigorous opposition to the activities of international terrorist leaders and the increase of international terrorism, the United States should take all steps necessary to ensure that no United States citizen is acting in the service of terrorism or of the proponents of terrorism.

(b) Not later than six months after the enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which includes—

(1) a description of all legislation, currently in force, and of all administrative remedies, presently available, which can be employed to prevent the involvement, service, or participation by United States citizens in activities in support of international terrorism or terrorist leaders;

(2) an assessment of the adequacy of such legislation and remedies, and of the enforcement resources available to carry out such measures, to prevent the involvement, service, or participation by United States citizens in activities in support of international terrorism or terrorist leaders; and

(3) a description of available legislative and administrative alternatives, together with an assessment of their potential impact and effectiveness, which could be enacted or employed to put an end to the participation of United States citizens in activities in support of international terrorism or terrorist leaders.

NONALIGNED COUNTRIES

Sec. 720. (a) In considering whether to provide assistance, make sales, extend credits, or guarantee loans under the provisions of the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act, to any country represented at the Meeting of Ministers of Foreign Affairs and Heads of Delegations of the Non-Aligned Countries to the 36th General Session of the General Assembly of the United Nations on September 25 and 28, 1981, the President shall take into account whether such country has dissociated itself from the communique issued following the meeting.

(b) Within thirty days after the date of enactment of this section, the President shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the countries which have dissociated themselves from the nonaligned countries communique and on their methods of dissociation.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

Sec. 721.[19] (a)(1) It is the sense of the Congress that up to $15,000,000 of the funds available for the fiscal year 1982 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 should be made available for development assistance for Haiti, subject to the limitation in subsection (b) of this section.

(2) To the maximum extent practicable, assistance for Haiti for the fiscal year 1982 under chapter 1 of part I of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(b) Funds available for the fiscal year 1982 to carry out chapter 1 of part I or chapter 2 or chapter 5 of part II of the Foreign Assistance Act of 1961 may be expended for Haiti, and credits and guarantees extended for the fiscal year 1982 under the Arms Export Control Act may be approved for use for Haiti, only if the President determines that the Government of Haiti—

(1) is cooperating with the United States in halting illegal emigration from Haiti:

(2) is not aiding, abetting, or otherwise supporting illegal emigration from Haiti;

(3) has provided assurances that it will cooperate fully in implementing United States development assistance programs in Haiti (including programs for prior fiscal years); and

(4) is not engaged in a consistent pattern of gross violations of internationally recognized human rights.

(c) Six months after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report on the extent to which the actions of the Government of Haiti are consistent with paragraphs (1), (2), (3), and (4) of subsection (b) of this section.

(d) Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1982 and for the fiscal year 1983 may be used for programs with Haiti to assist in halting significant illegal emigration from Haiti to the United States.

COMPREHENSIVE ANALYSIS OF FOREIGN ASSISTANCE

Sec. 722. (a) It is the sense of Congress that at a time when major retrenchments and reappraisals are being made in domestic programs, it is also logical that, while maintaining past international commitments, the magnitude and direction of future foreign assistance programs should also be reviewed. As part of such a review process, the President is requested to provide a comprehensive report to the Congress on his approach to foreign assistance. Such report shall include an analysis and recommendations on the following issues:

(1) the relationship between foreign assistance and defense expenditures as means of conducting foreign policy;

(2) the appropriate mix between military and economic assistance;

[19] 22 U.S.C. 2151 note.

(3) the strengths and weaknesses, and appropriate mix, of bilateral and multilateral assistance programs;

(4) the relevance of the basic human needs approach to current aid policy;

(5) the performance of other aid donors, and the benefits they derive from their programs;

(6) criteria for determining the appropriate size and composition of country programs;

(7) the appropriateness of the current mix of grants and loans, and the possibility of combining them with new or existing guarantee, insurance, and export credit programs;

(8) specific means to more actively engage the private sector in assistance programs; and

(9) the usefulness of current functional categories in constructing the development assistance budget.

(b) The Congress requests that the President provide to the Congress a preliminary report by March 31, 1982, and a final report by June 30, 1982, with respect to the issues referred to in subsection (a).

EXTERNAL DEBT BURDENS OF EGYPT, ISRAEL, AND TURKEY

Sec. 723. The Congress finds that the Governments of Egypt, Israel, and Turkey each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs. In order to assist the Congress in examining United States assistance for these countries, the President shall report to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, not later than one hundred and twenty days after the date of enactment of this Act and not later than one year after the date of enactment of this Act, regarding economic conditions prevailing in Egypt, Israel, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies. These reports shall also analyze the impact on Egypt's economy of Arab sanctions against Egypt.

NICARAGUA

Sec. 724. (a) In furnishing assistance under this Act to the Government of Nicaragua, the President shall take into account the extent to which that Government has engaged in violations of internationally recognized human rights (including the right to organize and operate labor unions free from political oppression, the right to freedom of the press, and the right to freedom of religion) and shall encourage the Government of Nicaragua to respect those rights.

(b) In furnishing assistance under this Act to the Government of Nicaragua, the President shall take into account the extent to which that Government has fulfilled its pledge of July 1979 to the member states of the Organization of American States—

(1) to establish full respect for human rights in Nicaragua in accordance with the United Nations Universal Declaration of

the Rights and Duties of Man and the Charter on Human Rights of the Organization of American States;

(2) to allow the free movement in Nicaragua of the Inter-American Commission on Human Rights; and

(3) to establish the framework for free and democratic elections so that the people of Nicaragua may elect their representatives to city councils, to constitutional assembly, and to Nicaragua's highest-ranking authorities, with such framework to include, but not be limited to, the full and complete opportunity for political activity of the Nicaraguan people.

(c) Assistance to the Government of Nicaragua under this Act shall be terminated if the President determines and reports to the Congress that the Government of Nicaragua cooperates with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries, or that Soviet, Cuban, or other foreign combat military forces are stationed or situated within the borders of Nicaragua and the presence of such forces constitutes a threat to the national security of the United States or to any Latin American ally of the United States.

(d) Any agreement between the United States and the Government of Nicaragua regarding the use of funds appropriated to carry out this Act, which are to be made available in the form of loans, shall specifically require that to the maximum extent possible such loan funds, and any local currency generated in conjunction therewith, shall be used for assistance to the private sector. Local currency loan programs in Nicaragua shall be monitored and audited in accordance with section 624(g) of the Foreign Assistance Act of 1961.

(e) For each six-month period in which any funds are expended under this Act for Nicaragua, the President shall submit to the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate, a report accounting fully and in itemized detail for the amounts obligated and actually expended in Nicaragua.

Sec. 725.[20] **Assistance and Sales for Argentina.** * * * [Repealed—1989]

REPEAL OF LIMITATIONS ON ASSISTANCE, SALES, AND SALES CREDITS FOR CHILE

Sec. 726. (a) Section 406 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2370 note) is repealed.

(b)[21] Notwithstanding any other provision of law—

[20] Title V of Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1030) repealed sec. 725 (22 U.S.C. 2370 note). Sec. 725 had (a) repealed sec. 620B of the Foreign Assistance Act of 1961, and (b) required the President to provide to Congress a detailed report certifying that (1) the Government of Argentina made significant progress in complying with internationally recognized principles of human rights; and (2) the provision of such assistance, credits, loan guarantees, defense articles, defense services, or export licenses was in the national interests of the United States, as a condition for those forms of assistance listed in par. (2).

[21] 22 U.S.C. 2370 note. Sec. 544(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2019), continued for fiscal year 1992 by Public Law 102–145, provided the following:

(1) no assistance may be furnished under chapter 2, 4, 5, or 6 of part II of the Foreign Assistance Act of 1961 to Chile;

(2) no sale of defense articles or services may be made under the Arms Export Control Act to Chile:

(3) no credits (including participation in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to Chile; and

(4) no export licenses may be issued under section 38 of the Arms Export Control Act to or for the Government of Chile;

unless and until the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report certifying—

(A) that the Government of Chile has made significant progress in complying with internationally recognized principles of human rights;

(B) that the provision of such assistance, articles or services is in the national interest of the United States; and

(C) that the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt.

(c)[22] The prohibition contained in subsection (b) does not prohibit the sale, or the licensing for export, of cartridge actuated devices, propellant actuated devices, components, parts, tools, technical manuals, time compliance to technical orders (TCTOs), or TCTO retrofits for aircraft of the F–5E/F, A/T–37, or C–130E/H type owned by the Chilean Air Force,[23] so long as the items are provided only for purposes of enhancing the safety of the aircraft crew.

ASSISTANCE FOR EL SALVADOR

Sec. 727. (a) It is the sense of the Congress that assistance furnished to the Government of El Salvador, both economic and military, should be used to encourage—

"CHILE

"SEC. 544. (a) Funds appropriated by this Act under the heading 'Economic Support Fund' may be used under the authority of section 534(b) (4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.".

In Public Notice 1333 of September 30, 1990, the Secretary of State certified that "(A) the Government of Chile has made significant progress in complying with internationally recognized principles of human rights; (B) the provision of the assistance, articles and services described in provisions (1)–(4) of sections 726(b) of the Act to Chile is in the national interest of the United States; and (C) the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt." (56 F.R. 4886; February 6, 1991).

See also 22 CFR Part 126, International Traffic in Arms Regulations, and amendments to same, effective October 29, 1991 (56 F.R. 55630; October 29, 1991).

[22] Subsec. (c) was added by sec. 715 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 247).

[23] Sec. 544(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2019), struck out "and technical manuals for aircraft of the F–5E/F or A/T–37 type which were sold to the Chilean Air Force by the United States before January 1, 1976", and inserted in lieu thereof text beginning at "components, parts, tools, * * *".

(1) full observance of internationally recognized human rights in accordance with sections 116 and 502B of the Foreign Assistance Act of 1961;

(2) full respect for all other fundamental human rights, including the right of freedom of speech and of the press, the right to organize and operate free labor unions, and the right to freedom of religion;

(3) continued progress in implementing essential economic and political reforms, including land reform and support for the private sector;

(4) a complete and timely investigation of the deaths of all United States citizens killed in El Salvador since October 1979;

(5) an end to extremist violence and the establishment of a unified command and control of all government security forces in this effort;

(6) free, fair, and open elections at the earliest date; and

(7) increased professional capability of the Salvadoran Armed Forces in order to establish a peaceful and secure environment in which economic development and reform and the democratic processes can be fully implemented, thereby permitting a phased withdrawal of United States military training and advisory personnel at the earliest possible date.

(b) It is the sense of the Congress that the United States economic assistance to El Salvador should put emphasis on revitalizing the private sector and supporting the free market system. The Congress recognizes that the lack of foreign exchange to buy imported raw materials and intermediate goods is a major impediment to the ability of the Salvadoran economy to provide jobs. The Congress also recognizes that the funds budgeted for economic assistance are only a fraction of the foreign exchange needed, and United States economic aid should be used, wherever possible, to stimulate private sector lending. Therefore, the Congress urges the President to set aside a portion of the economic support funds to provide guarantees to private United States banks willing to give credits to the Salvadoran private sector.

RESTRICTIONS ON MILITARY ASSISTANCE AND SALES TO EL SALVADOR

Sec. 728.[21] (a)(1) The Congress finds that peaceful and democratic development in Central America is in the interest of the United States and of the community of American States generally, that the recent civil strife in El Salvador has caused great human suffering and disruption to the economy of that country, and that substantial assistance to El Salvador is necessary to help alleviate that suffering and to promote economic recovery within a peaceful and democratic process. Moreover, the Congress recognizes that the efforts of the Government of El Salvador to achieve these goals are affected by the activities of forces beyond its control.

(2) Taking note of the substantial progress made by the Government of El Salvador in land and banking reforms, the Congress declares it should be the policy of the United States to encourage and support the Government of El Salvador in the implementation of these reforms.

(3) The United States also welcomes the continuing efforts of President Duarte and his supporters in the Government of El Salvador to establish greater control over the activities of members of the armed forces and government security forces. The Congress finds that it is in the interest of the United States to cooperate with the Duarte government in putting an end to violence in El Salvador by extremist elements among both the insurgents and the security forces, and in establishing a unified command and control of all government forces.

(4) The United States supports the holding of free, fair, and open elections in El Salvador at the earliest date. The Congress notes the progress being made by the Duarte government in this area, as evidenced by the appointment of an electoral commission.

(b) In fiscal years 1982 and 1983, funds may be obligated for assistance for El Salvador under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961, letters of offer may be issued and credits and guarantees may be extended for El Salvador under the Arms Export Control Act, and members of the Armed Forces may be assigned or detailed to El Salvador to carry out functions under the Foreign Assistance Act of 1961 or the Arms Export Control Act, only if not later than thirty days after the date of enactment of this Act and every one hundred and eighty days thereafter, the President makes a certification in accordance with subsection (d).

(c) If the President does not make such a certification at any of the specified times then the President shall immediately—

(1) suspend all expenditures of funds and other deliveries of assistance for El Salvador which were obligated under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 after the date of enactment of this Act;

(2) withhold all approvals for use of credits and guarantees for El Salvador which were extended under the Arms Export Control Act after the date of enactment of this Act;

(3) suspend all deliveries of defense articles, defense services, and design and construction services to El Salvador which were sold under the Arms Export Control Act after the date of enactment of this Act; and

(4) order the prompt withdrawal from El Salvador of all members of the Armed Forces performing defense services, conducting international military education and training activities, or performing management functions under section 515 of the Foreign Assistance Act of 1961.

Any suspension of assistance pursuant to paragraphs (1) through (4) of this subsection shall remain in effect during fiscal year 1982 and during fiscal year 1983 until such time as the President makes a certification in accordance with subsection (d).

(d) The certification required by subsection (b) is a certification by the President to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate of a determination that the Government of El Salvador—

(1) is making a concerted and significant effort to comply with internationally recognized human rights;

(2) is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces:

(3) is making continued progress in implementing essential economic and political reforms, including the land reform program;

(4) is committed to the holding of free elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to—

(A) a renouncement of further military or paramilitary activity; and

(B) the electoral process with internationally recognized observers.

Each such certification shall discuss fully and completely the justification for making each of the determinations required by paragraphs (1) through (4).

(e)[24] On making the first certification under subsection (b) of this section, the President shall also certify to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that he has determined that the Government of El Salvador has made good faith efforts both to investigate the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice those responsible for those murders. The second certification required under this section may be made only if it includes a determination by the President that the Government of El Salvador (1) has made good faith efforts since the first such certification was made to investigate the murders of those six United States citizens and to bring to justice those responsible for those murders, and (2) has taken all reasonable steps to investigate the disappearance of journalist John Sullivan in El Salvador in January 1981.[25] The fourth certification required under this section may be made only if it includes a determination by the President that, since the third such certification was made, the Government of El Salvador (1) has made good faith efforts both to investigate the murders of the seven United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice all those responsible for those murders, and (2) has taken all reasonable steps to investigate the killing of Michael Kline in El Salvador in October 1982.[26]

REPORTING REQUIREMENT RELATING TO EL SALVADOR

Sec. 729. (a) Not later than ninety days after the date of enactment of this section, the President shall prepare and transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth—

(1) the viewpoints of all major parties to the conflict in El Salvador and of the influential actors in the Salvadoran politi-

[24] By memorandum of August 10, 1982, the President delegated the functions conferred upon him under subsec. (e) to the Secretary of State (47 F.R. 38099; August 30, 1982).

[25] This sentence was added by Public Law 97–233 (96 Stat. 260).

[26] This sentence was added by Public Law 98–53 (97 Stat. 287).

cal system regarding the potential for and interest in negotiations, elections, and a settlement of the conflict; and

(2) the views of democratic Latin American nations, Canada, the Organization of American States, and European allies of the United States regarding a negotiated settlement to such conflict.

(b) It is the sense of the Congress that the President shall, as soon as possible, send a special envoy or use other appropriate means to consult with and gather information from appropriate representatives of the parties to the Salvadoran conflict, democratic governments of Latin America, Canada, and European allies of the United States regarding the attainment of a negotiated settlement in El Salvador.

RESTRICTIONS ON AID TO EL SALVADOR

Sec. 730. None of the funds authorized to be appropriated by this Act may be made available for the provision of assistance to El Salvador for the purpose of planning for compensation, or for the purpose of compensation, for the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or of the properties or stock shares which may be pertaining thereto.

EL SALVADORAN REFUGEES

Sec. 731.[27] It is the sense of the Congress that the administration should continue to review, on a case-by-case basis, petitions for extended voluntary departure made by citizens of El Salvador who claim that they are subject to persecution in their homeland, and should take full account of the civil strife in El Salvador in making decisions on such petitions.

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REPEALS

Sec. 734. (a) * * *

(b) * * *

(c) Except as otherwise explicitly provided by their terms, amendments to the Foreign Assistance Act of 1961 and the Arms Export Control Act which are applicable only to a single fiscal or calendar year or which require reports or other actions on a nonrecurring basis shall be deemed to have expired and shall be removed from law upon the expiration of the applicable time periods for the fulfillment of the required actions.

REPORT ON NUCLEAR ACTIVITIES

Sec. 735. Beginning with the fiscal year 1983 and for each fiscal year thereafter, the President shall prepare and transmit to the Congress, as part of the presentation materials for foreign assistance programs proposed for the fiscal year, a classified report describing the nuclear programs and related activities of any country

[27] 8 U.S.C. 1157 note.

for which a waiver of section 669 or 670 of the Foreign Assistance Act of 1961 is in effect, including an assessment of—

(1) the extent and effectiveness of International Atomic Energy Agency safeguards at that country's nuclear facilities; and

(2) the capability, actions, and intentions of the government of that country with respect to the manufacture or acquisition of a nuclear explosive device.

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PROHIBITIONS RELATING TO NUCLEAR TRANSFERS AND NUCLEAR DETONATIONS

Sec. 737.[28] (a) The Congress finds that any transfer of a nuclear explosive device to a non-nuclear-weapon state or, in the case of a non-nuclear-weapon state, any receipt or detonation of a nuclear explosive device would cause grave damage to bilateral relations between the United States and that country.

(b) * * *

(c) * * *

[28] 22 U.S.C. 2429a note.

r. International Security and Development Cooperation Act of 1980

Partial text of Public Law 96–533 [H.R. 6942], 94 Stat. 3131, approved December 16, 1980, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 264, approved August 8, 1985; Public Law 100–461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; and by Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1980 consists of amendments to the Foreign Assistance Act of 1961, the International Development and Cooperation Act of 1979, the Arms Export Control Act, the International Security Assistance and Arms Export Control Act of 1976, the Export Administration Act of 1979, the Department of State Authorization Act, Fiscal Years 1980/1981, Public Law 480, the Peace Corps Act, and the Domestic Volunteer Service Act. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for the fiscal year 1980 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

Section 1. This Act may be cited as the "International Security and Development Cooperation Act of 1980".

TITLE I—MILITARY AND RELATED ASSISTANCE AND SALES PROGRAMS

* * * * * * *

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

Sec. 106. (a) * * *

(b) * * *

(c) * * *

(d)[1] The principal amount of the loans guaranteed under section 24(a) of such Act for the fiscal year 1981 with respect to Egypt, the Sudan, Greece, and Turkey shall be repaid, and with respect to Somalia may be repaid, in not less than twenty years, following a grace period of ten years on repayment of principal.

* * * * * * *

Sec. 108.[2] **Export Controls on Certain Items on the Munitions List.** * * * [Repealed—1981]

Sec. 109.[3] **Leasing of Defense Property.** * * * [Repealed—1981]

EXPORTATION OF URANIUM DEPLETED IN THE ISOTOPE 235

Sec. 110.[4] Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 when such exports are subject to the controls established under the Arms Export Control Act or the Export Administration Act of 1979.

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Sec. 118.[5] **Military or Paramilitary Operations in Angola.** * * * [Repealed—1985]

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[1] 22 U.S.C. 2764.

[2] Sec. 108, which had required two reports from the President on which defense articles and defense services, if any, should be removed from the U.S. Munitions List and whether sec. 620B of the Foreign Assistance Act of 1961 (blocking aid and arms sales to Argentina) should be amended, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). These reports were submitted to Congress by the President on May 12, 1981.

[3] Sec. 109, which had required the President to report to Congress 30 days prior to leasing defense property to a foreign government for a period of more than 6 months, was repealed by sec. 109(d)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). See ch. 6 of the Arms Export Control Act for current law concerning leases of defense articles.

[4] 22 U.S.C. 2778a.

[5] Sec. 118, titled "Military or Paramilitary Operations in Angola", was repealed by sec. 811 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 264). Subsec. (e) of the former section repealed an earlier law which placed limitations on certain assistance to, and activities in, Angola. Sec. 118 formerly read as follows:

"MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA

"Sec. 118.(a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola unless and until—

"(1) the President determines that such assistance should be furnished in the national security interests of the United States;

"(2) the President submits to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

"(A) a description of the amounts and categories of assistance which he recommends be furnished and the identity of the proposed recipients of such assistance; and

"(B) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement of the reasons supporting such determination; and

"(3) the Congress enacts a joint resolution approving the furnishing of such assistance.

PROHIBITION ON MILITARY ASSISTANCE TO NICARAGUA

Sec. 119.[6] None of the funds authorized to be appropriated by this title shall be made available for any aid or assistance to Nicaragua.

TITLE II—ECONOMIC SUPPORT FUND

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TITLE III—DEVELOPMENT ASSISTANCE PROGRAMS

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ASSISTANCE TO THE EASTERN CARIBBEAN

Sec. 313. (a) The Congress urges the President to use up to $7,000,000 for the fiscal year 1981 for bilateral development assistance for the countries of the eastern Caribbean.

(b)[7] * * * [Repealed—1981]

ASSISTANCE FOR EQUATORIAL GUINEA

Sec. 314. The President is urged to provide up to $3,000,000 of the funds authorized to be appropriated for the fiscal year 1981 by this title for assistance to Equatorial Guinea if he deems that conditions in that country warrant such assistance.

CARIBBEAN DEVELOPMENT BANK

Sec. 315. Notwithstanding section 620(r) of the Foreign Assistance Act of 1961, the President may, after consultation with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, make arrangements at his discretion for the assumption by the recipient members of the Caribbean Development Bank of any loans made to the Bank under the authority of that Act.

WORLD HUNGER

Sec. 316.[8] (a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961, the Director of the United

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"(b) If introduced within 30 days after the submission of the report required by paragraph (2) of subsection (a), a resolution under paragraph (3) of subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act.

"(c) The prohibition contained in subsection (a) does not apply with respect to assistance which is furnished solely for humanitarian purposes.

"(d) The provisions of this section may not be waived under any other provision of law.

"(e) Section 404 of the International Security Assistance and Arms Export Control Act of 1976 is repealed.".

[6] 22 U.S.C. 2151 note.

[7] Subsec. (b), which had required a report from the President by February 1, 1981, regarding the implementation of this section, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report on February 6, 1981.

[8] Sec. 540 of the Foreign Operations, Export Financing,and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 197), provided the following:

Continued

States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues.

REDUCTION OF POSTHARVEST LOSSES OF FOOD

Sec. 317.[9] It is the sense of the Congress that—

(1) the President should reaffirm the policy of the United States Government to support the goal established by the United Nations General Assembly of reducing by 50 percent postharvest losses of food in developing countries; and

(2) the President, acting through the Agency for International Development, should increase substantially the proportion of funds made available under the Foreign Assistance Act of 1961 for the purpose of assisting, together with other donor countries and with developing countries, in the reduction of postharvest losses of food in developing countries.

TITLE IV—OTHER ASSISTANCE PROGRAMS

* * * * * * *

INTERNATIONAL NARCOTICS CONTROL

Sec. 402. (a) * * *

(b) * * *

(c) Notwithstanding the provisions of section 482(a)(2) of the Foreign Assistance Act of 1961 as in effect immediately prior to the enactment of this Act, funds appropriated for the fiscal year 1980 to carry out the purposes of section 481 of that Act which were obligated for assistance for Colombia may be used for fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program.

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"PROHIBITION ON PUBLICITY OR PROPAGANDA

"SEC. 540. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided*, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.".

[9] 22 U.S.C. 2151 note.

EAST TIMOR

Sec. 408. It is the sense of the Congress that the President should take all appropriate measures to—

(1) continue to support and encourage relief operations by the Government of Indonesia and by international relief agencies in East Timor;

(2) assist the Government of Indonesia to facilitate the reuniting of families separated because of developments in recent years in East Timor; and

(3) encourage the Government of Indonesia to allow access to East Timor by international journalists.

TITLE V—AFRICAN DEVELOPMENT FOUNDATION

SHORT TITLE

Sec. 501.[10] This title may be cited as the "African Development Foundation Act".

FINDINGS

Sec. 502.[11] The Congress finds that—

(1) social and economic development ultimately depends on the active participation of individuals within a society and on the enhancement of opportunities for those individuals;

(2)[12] the development of individuals and institutions in African countries can benefit by the provision of support for community-based self-help activities;

(3) by enacting title IX of chapter 2 of part I of the Foreign Assistance Act of 1961, and recent amendments to that Act, the Congress has sought to enable the poor to participate in the process of development;

(4)[12] the Inter-American Foundation, established by Congress in the Foreign Assistance Act of 1969 to support the efforts of the people of Latin America and the Caribbean to solve their development problems, has demonstrated a successful approach to development; and

(5)[12] an African Development Foundation similar in structure to the Inter-American Foundation, but adapted to the specific needs of Africa, can complement current United States development programs in Africa.

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[10] 22 U.S.C. 290h note.

[11] 22 U.S.C. 290h.

[12] Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(h)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will add "and" at the end of para. (2), replace a semicolon with a period at the end of para. (3), and strike out paras. (4) and (5).

ESTABLISHMENT

Sec. 503.[13] (a) There is established a body corporate to be known as the "African Development Foundation" (hereafter in this title referred to as the "Foundation").

(b) The Foundation shall establish a principal office in the United States and may establish such branch offices in Africa as may be necessary to carry out its functions.

PURPOSES

Sec. 504.[14] (a) In order to enable the people of African countries to develop their potential, fulfill their aspirations, and enjoy better, more productive lives the purposes of the Foundation shall be—

(1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;

(2) to support self-help activities at the local level designed to enlarge opportunities for community development;

(3) to stimulate and assist effective and expanding participation process; and

(4) to encourage the establishment and growth of development institutions which are indigenous to particular countries in Africa and which can respond to the requirements of the poor in those countries.

(b) The Foundation shall carry out the purposes specified in subsection (a) in cooperation with, and response to, organizations indigenous to Africa which are representative of the needs and aspirations of the poor in Africa and, in carrying out such purposes, the Foundation shall, to the extent possible, coordinate its development assistance activities with the activities of the United States Government and private, regional, and international organizations.

FUNCTIONS

Sec. 505.[15] (a)(1) In order to carry out the purposes set forth in section 504, the Foundation may make grants, loans, and loan guarantees to any African private or public group (including public international organizations),[16] association, or other entity engaged in peaceful activities for—

(A) the fostering of local development institutions and the support of development efforts initiated by communities themselves;

(B) the development of self-evaluation techniques by participants in projects supported under this section, for the purpose of transferring experience gained in such projects to similar development activities;

(C) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa;

(D) the procurement of such technical or other assistance as is deemed appropriate by the recipient of such grant, loan, or guarantee, to carry out the purposes of this title; and

[13] 22 U.S.C. 290h–1.
[14] 22 U.S.C. 290h–2.
[15] 22 U.S.C. 290h–3.
[16] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461; 102 Stat. 2268–13) added the parenthetical text.

(E) other projects that would carry out the purposes set forth in section 504.

(2) The total amount of grants, loans and loan guarantees that may be made under this section for a project may not exceed $250,000.

(3) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this title.

(b) In making grants, loans, and loan guarantees under subsection (a), the Foundation shall give priority to projects which community groups undertake to foster their own development and in the initiation, design, implementation, and evaluation of which there is the maximum feasible participation of the poor. Where appropriate and in keeping with the purposes of this title, the Foundation may make such grants, loans, and loan guarantees to African entities which are representative and knowledgeable of, and sensitive to, the needs and aspirations of the poor and which would disburse funds acquired under such grants, loans, and loan guarantees to other African entities to carry out the purposes of this title.

POWERS

Sec. 506.[17] (a) The Foundation, as a corporation—

(1) shall have perpetual succession unless dissolved by an Act of Congress;

(2) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction;

(3) may adopt, alter, and use a seal, which shall be judicially noticed;

(4) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Foundation;

(5) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $10,000 in any fiscal year;

(7) may, as necessary for carrying out the functions of the Foundation, employ and fix the compensation of not to exceed the following number of persons at any one time: 25 during the fiscal year 1981, 50 during the fiscal year 1982, and 75 thereafter;

(8) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Foundation;

[17] 22 U.S.C. 290h–4.

(9) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this title;

(10) may use the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(11) may, with the consent of any agency of the United States, use the information, services, facilities, and personnel of that agency in carrying out the purposes of this title; and

(12) shall have such other powers as may be necessary and incident to carrying out this title.

(b) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used from carrying out the purposes of this title. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(c) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

(d) Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

MANAGEMENT

Sec. 507.[18] (a)(1) The management of the Foundation shall be vested in a board of directors (hereafter in this title referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member of the Board to serve as Chairperson of the Board and one member to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes. Members of the Board shall be appointed so that no more than four members of the Board are members of any one political party.[19]

(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms

[18] 22 U.S.C. 290h–5.

[19] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1209) added the last sentence to this section. Title II also provided that this amendment "shall not affect an appointment made to the Board prior to the date of enactment of this Act" [November 21, 1989].

of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

(b) Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

(c) A majority of the Board shall constitute a quorum.

(d)(1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president of the Foundation shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) Experts and consultants may be employed by the Board as authorized by section 3109 of title 5, United States Code.

(e)(1) The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. The advisory council may include African recipients of grants, loans, or loan guarantees under this title.

(2) The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

(3) Members of the advisory council shall receive no compensation for their services but may be allowed travel and other expenses in accordance with section 5703 of title 5, United States Code, which are incurred by them in the performance of their functions under this subsection.

GOVERNMENT CORPORATION CONTROL ACT

Sec. 508.[20] The Foundation shall be subject to title I of the Government Corporation Control Act.

LIMITATION ON SPENDING AUTHORITY

Sec. 509.[21] Any authority provided by this title involving the expenditure of funds (other than the funds made available pursuant to section 510) shall be effective for a fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 510.[22] There are authorized to be appropriated to carry out this title, in addition to amounts otherwise available for that pur-

[20] 22 U.S.C. 290h–6.

[21] 22 U.S.C. 290h–7.

[22] 22 U.S.C. 290h–8. The authorizations for fiscal year 1986 and fiscal year 1987 were provided by sec. 510 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 264). Authorizations for previous years include: fiscal year 1982—$2,000,000; fiscal year 1983—$2,000,000; fiscal year 1984—$3,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 2003—no authorization.

Continued

pose, $3,872,000 for fiscal year 1986 and $3,872,000 for fiscal year 1987. Funds appropriated under this section are authorized to remain available until expended.

Sec. 511.[23] **Expiration of Authorities** * * * [Repealed—1989]

TITLE VI—PEACE CORPS

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Sec. 603.[24] **Utilization of Returned Peace Corps Volunteers** * * * [Repealed—1981]

TITLE VII—MISCELLANEOUS PROVISIONS

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INTERAGENCY GROUP ON HUMAN RIGHTS AND FOREIGN ASSISTANCE

Sec. 710. It is the sense of the Congress that—

(1) the Interagency Group on Human Rights and Foreign Assistance has been an effective mechanism for coordinating and implementing United States human rights policies;

(2) the President should consider establishing the Interagency Group on a more permanent basis;

(3) the Interagency Group should examine proposals for not only economic assistance but also for security assistance; and

(4) the President should report his recommendations for strengthening the Interagency Group to the Congress no later than July 1, 1981.

PEACE IN THE MIDDLE EAST

Sec. 711.[25] (a) It is the sense of the Congress that all parties to the Arab-Israeli conflict need to reaffirm their unequivocal commit-

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Congress did not enact an authorization for fiscal year 2003. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7), waived the requirements for authorization, and title II of that Act (at 117 Stat. 171) provided the following:

"AFRICAN DEVELOPMENT FOUNDATION

"For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, $18,689,000, to remain available until September 30, 2004: *Provided,* That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: *Provided further,* That interest earned shall be used only for the purposes for which the grant was made: *Provided further,* That this authority applies to interest earned both prior to and following enactment of this provision: *Provided further,* That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: *Provided further,* That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.".

[23] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1209) repealed sec. 511 (22 U.S.C. 290h–9). Section 511 formerly read as follows:

"The authority of the Foundation to make grants, loans, and loan guarantees and otherwise to carry out the purposes of this title shall expire on September 30, 1990, except that this section shall not preclude the Foundation from acquiring obligations prior to that date which mature subsequent to that date or from assuming liability prior to that date as a guarantor of obligations which mature subsequent to that date or from continuing as a body corporate and exercising any of its powers subsequent to that date for purposes of the orderly liquidation of its activities.".

[24] Sec. 603, which had required a report from the Director of the Peace Corps on a plan for more effective utilization of returned Peace Corps volunteers, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The Director submitted this report to Congress on January 15, 1981.

[25] 22 U.S.C. 3401 note.

ment to the peace process in order to achieve further progress toward a comprehensive settlement, to reinforce the principles of the Camp David accords, and to take actions to encourage parties not currently involved in the peace process to become active participants in peace efforts.

(b) It is further the sense of the Congress that to further these goals (1) all parties to the conflict should accept Israel's unequivocal right to exist within secure and recognized borders; (2) the Governments of Israel and Egypt should maintain and strengthen their commitment to the process of normalization of relations and continue actions to support that commitment; (3) the Governments of Israel and Egypt should reaffirm their commitment to United Nations Resolution 242 and its applicability, in all its aspects, to territories under negotiations; and (4) the governments of countries in the Middle East should assure that their policies and actions are consistent with the objectives of achieving peace and of involving other parties in the peace process.

ASSISTANCE FOR JORDAN

Sec. 712. It is the sense of the Congress that for Jordan to receive any funds authorized to be appropriated by this Act, it should be judged by the President that Jordan is acting in good faith to achieve peace in the Middle East and that the expenditure of such funds for Jordan will serve to further peace in the Middle East.

Sec. 713.[26] **External Debt Burdens of Egypt, Israel, Portugal, and Turkey** * * * [Repealed—1981]

Sec. 714.[27] **Soviet Military Personnel and Activities in Cuba** * * * [Repealed—1981]

CUBAN REFUGEES

Sec. 715. (a) The Congress finds that—

(1) the flow of refugees for political, economic, or other compelling reasons is a growing and world-wide phenomenon;

(2) the United States represents freedom of thought and action and economic opportunity and has historically played a major role in providing a home to the refugees of the world;

(3) an orderly and lawful refugee process is necessary for the furtherance of United States domestic well-being;

(4) continuation of the traditional compassionate and humanitarian policy of the United States regarding entry to its shores of refugees and other victims of oppression is threatened by the precipitate influx of large numbers of Cubans fleeing their country;

[26] Sec. 713, which had required a report from the President regarding the economic conditions prevailing in Egypt, Israel, Portugal, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on January 19, 1981. A similar report concerning Egypt, Israel, and Turkey is required by sec. 723 of Public Law 97–113.

[27] Sec. 714, which had required quarterly and annual reports to Congress regarding the military capabilities and deployment of Soviet military personnel in Cuba and Soviet military assistance to the armed forces of Cuba, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

(5) the United States has sought to negotiate with the Government of Cuba to establish a lawful, safe, and orderly process by which Cubans may be allowed to leave their country; and

(6) the Cuban refugee crisis is a problem of international concern and other nations should contribute to its resolution.

(b)(1) The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation with respect to the large number of Cuban natives who have recently fled or are attempting to flee Cuba. Such steps should include seeking the agreement of other countries to admit some of those persons into their respective countries and to contribute funds and other assistance for the resettlement of those persons.

(2) In order to encourage countries throughout the world which are recipients of United States bilateral and multilateral assistance to permit and to help finance the resettlement of Cuban and other refugees within their borders, the President shall, to the maximum extent feasible, attempt to channel such assistance to countries which have demonstrated a willingness to provide assistance to Cuban and other refugees.

(c) It is the sense of the Congress that, in carrying out subsection (b)(1), the President should seek the discussion, in an appropriate international forum such as the United Nations or the Organization of American States, of the situation involving the flight of large numbers of Cuban natives from Cuba, of the resettlement of Cuban refugees, and of means by which a more orderly process may be established to handle future crises of a similar nature.

INCARCERATION AND DEPORTATION OF CERTAIN CUBANS

Sec. 716.[28] The Congress finds that the United States Government has already incarcerated recently arrived Cubans who are admitted criminals, are security threats, or have incited civil disturbances in Federal processing facilities. The Congress urges the Executive branch, consistent with United States law, to seek the deportation of such individuals.

PROHIBITION ON ASSISTANCE TO THE GOVERNMENTS OF CUBA, VIETNAM, AND CAMBODIA

Sec. 717. None of the funds authorized to be appropriated by this Act may be used to provide assistance to the Governments of Cuba, Vietnam, or Cambodia. Nothing in this section shall be construed to prohibit food assistance or humanitarian assistance which is distributed directly to the people of Cambodia.

COOPERATION OF OTHER GOVERNMENTS IN THE BOYCOTT OF THE 1980 SUMMER OLYMPIC GAMES IN MOSCOW

Sec. 718. In determining the levels of assistance to be provided to a foreign government with funds authorized to be appropriated by this Act, the President shall take into account the position of that government with respect to the United States proposed boycott of the 1980 summer Olympic games in Moscow.

[28] 8 U.S.C. 1522 note.

ELECTIONS IN UGANDA

Sec. 719. The President shall encourage the holding of free, open elections in Uganda and shall, in considering assistance for Uganda with funds authorized to be appropriated by this Act, take into account whether such elections are held.

Sec. 720.[29] **Report To Congress On the Implementation of the Lancaster House Declaration of Rights in Zimbabwe** * * * [Repealed—1981]

Sec. 721.[30] **Restriction on Assistance to El Salvador** * * * [Repealed—1981]

[29] Sec. 720, which had required a report from the President every 60 days during fiscal year 1981 (if Zimbabwe received assistance under this Act) regarding the internal situation in Zimbabwe, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[30] Sec. 721, which had prohibited the use of assistance for El Salvador during fiscal year 1981 for the purpose of planning for compensation, or for the purpose of compensation, for the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or of the properties or stock shares which may be pertaining thereto, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

s. International Security Assistance Act of 1979

Partial text of Public Law 96–92 [H.R. 3173] 93 Stat. 701, approved October 29, 1979, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1529 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1979 consists of amendments to the Foreign Assistance Act of 1961 and the Arms Export Control Act.

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security Assistance Act of 1979".

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STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

Sec. 6. (a) * * *

(b)[1] * * * [Repealed—1981]

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AUTHORIZATION AND AGGREGATE CEILING FOR FOREIGN MILITARY SALES CREDITS

Sec. 17. (a) * * *

(b)[2] Of the principal amount of loans guaranteed for the fiscal year 1980 under section 24 of the Arms Export Control Act—

(1) with respect to Turkey, not to exceed $50,000,000,

(2) with respect to Greece, not to exceed $42,000,000, and

(3) with respect to Sudan, not to exceed $25,000,000,

[1] Subsec. (b) which had required a report from the President regarding the stockpiling authorities for the Republic of Korea, was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on January 2, 1980.

[2] 22 U.S.C. 2271 note.

shall be repaid in not less than 20 years, following a grace period of 10 years on repayment of principal.

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NATIONAL DISCLOSURE POLICY FOR SENSITIVE WEAPONS TECHNOLOGY

Sec. 20. (a)[3] * * * [Repealed—1981]
(b) * * *

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TRANSFER OF WAR RESERVE MATERIEL AND OTHER PROPERTY TO TAIWAN

Sec. 23.[4] (a) Notwithstanding any other provision of law, during the calendar year 1980 the President is authorized to transfer to Taiwan under such terms and conditions as he may deem appropriate, such United States war reserve materiel that was located on Taiwan on January 1, 1979, as he may determine.

(b) Notwithstanding any other provision of law, during the calendar years 1979 and 1980 the President is authorized to transfer to Taiwan, under such terms and conditions as he may deem appropriate, such rights of the United States in property (other than war reserve materiel) that was located on Taiwan on January 1, 1979, as he may determine.

AMMUNITION SOLD TO THAILAND

Sec. 24. The Royal Thai Government shall be released from its contractual obligation to pay to the United States Government such amount as is due on or before October 30, 1979, as a condition precedent under the letter of offer accepted by the Royal Thai Government on April 12, 1977, to the transfer of title to the last increment of United States ammunition stocks sold to the Royal Thai Government under such letter of offer pursuant to the Memorandum of Agreement of March 22, 1977, relating to the storage of ammunition in Thailand.

Sec. 25.[5] **Assistance for Jordan** * * * [Repealed—1981]

SHABA AIRLIFT

Sec. 26. Notwithstanding any other provision of law, the President is authorized to make available the services of the Department of Defense for the purpose of facilitating the removal from Zaire of those foreign armed forces which were transported to Zaire by the United States at the time of the crisis in Shaba Province in 1978.

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[3] Subsec. (a), which had required a report from the President concerning the results of a review of the interagency procedures and disclosure criteria used by the U.S. in determining whether sensitive weapons technology will be transferred to other countries, was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on March 25, 1980.

[4] 22 U.S.C. 3302 note.

[5] Sec. 25, which had required a determination and report by the President that Jordan was acting in good faith to achieve further progress toward a comprehensive peace settlement in the Middle East before funds could be used for assistance to Jordan during fiscal year 1980, was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). Such a determination was transmitted to Congress on January 10, 1980.

FISCAL YEAR 1979 SUPPLEMENTAL AUTHORIZATION FOR TURKEY

Sec. 27.[6] (a) It is hereby determined that the national interests of the United States would be served by the furnishing of additional economic support fund assistance to Turkey in order to promote the economic and political stability of that country, and to strengthen its ability to fulfill its responsibilities as a member of the North Atlantic Treaty Organization.

(b) In furtherance of subsection (a) of this section, and in addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961 $100,000,000 for the fiscal year 1979, which amount shall be available only for Turkey.[7]

(c) Amounts appropriated under this section may be made available until expended.

(d) Notwithstanding any assistance authorized for Turkey under this Act, it remains the policy of the United States that all foreign troops in Cyprus, except those stationed in Cyprus under the auspices of the United Nations, should be withdrawn from Cyprus.

(e) It is the sense of the Congress that the recent announcement by the leaders of the Greek Cypriots and the Turkish Cypriots to resume intercommunal negotiations is an encouraging recognition by the parties that the human rights and fundamental freedoms of all the citizens of the Republic of Cyprus will be respected. The Congress urges all parties to the negotiations to demonstrate good faith in the negotiations and to move promptly toward a full, just, and lasting settlement.

Sec. 28.[8] **Prohibition on Assistance to Panama** * * * [Repealed—1981]

[6] 22 U.S.C. 2346c note.

[7] Supplemental Appropriations Act, 1979 (Public Law 96–38; 93 Stat. 102), provided an additional $100,000,000 for the Economic Support Fund for Turkey, "to remain available until expended".

[8] Sec. 28, which had prohibited assistance to Panama during fiscal year 1980 (unless the President determined that such assistance was in the U.S. national interest), was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President transmitted such a determination to Congress on December 28, 1979.

t. International Development Cooperation Act of 1979

Partial text of Public Law 96–53 [H.R. 3324], 93 Stat. 359, approved August 14, 1979, as amended by Public Law 96–465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2162, approved October 17, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3148, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983; and by Public Law 105–277 [Foreign Affairs Reform and Restructuring Act of 1998 (division G); H.R. 4328], 112 Stat. 2681), approved October 21, 1998

NOTE.—Except for the provisions noted below, the International Development Cooperation Act of 1979 consists of amendments to the Foreign Assistance Act of 1961, the International Development and Food Assistance Act of 1978, the International Development and Food Assistance Act of 1977, Public Law 480, Title 5 of the United States Code, and the Peace Corps Act. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development Cooperation Act of 1979".

TITLE I—DEVELOPMENT ASSISTANCE

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INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 114. (a) * * *

(b) Notwithstanding any other provision of law, funds appropriated for the fiscal year 1979 to meet the annual obligations of membership of the United States in the United Nations and its specialized agencies may be made available for the furnishing of

technical assistance by the United Nations and its specialized agencies.

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Sec. 124.[1] **Prohibition on Assistance to Panama** * * * [Repealed—1981]

ASSISTANCE TO LATIN AMERICAN AND CARIBBEAN COUNTRIES

Sec. 125.[2] It is the sense of the Congress that the United States should place greater emphasis on public and private resources for development programs in Latin America and the Caribbean which address problems common to the Western Hemisphere. It is further the sense of the Congress that provision of such assistance to Latin American and Caribbean countries, including transitional developing countries, is consistent with the purposes of part I of the Foreign Assistance Act of 1961.

INCREASED CONTRIBUTIONS FOR DEVELOPMENT ASSISTANCE

Sec. 126.[2] In recognition of the rapidly growing economic strength and ability to contribute to international development and security efforts of other nations, it is the sense of the Congress that the President should take all appropriate steps to negotiate with those nations with adequate financial resources to provide assistance to increase their contributions for development assistance through multilateral programs as well as through bilateral efforts.

TITLE II—FOOD FOR PEACE

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TITLE III—PEACE CORPS

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TITLE IV—INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

STATEMENT OF POLICY

Sec. 401.[3] As declared by Congress in the Foreign Assistance Act of 1961, a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives. The Congress reaffirms the profound humanitarian and foreign policy concerns of the United States in the economic and social progress of the developing countries and in the alleviation of the worst physical manifestations of poverty in these countries.

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[1] Sec. 124, which had prohibited assistance for Panama during fiscal year 1980 unless the President determined that such aid was in the national interest, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[2] 22 U.S.C. 2151 note.

[3] 22 U.S.C. 3501.

In furtherance of that objective, the Congress recognizes that developing countries require extensive scientific and technological capacity in order to deal effectively with their development problems, relate to the industrialized nations, and constructively participate in the shaping of a stable world order.

It is therefore in the mutual interest of the United States and the developing countries to increase scientific and technological cooperation and jointly to support long-term research on critical problems that impede development and limit the efficient use of the world's human, natural, and capital resources.

PURPOSES AND ESTABLISHMENT OF THE INSTITUTE

Sec. 402.[4] (a) To strengthen the capacity of the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries, the President is authorized to establish an Institute for Scientific and Technological Cooperation (hereafter in this title referred to as the "Institute"), which shall be subject to the foreign policy guidance of the Secretary of State.

(b) The Institute shall be guided by the policies set forth in sections 101 and 102 of the Foreign Assistance Act of 1961 and shall direct a substantial share of its resources to those objectives.

FUNCTIONS OF THE INSTITUTE

Sec. 403.[5] (a) In carrying out its purposes, the Institute shall—

(1) assist developing countries to strengthen their own scientific and technological capacity in order for them to undertake the research and experimentation necessary for development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on research relating to technologies which are labor-intensive or which do not generate additional unemployment or underemployment and with emphasis on those problems which are the greatest impediment to improvement in the lives of the majority of the poor;

(3) foster the exchange of scientists and other technological experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in scientific and technological cooperation with developing countries; and

[4] 22 U.S.C. 3502.
[5] 22 U.S.C. 3503.

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries.

(b) In carrying out the functions specified in subsection (a), the Institute shall take particular care to review all of its programs, projects, and other activities to ensure that technologies which are developed, utilized, or promoted are assessed with regard to minimizing any new problems and that participants in such programs, projects, and activities are fully aware of the need for such review with respect to any technology-related activities for which they are responsible.

(c) For purposes of carrying out the functions of the Institute, the President may utilize, in addition to authorities conferred by this title, such authority contained in the Foreign Assistance Act of 1961, the Foreign Service Act of 1980,[6] title V of the Foreign Relations Authorization Act, Fiscal Year 1979, and title IV of the International Development and Food Assistance Act of 1978, as the President deems necessary.

(d) The Institute shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social, and technological development in developing countries.

(e) The President shall prescribe appropriate procedures to assure coordination of the activities of the Institute with other activities of the United States Government in furthering the use of science and technology in the cause of development.

GENERAL AUTHORITIES

Sec. 404.[7] (a) To carry out the purposes and functions of the Institute, the President may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized by this title while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property, and services of any kind by gift, devise, bequest, grant, or otherwise in furtherance of the purposes of the Institute;

[6] This reference to the Foreign Service Act of 1980 was inserted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(11) of Public Law 96–465 (94 Stat. 2162).

[7] 22 U.S.C. 3504.

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of the business of the Institute;

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or outside the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this title;

(11) adopt, alter, and use an official seal for the Institute, which shall be judicially noticed; and

(12) take such other actions as may be necessary and incidental to carrying out the functions of the Institute.

(b) Any authority provided by this section involving the expenditures of appropriated funds shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

DIRECTOR OF THE INSTITUTE

Sec. 405.[8] (a) There shall be a Director of the Institute (hereafter in this title referred to as the "Director") who shall be the chief executive officer of the Institute. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate payable for level III of the Executive Schedule under section 5314 of title 5 of the United States Code.

(b) The President may exercise any authorities conferred upon him by this title through the Director or any other agency or officer of the United States Government as he shall direct. The Director or head of any such agency or any such officer may delegate to any of his subordinates authority to perform any of such functions.

DEPUTY DIRECTOR AND OTHER STATUTORY OFFICERS

Sec. 406.[9] (a) A Deputy Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall receive compensation at the rate payable for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

(b) The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe.

(c) The President may establish up to two additional positions in the Institute to be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

[8] 22 U.S.C. 3505.
[9] 22 U.S.C. 3506.

COUNCIL ON INTERNATIONAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Sec. 407.[10] (a) In order to further the purposes of the Institute, the President is authorized to establish a Council on International Scientific and Technological Cooperation (hereafter in this title referred to as the "Council").

(b)(1) The Council shall—

(A) advise the Director with respect to the policies, programs, planning, and procedures of the Institute;

(B) make recommendations to the Director on the use of the resources available to the Institute; and

(C) advise the Director on matters involving the activities of the Institute overseas and appropriate relationship with the private sector, within and outside the United States.

(2) The Council shall prepare an annual report setting forth the major recommendations made and advice given pursuant to paragraph (1) of this subsection.

(c) The Director shall seek the advice of the Council before making any decision with respect to the selection or termination of, or any significant change in, the areas and issues in which the Institute conducts its activities, and with respect to the transfer of specific programs and projects from any other Government agency to the Institute. The Council shall have the authority to review all new programs and initiatives before their implementation and to make recommendations with regard to the approval or disapproval of new programs and initiatives having a cost in excess of $500,000 or a duration greater than two years.

(d) The Council shall consist of up to twenty-five members appointed by the President, one of whom the President shall designate as Chairman. The members of the Council shall be appointed for terms of four years, except that the members first appointed shall be appointed for terms of one, two, three, or four years, as designated by the President at the time of their appointment, so that the terms of approximately one-fourth of the members of the Council expire in any year. The members of the Council shall be selected from among—

(1) citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, science and technology, or their interest in the scientific and technological problems of developing countries;

(2) citizens of foreign countries who by their knowledge and expertise are capable of providing advice and guidance to the Institute on the application of science and technology to the problems of developing countries, except that not more than one-third of the membership of the Council shall consist of members who are citizens of foreign countries; and

(3) officials of the United States Government, except that not to exceed five members of the Council may be appointed under this paragraph, one of whom shall be the Secretary of State or his designee.

[10] 22 U.S.C. 3507.

(e) Members of the Council who are not officials of the United States Government shall be entitled to compensation, not to exceed the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code, while in the performance of their duties under this title, and to reimbursement for expenses and per diem in lieu of subsistence while away from their homes or regular places of business in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Members of the Council who are not officials of the United States Government shall not be deemed officers, employees, or otherwise in the service or employment of the United States Government for any purpose, except that members of the Council who are United States citizens shall be deemed Government employees for the purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(f) The Council may appoint from among its members an Executive Committee, and such other committees it deems necessary, to assist it in exercising its powers and functions. The Executive Committee shall consist of seven members, one of whom shall be the Chairman of the Council and not more than three of whom shall be employees of the United States Government. The Executive Committee shall exercise such powers and functions as are delegated to it by the Council.

INSTITUTE FELLOWSHIPS

Sec. 408.[11] (a) The President is authorized to award up to twenty fellowships annually for periods up to two years, such awards to be renewable for an additional period not to exceed two years, to individuals who have demonstrated exceptional competence and ability in the fields of scientific, technological, economic, or social endeavor selected by the Institute for concentration. The awards shall be made so as to encompass a wide diversity of disciplines and backgrounds, and shall be made on the basis of criteria established by the President upon the advice of the Council. Up to ten of the awards in any year may be made to citizens of countries other than the United States. Individuals awarded fellowships shall be designated as Institute Fellows.

(b) The President may assign Institute Fellows to undertake such activities, in the United States or abroad, as will further the purposes of the Institute.

(c) The amount of the awards made pursuant to this section shall be established by the President, but shall not in any case exceed the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code. In addition, where appropriate, the President may make provisions for transportation, housing (when assigned outside country of residence), subsistence (or per diem in lieu thereof), and health care or health or accident insurance for Institute Fellows and their dependents while engaged in activities authorized by this title.

[11] 22 U.S.C. 3508.

(d) Except as provided otherwise in this section, Institute Fellows shall not be deemed employees or otherwise in the service or employment of the United States Government. Institute Fellows shall be considered employees for purposes of compensation of injuries under chapter 81 of title 5 of the United States Code and the tort claim provisions of chapter 171 of title 28 of the United States Code. In addition, Institute Fellows who are United States citizens shall be considered Government employees for purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) Alien participants in any program of the Institute, including Institute Fellows and their dependents, may be admitted to the United States, if otherwise qualified as non-immigrants under section 101(a)(15) of the Immigration and Nationality Act, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

CONFLICT OF INTEREST

Sec. 409.[12] Members of the Council and Institute Fellows shall avoid any action, in their activities with respect to the Institute, which might result in, or create the appearance of, a conflict of interest, including but not limited to—

(1) using their office or position for private gain;

(2) giving preferential treatment to any person;

(3) making recommendations or decisions relating to any activity authorized by this title in other than an impartial and independent manner;

(4) misusing Government property or official information obtained through their office or position which has not been made available to the general public; or

(5) affecting adversely the confidence of the public in the integrity of the Institute.

AUTHORIZATION OF APPROPRIATIONS

Sec. 410.[13] There are authorized to be appropriated to the President to carry out this title, in addition to funds otherwise available for such purpose, $12,000,000 for the fiscal year 1981.[14] Funds appropriated under this section are authorized to remain available until expended.

Sec. 411.[15] **Annual Report** * * * [Repealed—1983]

CONFORMING AMENDMENTS

Sec. 412. (a) Section 5314 of title 5 of the United States Code, relating to level III of the Executive Schedule, is amended by adding at the end thereof the following:

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[12] 22 U.S.C. 3509.

[13] 22 U.S.C. 3510.

[14] The authorization figure for fiscal year 1981 was added by sec. 312 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3148). The authorization for fiscal year 1980 was $23,750,000. However, these funds were never appropriated.

[15] Sec. 411, which had required an annual report to Congress regarding the operations of the Institute, was repealed by sec. 1011(a)(6) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1061).

"(70) Director, Institute for Scientific and Technological Cooperation."

(b) Section 5315 of title 5 of the United States Code, relating to level IV of the Executive Schedule, is amended by adding at the end thereof the following:

"(128) Deputy Director, Institute for Scientific and Technological Cooperation.".

(c) Section 5316 of title 5 of the United States Code, relating to level V of the Executive Schedule, is amended by adding at the end thereof the following:

"(152) Additional officers, Institute for Scientific and Technological Cooperation (2).".

Sec. 413.[16] **Establishment in International Development Cooperation Agency** * * * [Repealed—1998]

EXPIRATION OF AUTHORITIES

Sec. 414.[17] The authorities contained in this title shall expire on September 30, 1984.

TITLE V—MISCELLANEOUS PROVISIONS

EARMARKING FOR LEBANON OF UNOBLIGATED BALANCES IN THE MIDDLE EAST SPECIAL REQUIREMENTS FUND

Sec. 501. Of the funds continued available for the fiscal year 1979 for the Middle East Special Requirements Fund by section 103 of the Foreign Assistance and Related Programs Appropriations Act, 1979, which are unobligated on the date of enactment of this Act, $5,000,000 shall be available only for Lebanon and may hereafter be continued available only for such country.

MILITARY ASSISTANCE TO SUDAN

Sec. 502.[18] In addition to the amount authorized to be appropriated for grant military assistance for the fiscal year 1980 by section 504(a)(1) of the Foreign Assistance Act of 1961, there is authorized to be appropriated to carry out the purposes of chapter 2 of part II of that Act for the fiscal year 1980 $1,700,000. Not more than $1,700,000 of the funds available to carry out that chapter for the fiscal year 1980 may be allocated and made available for assistance for Sudan. For purposes of the last sentence of section 504(a)(1) and for purposes of section 515(b)(1) of the Foreign Assistance Act of 1961, this section shall be deemed to be part of such section 504(a)(1).

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[16] Formerly at 22 U.S.C. 3512. The International Development Cooperation Agency was established by sec. 1–101 of Executive Order 12163, effective Oct. 1, 1979. That section, and the Reorganization Plan Numbered 2 of 1979 referred to in former sec. 413, were repealed by sec. 1422(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681). Sec. 413 formerly provided as follows:

"Sec. 413. Upon the establishment of the United States International Development Cooperation Agency pursuant to Reorganization Plan Numbered 2 of 1979, the Institute shall be established within such Agency.".

[17] 22 U.S.C. 3513.

[18] 22 U.S.C. 2312 note.

HUMAN RIGHTS REPORTS

Sec. 504. (a) * * *
(b)[19] * * * [Repealed—1981]

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Sec. 506.[20] **Prohibition on Assistance to Vietnam, Cambodia, and Cuba** * * * [Repealed—1981]

NONPROLIFERATION OF NUCLEAR WEAPONS

Sec. 507.[21] (a) In accordance with the Nuclear Non-Proliferation Act of 1978, the Congress strongly urges all nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to that treaty.
(b)[22] * * * [Repealed—1981]

ACCELERATED LOAN REPAYMENTS

Sec. 508. (a) * * *
(b)[23] * * * [Repealed—1981]

REFUGEE CRISIS IN SOUTHEAST ASIA

Sec. 509. (a)(1) The refugee crisis in Indochina is unfolding as one of the great human tragedies of our time.
(2) At least seven hundred and fifty thousand human beings have fled Vietnam, Kampuchea, and Laos since the spring of 1975.
(3) Approximately three hundred thousand human beings currently remain in refugee camps throughout Southeast Asia.
(4) As many as two hundred and fifty thousand human beings may have perished in their attempts to reach freedom and many thousands more face death should the present situation continue.
(5) The international borders are closing to the refugees fleeing from Indochina.
(6) The international community has failed to respond adequately to the crisis, despite the existence of adequate mechanisms to respond.
(b) It is the sense of the Congress that the President should continue to support the efforts of the Secretary General of the United Nations to use appropriate fora to deal with the refugee crisis in Southeast Asia.

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[19] Subsec. (b), which had required a report from the Secretary of State on the impact on U.S. foreign relations of the human rights reports required by the Foreign Assistance Act of 1961, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The Secretary of State submitted this report to Congress on November 15, 1979.

[20] Sec. 506, which had prohibited aid to Vietnam, Cambodia, and Cuba during fiscal year 1980, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[21] 22 U.S.C. 3201 note.

[22] Subsec. (b), which had required a report from the Secretary of State specifying what efforts the Department of State had made to encourage nations which are not parties to the Treaty on Nonproliferation of Nuclear Weapons to become parties to such treaty, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The Secretary of State submitted this report to Congress on November 19, 1979.

[23] Subsec. (b), which had required that the annual reports on foreign assistance submitted to Congress in 1980 and 1981 describe the efforts made to negotiate accelerated loan repayments, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

(c)[24] * * * [Repealed—1981]

CERTAIN TRAVEL EXPENSES

Sec. 510. Section 5924(4)(B) of title 5, United States Code,[25] is amended by striking out "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or" and inserting in lieu thereof "(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, or of the Agency for International Development, or (ii)".

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EFFECTIVE DATES

Sec. 512. (a) Except as provided in subsection (b) of this section and in section 503(b), this Act shall take effect on October 1, 1979.

(b) Sections 114(b), 123, 501, and 509 of this Act shall take effect on the date of enactment of this Act.

[24] Subsec. (c), which had required periodic reports from the President on the prospects for permanent resettlement of Indochinese refugees so that no disruption of the economy of a host country would result, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[25] Sec. 5924 of title 5, U.S.C., provides for certain costs of living allowances for U.S. Government employees living in a foreign area.

u. International Development and Food Assistance Act of 1978

Partial text of Public Law 95–424 [H.R. 12222], 92 Stat. 937, approved October 6, 1978, as amended by Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359 at 378, approved August 14, 1979; Public Law 96–67 [S. 1019], 93 Stat. 415, approved September 21, 1979; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1978 consists of amendments to the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development and Food Assistance Act of 1978".

TITLE I—DEVELOPMENT ASSISTANCE

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INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 117.—(a) * * *
(b)(1) * * *
(2)[1] * * * [Repealed—1981]
(c) * * *
(d) * * *

[1] Par. (2), which had required a report from the Secretary of State on the progress made by the UNRWA to improve the ration distribution system for Palestine refugees, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The Secretary of State submitted this report to Congress on February 5, 1979.

(e)[2] In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President not to exceed $1,000,000 for contributions to the World Assembly on Aging to be convened under the auspices of the United Nations, except that the amount so contributed may not exceed 25 percent of the expenditures of such Assembly. Amounts appropriated under this subsection are authorized to remain available until expended.

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LOCUST PLAGUES CONTROL IN AFRICA

Sec. 120.[3] In order to assist in attempts to control locust plagues in Africa, especially in the Horn of Africa, there is authorized to be appropriated to the President, in addition to amounts otherwise authorized for disaster relief purposes, $2,000,000, which amount is authorized to remain available until expended.

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AFRICAN DEVELOPMENT FOUNDATION

Sec. 122.[4] (a) The Congress declares that the United States should place higher priority on the formulation and implementation of policies and programs to enable the people of African nations to develop their potential, fulfill their aspirations, and enjoy better, more productive lives. In furtherance of these objectives, the Congress finds that additional support is needed for community-based self-help activities in Africa and that an African Development Foundation, organized to further the purposes set forth in section 123 of the Foreign Assistance Act of 1961, can complement current United States development programs in Africa.

(b)[5] * * * [Repealed—1981]

TITLE II—FOOD FOR PEACE

Sec. 201.[6] **Effectiveness of Food Assistance in Meeting Basic Food Needs** * * * [Repealed—1981]

TITLE III—COORDINATION AND ADMINISTRATION OF THE DEVELOPMENT-RELATED PROGRAMS AND POLICIES OF THE UNITED STATES

DECLARATION OF OBJECTIVES

Sec. 301.[7] The Congress declares that the United States Government should place higher priority, in the formulation and implementation of governmental policies, on efforts to help meet the le-

[2] 22 U.S.C. 2222 note. See also sec. 302(a)(1) of the FA Act of 1961.
[3] 22 U.S.C. 2292d.
[4] 22 U.S.C. 2151u note.
[5] Subsec. (b), which had required a report from the President on proposals for an African Development Foundation, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on February 1, 1979.
[6] Sec. 201, which had required a report from the President on the effectiveness of food assistance under Public Law 480 in meeting basic human needs, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on February 23, 1979.
[7] 22 U.S.C. 2151 note.

gitimate needs of poor countries for improving the quality of the lives of their populations. The Congress also declares that greater effectiveness and efficiency of United States assistance to such countries can be achieved through improved coordination and administrative consolidation.

IMPLEMENTATION OF OBJECTIVES

Sec. 302.[7] In furtherance of the objectives set forth in section 301 the Congress directs the President to institute a strengthened system of coordination of all United States economic policies which impact on the developing countries of the world, including but not limited to policies concerning international trade, commodity agreements, investment, debt, international financial institutions, international and multilateral development agencies and programs, and concessional and grant food assistance, in addition to policies concerning United States bilateral economic development assistance.

Sec. 303.[8] **Report** * * * [Repealed—1981]

TITLE IV—UNIFIED PERSONNEL SYSTEM

ESTABLISHMENT OF A UNIFIED PERSONNEL SYSTEM

Sec. 401.[9] (a) Not later than May 1, 1979,[10] the President shall submit to the Congress, and publish in the Federal Register, regulations establishing a unified personnel system for all employees of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961. In preparing such regulations, the President shall keep the appropriate committees of the Congress fully and currently informed, and shall consult with them on a regular basis, concerning the nature of the unified personnel system to be established.

(b) The regulations submitted to the Congress pursuant to subsection (a)—

(1) may not become effective until after the end of the 90-day period beginning on the date of such submission in order to provide the appropriate committees of the Congress an opportunity to review them; and

(2) shall not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations.

(c) Regulations which take effect pursuant to this section shall have the force and effect of law and shall apply with respect to the personnel of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, notwithstanding any inconsistent provision of law unless that provision of law specifi-

[8] Sec. 303, which had required a report from the President on steps he has taken to implement this title, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on March 8, 1979.

[9] 22 U.S.C. 2385a.

[10] The due date for this report was extended from March 15, 1979, by sec. 503 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 378), effective March 15, 1979.

cally states that it supersedes regulations issued under this section.

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TITLE VI—MISCELLANEOUS PROVISIONS

REDUCTION OF AUTHORIZATION

Sec. 601.[11] The total funds authorized to be appropriated in this Act (excluding funds authorized to be appropriated to carry out section 214 of the Foreign Assistance Act of 1961) shall be reduced by 5 percent.

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA [12]

Sec. 602.[11] Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature, to the Socialist Republic of Vietnam, Cambodia, or Cuba.

Sec. 603.[13] (a)(1)[14] **Reports to Congress on Debt Relief Agreements** * * * [Repealed—1981]

(2) The Secretary of State shall transmit to such committees a copy of the text of any agreement with any foreign government which would result in any such debt relief no less than thirty days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief. The requirements of this paragraph shall not apply with respect to an agreement if a statutory requirement exists that the amount of the debt relief provided by the agreement may not exceed the amount approved for such purposes in advance in an appropriation Act.

(b) Section 4 of the Foreign Disaster Assistance Act of 1974 is repealed.

MISCELLANEOUS REPEALS

Sec. 604. Sections 302(d), 302(e), 302(f), 302(g), 302(h), 304, 494A, 495A, 618, 619, 637(a), 649, 651, 655, 656, 658, and 665, and chapters 6 and 7 of part I, of the Foreign Assistance Act of 1961 are repealed.

EFFECTIVE DATE

Sec. 605. The amendments made by this Act shall take effect on October 1, 1978.

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[11] 22 U.S.C. 2151 note.

[12] Uganda was struck from the section heading and from the list of countries in sec. 602 by Public Law 96–67 (93 Stat. 415).

[13] 22 U.S.C. 2395a. See also sec. 501 of Miscellaneous Appropriations (H.R. 3425 enacted by reference in sec. 1000(a)(5) of Public Law 106–113; 113 Stat. 1535), which stated actions to provide international debt relief.

[14] Par. (1), which had required that the Secretary of State keep several congressional committees informed of negotiations with foreign governments with respect to any cancellation, renegotiations, rescheduling, compromise, or other form of debt relief for any debt owed to the United States, was repealed by sec. 734(a)(5) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560.).

v. International Security Assistance Act of 1978

Partial text of Public Law 95–384 [S. 3075], 92 Stat. 730, approved September 26, 1978, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1978 consists of amendments to the Arms Export Control Act, the Foreign Assistance Act of 1961, the Foreign Assistance Act of 1974, the International Security Assistance Act of 1977, the International Security Assistance and Arms Export Control Act of 1976, the Mutual Security Act of 1954, the Foreign Military Sales Act Amendments, 1971, the Export Administration Act of 1969, and the Emergency Security Assistance Act of 1973.

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security Assistance Act of 1978".

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UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN

Sec. 13.[1] (a) Section 620(x) of the Foreign Assistance Act of 1961 shall be of no further force and effect upon the President's determination and certification to the Congress[2] that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization and that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from

[1] 22 U.S.C. 2370 note.
[2] Such determination and certification, dated September 26, 1978, was submitted to the Congress.

Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement.

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ARMS TRANSFER POLICY

Sec. 15. (a) * * *
(b)[3] * * * [Repealed—1981]

* * * * * * *

SPECIAL SECURITY ASSISTANCE PROGRAM FOR THE MODERNIZATION OF THE ARMED FORCES OF THE REPUBLIC OF KOREA

Sec. 23.[4] (a)(1) The President is authorized until December 31, 1982—

(A) to transfer, without reimbursement, to the Republic of Korea, only in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act, except that no funds heretofore or hereafter appropriated under that Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

(b) In order that transfers of defense articles under subsection (a) will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers, to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capability of defense articles withdrawn from Korea in any case where he determines that—

(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

[3] Subsec. (b), which had required a report from the President concerning multilateral discussions with other arms suppliers on the issue of restraining the flow of conventional arms to developing countries, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on December 28, 1979.

[4] 22 U.S.C. 2428b.

(3) a comparable defense capability could be provided by less advance defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

The President shall report to the Congress each determination made under this subsection prior to the transfer of the defense articles described in such determination.

(c) The President shall transmit to the Congress, together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year 1983, a report describing the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea under this section.

(d)[5] * * * [Repealed—1981]

(e)(1) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

(2)[6] * * * [Repealed—1981]

Sec. 24.[7] **United States Relations With the Soviet Union** * * * [Repealed—1993]

Sec. 25.[8] **Report on Review of Arms Sales Controls on Non-Lethal Items** * * * [Repealed—1981]

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

Sec. 26.[7] (a) The Congress finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and

(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any

[5] Subsec. (d), which had required a report from the President 120 days prior to each phase of troop withdrawal from Korea regarding the viability of such withdrawal, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[6] Par. (2), which had required a report from the President prior to any future withdrawals of U.S. ground forces from Korea concerning a number of issues which might be affected by the withdrawal, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[7] Formerly at 22 U.S.C. 2151 note. Sec. 706 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) repealed sec. 24.

Subsec. (c), which had required a report from the President concerning his review of U.S. policy toward the Soviet Union as outlined in subsec. (b), was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report on January 4, 1979.

[8] Sec. 25, which had required a report from the President on a review of arms sales control on non-lethal items, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on January 26, 1979.

proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.[9]

Sec. 27.[10] **Rhodesia Embargo** * * * [Repealed—1981]

NEGOTIATIONS BETWEEN ISRAEL AND EGYPT

Sec. 28.[11] (a) The Congress finds that—

(1) a lasting settlement of the Arab-Israel conflict is vital to United States national interests as well as to the interests of the countries of the region;

(2) support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy;

(3) direct, face-to-face negotiations between Israel and Egypt without preconditions is a historic opening for peace, and the support of such negotiations by other moderate Arab countries, can best promote a peace settlement based on mutual concessions and accommodations;

(4) the establishment of secure, recognized, and defensible borders between Israel and its neighbors will discourage hostilities; and

(5) full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications, and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab countries to enter into negotiations leading to peace treaties with Israel.

(c) It is further the sense of the Congress that the United States should be responsive to Israel's economic needs and defense requirements, including the provision of additional advanced aircraft, in order to maintain Israel's defense capability which is essential to peace.

* * * * * * *

SAVINGS PROVISION

Sec. 30.[12] Enactment of this Act shall not affect the authorizations of appropriations and limitations of authority applicable to the fiscal year 1978 which are contained in provisions of law amended by this Act (other than sections 31 (a), (b), and (d) of the Arms Export Control Act).

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[9] Pursuant to article X of the treaty, the State Department on December 23, 1978, delivered notice, effective January 1, 1979, that the United States was terminating the treaty. Under article X, the treaty remained in force until January 1, 1980.

[10] Sec. 27 was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). It formerly read as follows:

"Sec. 27. In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after December 31, 1978, provided that the President determines that—

"(1) the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues; and

"(2) a government has been installed, chosen by free elections in which all political and population groups have been allowed to participate freely, with observation by impartial, internationally-recognized observers."

[11] 22 U.S.C. 2346a note.

[12] 22 U.S.C. 1754 note.

w. International Development and Food Assistance Act of 1977

Partial text of Public Law 95–88 [H.R. 6714], 91 Stat. 533, approved August 3, 1977, as amended by Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359 at 366, approved August 14, 1979; Public Law 96–465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1977 consists of amendments to the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal year 1978, to amend the Agricultural Trade Development and Assistance Act of 1954 to make certain changes in the authorities of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development and Food Assistance Act of 1977."

TITLE I—INTERNATIONAL DEVELOPMENT ASSISTANCE

* * * * * * *

INSPECTOR GENERAL, FOREIGN ASSISTANCE

Sec. 124. (a)(1) * * *

(2)[1] * * * [Repealed—1981]

(b) Section 5315 of title 5, United States Code, is amended by repealing paragraphs (52) and (53).

(c) The amendments made by this section shall take effect on July 1, 1978.

* * * * * * *

[1] Par. (2), which concerned the duties and responsibilities of the Inspector General, Foreign Service, was repealed by sec. 2205(11) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2162).

FUTURE UNITED STATES DEVELOPMENT ASSISTANCE

Sec. 131.[2] It is the sense of the Congress that the United States should increase substantially its assistance for self-help development among the world's poorest people. Such assistance should be provided in accordance with the general policies and principles of chapter 1 of part I of the Foreign Assistance Act of 1961, with particular emphasis on encouraging and supporting more equitable patterns of economic growth, especially in the poorest countries, and should be coordinated with similar expanded efforts by international organizations, donor nations, and the recipient countries themselves.

LIMITATION ON USE OF FUNDS; MISSING IN ACTION IN VIETNAM

Sec. 132. (a)[3] * * * [Repealed—1981]

(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

PLAN FOR INCREASED MINORITY BUSINESS PARTICIPATION IN FOREIGN ASSISTANCE ACTIVITIES

Sec. 133.[2] (a) The Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall prepare and transmit to the Congress, not later than 30 days after the date of enactment of this Act, a detailed plan for the establishment of a section on minority business within such agency.

(b) Such plan shall include, but shall not be limited to—

(1) a description of where the section on minority business will be located in such agency's organizational structure and what relevant lines of authority will be established;

(2) a listing of the specific responsibilities that will be assigned to the section on minority business to enable it to increase, in a rational and effective manner, participation of minority business enterprises in activities funded by such agency;

(3) a design for a time-phase system for bringing about expanded minority business enterprise participation, including specific recommendations for percentage allocations of contracts by such agency to minority business enterprises;

(4) a proposed reporting system that will permit objective measuring of the degree of participation of minority business enterprises in comparison to the total activities funded by such agency;

(5) a detailed projection of the administrative budgetary impact of the establishment of the section on minority business; and

(6) a detailed set of objective criteria upon which determinations will be made as to the qualifications of minority business enterprises to receive contracts funded by such agency.

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[2] 22 U.S.C. 2151 note.

[3] Subsec. (a), which had prohibited assistance to or reparations for Cambodia, Vietnam, Laos, or Cuba for fiscal year 1978, was repealed by sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

(c)[4] (1) Upon the enactment of the International Development Cooperation Act of 1979, the section on minority business established pursuant to subsection (a) shall be redesignated as the Minority Resource Center (hereafter in this section referred to as the "Center") which shall be responsible for increasing the participation of economically and socially disadvantaged business enterprises in contract, procurement, grant, and research and development activities funded by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 (hereafter in this section referred to as the "agency").

(2) The Center shall—

(A) establish, maintain, and disseminate information to, and otherwise serve as an information clearinghouse for, economically and socially disadvantaged business enterprises regarding business opportunities in development assistance programs funded by the agency;

(B) design and conduct programs to encourage, promote, and assist economically and socially disadvantaged business enterprises to secure direct contracts, host country contracts, operation expatriate contracts, indefinite quantity contracts, subcontracts, projects, grants, and research and development contracts in order for such enterprises to participate in such development assistance programs;

(C) conduct market research, planning, economic and business analyses, and feasibility studies to identify business opportunities in such development assistance programs;

(D) develop support mechanisms which will enable socially and economically disadvantaged businesses to take advantage of business opportunities in such development assistance programs; and

(E) enter into such contracts (to such extent or in such amounts as are provided in appropriation Acts), cooperative agreements, or other transactions as may be necessary in the conduct of its functions under this section.

(3) The Administrator of the agency and the Secretary of State shall provide the Center with such relevant information, including procurement schedules, bids, and specifications with respect to development assistance programs funded by the agency, as may be requested by the Center in connection with the performance of its functions under this section.

(4) There shall be a Director of the Center who shall be the chief executive officer of the Center. The Director shall be appointed by the Administrator of the agency.

(5)(A) For the purposes of this section, the term "economically and socially disadvantaged enterprise" means a business—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

[4] Subsec. (c) was added by sec. 123 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 366), effective August 16, 1979.

(ii) whose management and daily business operations are controlled by one or more such individuals.

(B) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(C) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administrator of the agency shall consider, but not be limited to, the assets and net worth of the socially disadvantaged individual.

(6)[5] * * * [Repealed—1981]

(7) Of the funds available to the agency for operating expenses, up to $950,000 for fiscal year 1980 may be allocated to the Center to carry out its functions under this section.

(8) If the Administrator of the agency determines that such a consolidation would significantly further the purposes of this section and would eliminate unnecessary duplication of activity, the Administrator may consolidate the Center with the Office of Small and Disadvantaged Business Utilization established in the agency by section 15(k) of the Small Business Act. Any such consolidation shall ensure that all the functions specified in paragraph (2) of this subsection continue to be carried out. Before implementing any such consolidation, the Administrator shall submit to the Congress a detailed report setting forth the reasons for the proposed consolidation.

TITLE II—FOOD FOR PEACE

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Sec. 214.[6] **Study of Payments of Ocean Freight Differentials** * * * [Repealed—1981]

EFFECTIVE DATE

Sec. 215. The provisions of this title shall become effective October 1, 1977.

[5] Par. (6), which had required an annual report concerning the activities of the Minority Resource Center, was repealed by sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). This same information is now required by sec. 634(a)(11) of the Foreign Assistance Act of 1961.

[6] Sec. 214, which had required a report from the President on the payments of ocean freight differentials, was repealed by sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

x. International Security Assistance Act of 1977

Partial text of Public Law 95–92 [H.R. 6684], 91 Stat. 614, approved August 4, 1977, as amended by Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1977 consists of amendments to the Arms Export Control Act and the Foreign Assistance Act of 1961.

AN ACT To amend the Foreign Assistance Act of 1961 to authorize international security assistance programs for fiscal year 1978, to amend the Arms Export Control Act to make certain changes in the authorities of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1.[1] This Act may be cited as the "International Security Assistance Act of 1977".

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SECURITY SUPPORTING ASSISTANCE PROGRAM FOR EGYPT

Sec. 9.[2] It is the sense of the Congress that the security supporting assistance program for Egypt plays an important role in the Middle East peace effort and that the Executive branch should concentrate its efforts in order to make the program a success.

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Sec. 14.[3] **Prohibition on Assistance for Nuclear Powerplants** * * * [Repealed—1981]

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[1] 22 U.S.C. 2151 note.

[2] 22 U.S.C. 2346 note. Sec. 29(c)(2) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747) repealed subsecs. (b) through (e) of sec. 9. These subsections concerned the creation and activities of a Special Interagency Task Force to review the U.S. security supporting assistance program for Egypt.

[3] Sec. 14, which had prohibited the use of funds made available under the Foreign Assistance Act of 1961 during fiscal year 1978 to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the U.S. and any other country, was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

FISCAL YEAR 1977 AUTHORIZATIONS AND LIMITATIONS

Sec. 21.[4] Authorizations of appropriations and limitations of authority applicable to the fiscal year 1977 contained in provisions of law amended by this Act shall not be affected by enactment of this Act.

Sec. 22.[5] **Assistance and Sales to Greece and Turkey** * * * [Repealed—1981]

Sec. 23.[6] **Arms Sales and United States Defense Readiness** * * * [Repealed—1978]

STUDY OF TECHNOLOGY TRANSFERS

Sec. 24.[7] (a) The President shall conduct a comprehensive study of the policies and practices of the United States Government with respect to the national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed. Such study shall examine—

(1) the nature of technology transfer;

(2) the effect of technology transfers on United States technological superiority;

(3) the rationale for transfers of technology from the United States to foreign countries;

(4) the benefits and risks of such transfers;

(5) trends in technology transfers by the United States and other countries;

(6) the need for controls on transfers of technology, including controls on the use of transferred technology, the effectiveness of existing end-use controls, and possible unilateral sanctions if end-use restrictions are violated;

(7) the effectiveness of existing organizational arrangements in the Executive branch in regulating technology transfers from the United States;

(8) the adequacy of existing legislation and regulations with respect to transfers of technology from the United States; and

(9) the possibilities for international agreements with respect to transfers of technology.

(b) In conducting the study required by subsection (a), the President shall utilize the resources and expertise of the Arms Control and Disarmament Agency, the Department of State, the Department of Defense, the Department of Commerce, the National Science Foundation, the Office of Science and Technology Policy, and such other entities within the Executive branch as he deems necessary.

(c)[8] * * * [Repealed—1981]

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[4] 22 U.S.C. 2151 note.

[5] Sec. 22, which set out certain conditions for assistance and sales to Greece and Turkey during fiscal year 1978, was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[6] Sec. 23, which had required a report to Congress on the impact of U.S. foreign arms sales and transfers on U.S. defense readiness and national security, was repealed by sec. 29(c)(2) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[7] 22 U.S.C. 2751 note.

[8] Subsec. (c), which had required a report from the President regarding the findings made and conclusions reached as a result of the study conducted pursuant to subsec. (a), was repealed by

Continued

Sec. 25.[9] **Policy on Zaire** * * * [Repealed—1981]

POLICY STATEMENT ON UNITED STATES ARMS SALES TO ISRAEL

Sec. 26.[7] In accordance with the historic special relationship between the United States and Israel and previous agreements and continuing understandings, the Congress joins with the President in reaffirming that a policy of restraint in United States arms transfers, including arms sales ceilings, shall not impair Israel's deterrent strength or undermine the military balance in the Middle East.

REVIEW OF ARMS SALES CONTROLS ON NON-LETHAL ITEMS

Sec. 27.[7] The President shall undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and non-lethal products and establishing the appropriate level of control for each category.

REPUBLIC OF KOREA

Sec. 28. (a)(1) It is the sense of the Congress that the President should take all effective measures to assure that the Republic of Korea is cooperating fully with the investigation (including any resulting prosecutions) being conducted by the Department of Justice with respect to allegations of improper activity in the United States by agents of the Republic of Korea.

(2)[10] * * * [Repealed—1981]

(b) It is the further sense of the Congress that the President should take all effective measures to assure that the Republic of Korea is cooperating fully with the investigations being conducted by committees of Congress.

PIASTER CONVERSION

Sec. 29.[11] No provision of law shall be construed to prevent payment of claims of former and present Vietnamese employees of the Agency for International Development, who presently reside in the United States, for the conversion of Vietnamese piasters to dollars because such conversion cannot take place in the territory of the former Republic of Vietnam or because the official with whom such piasters were deposited was not a United States disbursing officer.

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sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on August 21, 1978.

[9] Sec. 25, which had prohibited U.S. aid for Zaire during fiscal year 1978 supporting any military or paramilitary operations in Zaire (unless the President determined that such assistance would be in the U.S. national security interests), was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[10] Par. (2), which required a report every 90 days from the President regarding the extent to which Korea was cooperating with the investigation being conducted by the Department of Justice, was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[11] 22 U.S.C. 2431 note.

y. International Security Assistance and Arms Export Control Act of 1976

Partial text of Public Law 94–329 [H.R. 13680], 90 Stat. 729, approved June 30, 1976, as amended by Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 735, 737, and 747, approved September 26, 1978; Public Law 96–533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3141, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1554 and 1560, approved December 29, 1981; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Except for the provisions noted below, the International Security Assistance and Arms Export Control Act of 1976 consists of amendments to the Foreign Assistance Act of 1961, Foreign Assistance Act of 1973, the Foreign Military Sales Act, the Foreign Military Sales Act Amendments, 1971, and the Mutual Security Act of 1954.

AN ACT To amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Security Assistance and Arms Export Control Act of 1976".

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INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 106. (a) * * *

(b) * * *

(c)[1] Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

(d)[2] Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable to

[1] 22 U.S.C. 2321a note.
[2] 22 U.S.C. 2347 note.

those purposes or in accordance with the provisions of law currently applicable to those purposes.

* * * * * * *

ARMS SALES POLICY

Sec. 201. (a) * * *

(b) Any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act.

Sec. 202. (a) * * *

(b)[3] * * * [Repealed—1978]

* * * * * * *

CONTROL OF LICENSES WITH RESPECT TO ARMS EXPORTS AND IMPORTS

Sec. 212. (a) * * *

(b)(1) Section 414 of the Mutual Security Act of 1954 is repealed. Any reference to such section shall be deemed to be a reference to section 38 of the Arms Export Control Act and any reference to licenses issued under section 38 of the Arms Export Control Act shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954.

(2) All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under section 414 of the Mutual Security Act of 1954 shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

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Sec. 217.[4] **Report On Sales of Excess Defense Articles** * * * [Repealed—1978]

Sec. 218.[4] **Study of the Effects of Arms Export Control Provisions** * * * [Repealed—1978]

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Sec. 404.[5] **Limitation on Certain Assistance to and Activities in Angola** * * * [Repealed—1980]

Sec. 405.[6] **Soviet Intervention in Angola** * * * [Repealed—1993]

Sec. 406.[7] **Limitations on Economic Assistance, Military Assistance, Sales, and Sales Credits for Chile** * * * [Repealed—1981]

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[3] Sec. 202. (b), which had required a study by the President regarding U.S. arms sales policies and practices, was repealed by sec. 29(c)(1)(A) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[4] Secs. 217 and 218 were repealed by sec. 29(c)(1) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[5] Sec. 404 was repealed by sec. 118(e) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3141).

[6] Sec. 703 of the FRIENDSHIP Act [Public Law 103–199; 107 Stat. 2317) repealed sec. 405.

[7] Sec. 406, which had prohibited military assistance, sales, the issuance of export licenses under the Arms Export Control Act, Economic Support Fund aid, and peacekeeping programs for Chile and had placed conditions and limitations on economic assistance for Chile during the transition quarter and fiscal year 1977, was repealed by sec. 726(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1554). While sec. 726 lifted this prohibition, it also imposed certain conditions and restrictions on future U.S. aid to Chile.

CONTROL OF MILITARY FORCES IN THE INDIAN OCEAN

Sec. 407.[8] It is the sense of Congress that the President should undertake to enter into negotiations with the Soviet Union intended to achieve an agreement limiting the deployment of naval, air, and land forces of the Soviet Union and the United States in the Indian Ocean and littoral countries. Such negotiations should be convened as soon as possible and should consider, among other things, limitations with respect to—

(1) the establishment or use of facilities for naval, air, or land forces in the Indian Ocean and littoral countries;

(2) the number of naval vessels which may be deployed in the Indian Ocean, or the number of "shipdays" allowed therein; and

(3) the type and number of military forces and facilities allowed therein.

(b)[9] * * * [Repealed—1978]

UNITED STATES CITIZENS IMPRISONED IN MEXICO

Sec. 408.[10] (a) The Congress, while sharing the concern of the President over the urgent need for international cooperation to restrict traffic in dangerous drugs, is convinced that such efforts must be consistent with respect for fundamental human rights. The Congress, therefore, calls upon the President to take steps to insure that United States efforts to secure stringent international law enforcement measures are combined with efforts to secure fair and humane treatment for citizens of all countries.

(b) The Congress requests that the President communicate directly to the President and Government of the Republic of Mexico, a nation with which we have friendly and cooperative relations, the continuing desire of the United States for such relations between our two countries and the concern of the United States over treatment of United States citizens arrested in Mexico.

(2)[11] * * * [Repealed—1978]

EMERGENCY FOOD NEEDS OF PORTUGAL

Sec. 409.[12] It is the sense of the Congress that the President should undertake immediately an evaluation of the emergency food needs of Portugal. It is further the sense of the Congress that the President should take timely action to alleviate such emergency by providing Portugal with food commodities under the provisions of pertinent statutes.

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[8] 22 U.S.C. 2151 note.

[9] Subsec. (b), which had required a report from the President concerning the steps he had taken to carry out the provisions of section 407, was repealed by sec. 29(c)(1)(D) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[10] 22 U.S.C. 2291 note.

[11] Par. (2), which had required periodic reports from the Secretary of State concerning progress toward full respect for human and legal rights of U.S. citizens detained in Mexico, was repealed by sec. 29(b) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[12] 22 U.S.C. 2293 note.

STRIFE IN LEBANON

Sec. 410.[13] It is the sense of the Congress that the situation in Lebanon, a nation traditionally friendly to the United States, poses a danger to peace in the Middle East. The Congress deplores the armed civil strife and continuing erosion of national institutions which threaten to destroy the political and economic fabric of Lebanon with such tragic impact on all its people. The Congress views with grave concern any outside efforts to exploit the current strife with the purpose of transforming Lebanon into a radical state in confrontation with Israel. The Congress requests that the President use his good offices to secure an end to the civil strife and national discord in Lebanon and to preserve the traditional friendly attitude of Lebanon toward the United States.

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KOREA

Sec. 412.[14] The Congress views with distress the erosion of important civil liberties in the Republic of Korea and requests that the President communicate this concern in forceful terms to the Government of the Republic of Korea within sixty days after enactment.

REPEAL OF INDOCHINA ASSISTANCE

Sec. 413. (a) Part V of the Foreign Assistance Act of 1961 and sections 34, 35, 36, 37, 38, 39, and 40 of the Foreign Assistance Act of 1974 are repealed. All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

(b) Subject to the availability of appropriations therefore, the President is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract which had been funded or approved for funding by the Agency for International Development prior to June 30, 1975, for financing with funds made available under the Foreign Assistance Act of 1961 or the Foreign Assistance Act of 1974, or any equitable claim based upon a letter of intent issued prior to April 30, 1975, in which the Agency had expressed its intention to finance a transaction subject to the availability of funds, between the former Governments of Vietnam or Cambodia (including any of their agencies) or the Government of Laos (or any of its agencies) and any person and to apply with respect to any such contract the authorities of the Foreign Assistance Act of 1961.

(c) Funds made available for the purposes of part V of the Foreign Assistance Act of 1961 and of section 36 of the Foreign Assistance Act of 1974 (including amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200), as having been obligated against appropriations heretofore made)

[13] 22 U.S.C. 2441 note.
[14] 22 U.S.C. 2428 note.

are authorized to be appropriated, and thereafter, to remain available until expended, to meet necessary expenses arising from the actions authorized by subsection (b) of this section and such funds are authorized to remain available until expended to meet necessary expenses arising from the termination of assistance programs authorized by such part and such section 36, which expenses may include but need not be limited to the settlement of claims and associated personnel costs

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INTERIM QUARTER AUTHORIZATIONS

Sec. 506.[15] (a) Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976, shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for the fiscal year 1976 and in accordance with the authorities applicable to operations and activities authorized under this Act or such other law, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

(b) The aggregate total of credits, including participations in credits, extended pursuant to the Arms Export Control Act and of the principal amount of loans guaranteed pursuant to section 24(a) of such Act during the period beginning July 1, 1976, and ending September 30, 1976, may not exceed an amount equal to one-fourth of the amount authorized by section 31(b) of such Act to be extended and guaranteed for the fiscal year 1976.

Sec. 507.[16] **Base Agreements With Spain, Greece, and Turkey** * * * [Repealed—1981]

TITLE VI—MISCELLANEOUS PROVISIONS

EXPEDITED PROCEDURE IN THE SENATE

Sec. 601. (a)(1) The provisions of subsection (b) of this section shall apply with respect to the consideration in the Senate of any resolution required by law to be considered in accordance with such provisions.

(2) Any such law shall—

(A) state whether the term "resolution" as used in subsection (b) of this section, means, for the purposes of such law—

(i) a joint resolution; or

(ii) a resolution of either House of Congress;

(iii) a concurrent resolution; and

(B) specify the certification to which such resolution shall apply.

(b)(1) For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine

[15] 22 U.S.C. 2162 note.

[16] Sec. 507, which had authorized the appropriation of "such sums as may be necessary for the fiscal year 1977" to carry out base agreements with Spain, Greece, and Turkey, was repealed by sec. 734(a)(14) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (a)(1) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

PROCUREMENTS FROM SMALL BUSINESSES

Sec. 602.[17] In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purpose of carrying out this section.[18]

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USE OF PERSONNEL

Sec. 605.[19] (a) Nothing in this Act is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act and the Foreign Assistance Act of 1961.

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EXTORTION AND ILLEGAL PAYMENTS

Sec. 607.[20] Within 60 days after receiving information which substantiates that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

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[17] 22 U.S.C. 2352 note.

[18] The responsibilities vested to the Administrator of AID under this section were transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The Reorganization Plan No. 2 or 1979, however, ceased to be in effect pursuant to sec. 1422(a)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681).

[19] 22 U.S.C. 2751 note.

[20] 22 U.S.C. 2394a.

EXTENSION OF AIRPORT AT PINECREEK, MINNESOTA

Sec. 608. The consent of Congress is hereby granted for the State of Minnesota or a subdivision or instrumentality thereof to enter into an agreement with the Government of Canada, a Canadian Province, or a subdivision or instrumentality of either, providing for the extension of the Pinecreek Airport at Pinecreek, Minnesota, into the Province of Manitoba, Canada, and the operation of the airport by a joint Canadian-American airport authority. The effectiveness of such agreement shall be conditioned on its approval by the Secretary of State.

z. International Development and Food Assistance Act of 1975

Partial text of Public Law 94–161 [H.R. 9005], 89 Stat. 849, approved December 20, 1975, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1975 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Assistance Act of 1974, and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Development and Food Assistance Act of 1975".

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Sec. 213.[1] **Report Regarding Implementation of Recommendations of World Food Conference** * * * [Repealed—1981]

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LIMITATION ON ASSISTANCE TO CHILE

Sec. 320. Notwithstanding any other provision of law, the total amount of economic assistance (including but not limited to housing guaranties and sales under title I of the Agricultural Trade Development and Assistance Act of 1954) that may be made available to Chile may not exceed $90,000,000 during the fiscal year 1976.

SETTLEMENT OF DEBT OWED THE UNITED STATES

Sec. 321.[2] No debt owed to the United States by any foreign country with respect to the payment of any loan made under any

[1] Sec. 213, which had required a report from the President on steps he had taken to carry out the recommendations of the World Food Conference, was repealed by sec. 734(a)(7) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on November 1, 1976.

[2] 22 U.S.C. 2220a note.

program funded under this Act may be settled in an amount less than the full amount of such debt unless the Congress by concurrent resolution approves of such settlement.

PARTICIPATION BY OTHER COUNTRIES IN PROVIDING ASSISTANCE TO ISRAEL OR EGYPT

Sec. 322. It is the sense of the Senate that the President should attempt to negotiate an equitable share of participation by the countries of Western Europe, Japan, and the United Nations in providing assistance to Israel or Egypt.

aa. Foreign Assistance Act of 1974

Partial text of Public Law 93–559 [S. 3394], 88 Stat. 1795, approved December 30, 1974, as amended by Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729 at 761, approved June 30, 1976; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the Foreign Assistance Act of 1974 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and the 1971 Act to amend the FMS Act.

AN ACT To amend the Foreign Assistance Act of 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1974".

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Sec. 3.[1] **Ceiling on Fertilizers to South Vietnam** * * * [Repealed—1981]

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Sec. 17.[2] **Review of Military Assistance Program** * * * [Repealed—1978]

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Sec. 25.[3] **Limitation Upon Assistance to or for Chile** * * * [Repealed—1981]

Sec. 26.[4] **Limitation on Military Assistance and Excess Defense Articles to Korea** * * * [Repealed—1981]

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[1] Sec. 3, which had prohibited the use of funds during fiscal year 1975 to procure agricultural fertilizers for South Vietnam and set a ceiling for the procurement of such fertilizers in future years for South Vietnam, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[2] Sec. 17 was repealed by sec. 29(c)(4) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[3] Sec. 25, which had limited assistance to Chile during fiscal year 1975 to $25,000,000 (which could not include military aid or security supporting assistance), was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[4] Sec. 26, which had set a ceiling of $145,000,000 in military assistance and $165,000,000 in excess defense articles for Korea during fiscal year 1975, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–118; 95 Stat. 1560).

Sec. 27.[5] **Limitation on Assistance for India** * * * [Repealed—1981]

FAMINE OR DISASTER RELIEF

Sec. 28.[6] (a) * * *

(b) Of the funds appropriated to carry out section 639 of the Foreign Assistance Act of 1961, during fiscal year 1975 not less than $25,000,000 shall be made available to Cyprus for the purposes of such section 639.

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Secs. 34–40.[7] * * * [Repealed—1976]

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Sec. 43.[8] * * * [Repealed—1981]

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GORGAS MEMORIAL INSTITUTE

Sec. 47. The first section of the Act entitled "An Act to authorize a permanent annual appropriation for the maintenance and operation of the Gorgas Memorial", approved May 7, 1928,[9] is amended by striking out "$500,000" and inserting "$2,000,000" in lieu thereof.

INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION IN VIETNAM

Sec. 48.[10] (a) There are authorized to be appropriated to the Department of State for fiscal year 1975 not to exceed $16,526,000 for payments by the United States to help meet expenses of the International Commission of Control and Supervision in Vietnam. Funds appropriated under this subsection are authorized to be made available for reimbursement to the Agency for International Development of amounts expended by the Agency during fiscal year 1975 as interim United States payments to help meet expenses of the International Commission of Control and Supervision.

(b) There are authorized to be appropriated to the Department of State not to exceed $11,200,000 for reimbursement to the Agency for International Development of amounts expended by the Agency for International Development to help meet expenses of the International Commission on Control and Supervision in fiscal year 1974.

(c) Reimbursements received by the Agency for International Development under this section may be credited to applicable appro-

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[5] Sec. 27, which had set a limit of $50,000,000 in economic and military assistance for India during fiscal year 1975, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113 95 Stat. 1560).

[6] 22 U.S.C. 2399 note.

[7] Secs. 34, 35, 36, 37, 38, 39, and 40, all relating to U.S. Policy in Indochina, were repealed by sec. 413(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 761).

[8] Sec. 43, which had prohibited the use of funds authorized by this Act from supporting the construction, operation, maintenance, or the supply of fuel for any nuclear powerplant in Israel or Egypt, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[9] 22 U.S.C. 278.

[10] 22 U.S.C. 2431 note.

priations of the Agency and shall be available for the purposes for which such appropriations are authorized to be used during fiscal year 1975.

Sec. 49.[11] **Policy on Assistance to Africa** * * * [Repealed—1981]

POLICY ON THE INDEPENDENCE OF ANGOLA, MOZAMBIQUE, AND GUINEA-BISSAU

Sec. 50.[12] (a)(1) Congress finds that the Government of Portugal's recognition of the right to independence of the African territories of Angola, Mozambique, and Guinea-Bissau marks a significant advance toward the goal of self-determination for all the peoples of Africa, without which peace on the continent is not secure.

(2) Congress finds that progress toward independence for the Portuguese African territories will have a significant impact on the international organizations and the community of nations.

(3) Congress commends the Portuguese Government's initiatives on these fronts as evidence of a reaffirmation of that Government's support for her obligations under both the United Nations Charter and the North Atlantic Treaty Organizations.

(b) Therefore, Congress calls upon the President and the Secretary of State to take the following actions designed to make clear United States support for a peaceful and orderly transition to independence in the Portuguese African territories:

(1) An official statement should be issued of United States support for the independence of Angola, Mozambique, and Guinea-Bissau, and of our desire to have good relations with the future governments of the countries.

(2) It should be made clear to the Government of Portugal that we view the efforts toward a peaceful and just settlement of the conflict in the African territories as consistent with Portugal's obligations under the North Atlantic Treaty Organization partnership.

(3) The United States should encourage United Nations support for a peaceful transition to independence, negotiated settlement of all differences, and the protection of human rights of all citizens of the three territories.

(4) The United States should open a dialog with potential leaders of Angola, Mozambique, and Guinea-Bissau and assure them of our commitment to their genuine political and economic independence.

(5) The economic development needs of the three territories will be immense when independence is achieved. Therefore, it is urged that the United States Agency for International Development devote attention to assessing the economic situation in Angola, Mozambique, and Guinea-Bissau and be ready to cooperate with the future governments in providing the kind of assistance that will help make their independence viable. In addition, the United States Government should take the initia-

[11] Sec. 49, which had required a report from the President on action taken to provide the developing countries of Africa with an equitable share of U.S. economic assistance, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[12] 22 U.S.C. 2166 note.

tive among other donors, both bilateral and multilateral, in seeking significant contribution of development assistance for the three territories.

(6) In light of the need of Angola, Mozambique, and Guinea-Bissau for skilled and educated manpower, a priority consideration should be given to expanding current United States programs of educational assistance to the territories as a timely and substantive contribution to their independence.

(c)[13] * * * [Repealed—1981]

CONVENTIONAL ARMS TRADE

Sec. 51.[14] (a) It is the sense of the Congress that the recent growth in international transfers of conventional arms to developing nations—

(1) is a cause for grave concern for the United States and other nations in that in particular areas of the world it increases the danger of potential violence among nations, and diverts scarce world resources from more peaceful uses; and

(2) could be controlled progressively through negotiations and agreements among supplier and recipient nations.

(b) Therefore, the President is urged to propose to the Geneva Conference of the Committee on Disarmament that it consider as a high priority agenda item discussions among participating nations of that Conference for the purposes of—

(1) agreeing to workable limitations on conventional arms transfers; and

(2) establishing a mechanism through which such limitations could be effectively monitored.

(c)[15] * * * [Repealed—1981]

INVOLVEMENT OF PUERTO RICO IN THE CARIBBEAN DEVELOPMENT BANK

Sec. 52. (a) The President may transmit to the Caribbean Development Bank an instrument stating that the Commonwealth of Puerto Rico has the authority to conclude an agreement of accession with such Bank and to assume rights and obligations pursuant to such agreement. However, such agreement may only be concluded after it has been approved by the United States Secretary of State.

(b) The instrument transmitted by the President to the Caribbean Development Bank under subsection (a) shall state that the United States shall not assume any financial or other responsibility for the performance of any obligation incurred by the Commonwealth of Puerto Rico pursuant to such agreement of accession or pursuant to any other aspect of its membership or participation in such Bank.

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[13] Subsec. (c), which had required a report from the President on the implementation of the proposals outlined in subsec. (b), was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on June 4, 1975.

[14] 22 U.S.C. 2551 note.

[15] Subsec. (c), which had required a report from the President on steps he has taken to carry out this section, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report on June 30, 1975.

(c) Such agreement of accession shall provide that the Commonwealth of Puerto Rico may not receive from the Caribbean Development Bank any funds provided to the Bank by the United States.

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POLICY WITH RESPECT TO COUNTRIES MOST SERIOUSLY AFFECTED BY FOOD SHORTAGES

Sec. 55.[16] (a) The United Nations has designated thirty-two countries as "Most Seriously Affected" by the current economics crisis. These are countries without the internal food production capability or the foreign exchange availability to secure food to meet their immediate food requirements. The Congress calls upon the President and Secretary of State to take the following actions designed to mobilize appropriate resources to meet the food emergency:

(1) Review and make appropriate adjustments in the level of programming of our food and fertilizer assistance programs with the aim of increasing to the maximum extent feasible the volume of food and fertilizer available to those countries most seriously affected by current food shortages.

(2) Call upon all traditional and potential new donors of food, fertilizer, or the means financing these commodities to immediately increase their participation in efforts to address the emergency food needs of the developing world.

(3) Make available to these most seriously affected countries the maximum feasible volume of food commodities, with appropriate regard to the current domestic price and supply situations.

(4) Maintain regular and full consultation with the appropriate committees of the Congress and report to the Congress and the Nation on steps which are being taken to help meet this food emergency. In accordance with this provision, the President shall report to the Congress on a global assessment of food needs for fiscal year 1975, specifying expected food grain deficits and currently planned programming of food assistance, and steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance. Such report should reach the Congress promptly and should be supplemented quarterly for the remainder of fiscal year 1975.

(5) The Congress directs that during the fiscal year ending June 30, 1975, not more than 30 percent of concessional food aid should be allocated to countries other than those which are most seriously affected by current food shortages, unless the President demonstrates to the appropriate Committees of the Congress that use of such food assistance is solely for humanitarian food purposes.

(6) The Congress calls upon the President to proceed with the implementation of resolutions and recommendations adopted by the World Food Conference. The Congress believes that it is incumbent upon the United States to take a leading role

[16] 22 U.S.C. 2175 note.

in assisting in the development of a viable and coherent world food policy which would begin the task of alleviating widespread hunger and suffering prevalent in famine-stricken nations. The President shall report to the Congress within 120 days of enactment of this Act on the implementation of the resolutions and the extent to which the United States is participating in the implementation of resolutions adopted at the World Food Conference.

REPAYMENT OF LOANS IN DEFAULT

Sec. 56.[17] It is the sense of the Congress that any country receiving assistance under the Foreign Assistance Act of 1961 which is in default, at least 90 days prior to the date of enactment of this Act, of any payment of principal or interest due on any loan or credit received from the United States shall promptly pay all such principal and interest. It is further the sense of the Congress that the President shall promptly enter into negotiations with each such country to help effectuate the payment of such principal and interest, or to effectuate the transfer by such country to the United States of goods, services, concessions, or actions beneficial to the United States, in lieu of the payment of such principal and interest.

[17] 22 U.S.C. 2379 note.

bb. Foreign Assistance Act of 1973

Partial text of Public Law 93–189 [S. 1443], 87 Stat. 714, approved December 17, 1973; as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981; and by Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2)], 113 Stat. 1535, approved November 29, 1999

NOTE.—Except for the provisions noted below, the Foreign Assistance Act of 1973 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Military Sales Act, the 1971 Act to amend the FMS Act, and Sec. 414 of the Mutual Security Act of 1954.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1973".

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ASIAN DEVELOPMENT BANK

Sec. 28.[1] Section 17 of the Asian Development Bank Act[2] is amended by striking out "$60,000,000 for fiscal year 1972 and $40,000,000 for fiscal year 1973" and inserting in lieu thereof "$100,000,000".

Sec. 29.[3] * * * [Repealed—1974]

TERMINATION OF INDOCHINA WAR

Sec. 30.[1] No funds authorized or appropriated under this or any other law may be expended to finance military or paramilitary operations by the United States in or over Vietnam, Laos, or Cambodia.

LIMITATION ON USE OF FUNDS

Sec. 31.[1] No funds authorized or appropriated under any provision of law shall be made available for the purpose of financing directly or indirectly any military or paramilitary combat operations by foreign forces in Laos, Cambodia, North Vietnam, South Viet-

[1] 22 U.S.C. 2151 note.
[2] For text, see *Legislation on Foreign Relations Through 2000*, vol. III, sec. I.
[3] Former sec. 29 regarding access to certain military bases abroad was repealed by sec. 29(b) of the FA Act of 1974 (Public Law 93–559).

nam, or Thailand unless (1) such operations are conducted by the forces of that government receiving such funds within the borders of that country, or (2) specifically authorized by law enacted after the date of enactment of this Act.

POLITICAL PRISONERS

Sec. 32.[4] It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

ALBERT SCHWEITZER HOSPITAL

Sec. 33.[4] There is authorized to be appropriated to the President for fiscal year 1974 $1,000,000[5] to make grants, on such terms and conditions as he may specify, to the Albert Schweitzer Hospital in Gabon.

PRISONERS OF WAR AND INDIVIDUALS MISSING IN ACTION

Sec. 34.[4] (a) The Congress declares that—

(1) the families of those one thousand three hundred individuals missing in action during the Indochina conflict have suffered extraordinary torment in ascertaining the full and complete information about their loved ones who are formally classified as missing in action;

(2) United States involvement in the Indochina conflict has come to a negotiated end with the signing of the Vietnam Agreement in Paris on January 27, 1973, and section 307 of the Second Supplemental Appropriations Act, 1973, requires that "None of the funds herein appropriated under this Act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam and South Vietnam or off the shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other Act may be expended for such purpose.";

(3) the question of the return of prisoners of war and accounting for individuals missing in action and dead in Laos is covered by article 18 of the Protocol signed by representatives of the Lao Patriotic Front (Pathet Lao) and the Royal Laotian Government in Vientiane on September 14, 1973 (which implements article 5 of the Agreement signed by the Pathet Lao and that government in Vientiane on February 21, 1973, requiring the release of all prisoners "regardless of nationality" captured and held in Laos), and paragraph C of such article 18 provides that, within "15 to 30 days" from the date of the signing of the Protocol, each side is to report the number of those prisoners and individuals still held, with an indication of their nationality and status, together with a list of names and any who died in captivity; and

[4] 22 U.S.C. 2151 note.

[5] The Foreign Assistance and Related Programs Appropriations Act, 1974 (Public Law 93–240; 87 Stat. 1175) appropriated $1,000,000.

(4) few of the United States men lost in Laos during the military engagements in Indochina have been returned, and with knowledge about many of these men not yet being fully disclosed, and the North Vietnam cease-fire provisions calling for inspection of crash and grave sites and for other forms of cooperation have not been fully complied with.

(b) It is, therefore, the sense of the Congress that—

(1) the provisions for the release of prisoners and an accounting of individuals missing and dead, as provided for in article 18 of the Protocol signed on September 14, 1973, by the Pathet Lao and the Royal Laotian Government, be adhered to in spirit and in deed; and

(2) the faithful compliance with the spirit of the Laotian Agreement and Protocol on the question of individuals missing in action will encourage all parties in Indochina to cooperate in providing complete information on all nationals of any nation who may be captured or missing at any place in Indochina.

RIGHTS IN CHILE

Sec. 35.[6] It is the sense of the Congress that (1) the President should request the Government of Chile to protect the human rights of all individuals, Chilean and foreign, as provided in the Universal Declaration of Human Rights, the Convention and Protocol Relating the Status of Refugees, and other relevant international legal instruments guaranteeing the granting of asylum, safe conduct, and the humane treatment or release of prisoners; (2) the President should support international humanitarian initiatives by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross to insure the protection and safe conduct and resettlement of political refugees, the humane treatment of political prisoners, and the full inspection of detention facilities under international auspices; (3) the President should support and facilitate efforts by voluntary agencies to meet emergency relief needs; and (4) the President should request of the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events occurring in Chile.

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

Sec. 36.[7] (a) The President or his delegate shall seek, as soon as possible, a revision of the Social Progress Trust Fund Agreement (dated June 19, 1961) between the United States and the Inter-American Development Bank. Such revision should provide for the—[8]

[6] 22 U.S.C. 2151 note.

[7] 22 U.S.C. 1942 note.

[8] Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

Continued

(1)[8] periodic transfer of unencumbered capital resources of such trust fund, and of any future repayments or other accruals otherwise payable to such trust fund, to the Inter-American Foundation, to be administered by the Foundation for purposes of part IV of the Foreign Assistance Act of 1969 (22 U.S.C. 290f and following);

(2) utilization of such unencumbered capital resources, future repayments, and other accruals by the Inter-American Development Bank for purposes of sections 1 and 2 of the Latin American Development Act[9] (22 U.S.C. 1942 and 1943) in such a way that the resources received in the currencies of the more developed member countries are utilized to the extent possible for the benefit of the lesser developed member countries; or

(3)[10] both the transfer described in paragraph (1) and the utilization described in paragraph (2).

(b) Any transfer or[11] utilization under this section shall be in such proportions as may be agreed to between the United States and the Inter-American Development Bank.

(c)[11] Any transfer under subsection (a)(1) shall be in the amounts, and in available currencies, determined in consultation with the Inter-American Foundation, to be required for its program purposes.".

(d)[11] The revision of the Social Progress Trust Fund Agreement pursuant to this section shall provide that the President or his delegate shall specify, from time to time, after consultation with the Inter-American Development Bank, the particular currencies to be used in making the transfer of[11] utilization described in the section.

(e)[12] * * * [Repealed—1981]

Sec. 37.[13] Prohibition on Assistance to North Vietnam * * * [Repealed—1981]

Sec. 38.[14] Report Concerning Certain Use of Military Assistance in Africa * * * [Repealed—1981]

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(h)(2)(A)(i) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike out "provide for the—" at this point, strike out para. (1), and strike out para. designation "(2)".

[9] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

[10] Sec. 586(h)(2)(A)(ii) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike out para. (3), upon execution of that section's requirements.

[11] Sec. 586(h)(2)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will strike out "transfer or" upon execution of that section's requirements. Sec. 586(h)(2)(C) of that Act will strike out subsec. (c), upon execution of that section's requirements, and will redesignate subsec. (d) as subsec. (c).

[12] Subsec. (e), which had required a report from the President on his action taken pursuant to this section, was repealed by sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report on January 3, 1974.

[13] Sec. 37, which had prohibited the use of funds authorized in this Act (fiscal year 1974) for assistance to North Vietnam, was repealed by sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[14] Sec. 38, which had required the President to make a determination with respect to the use, if any, by any non-African country in support of its military activities in its African territories of U.S. economic military, or food assistance, was repealed by sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this determination to Congress on May 3, 1974.

WORLD FOOD SHORTAGES

Sec. 39.[15] (a) It is the sense of the Congress that the United States should participate fully in efforts to alleviate current and future food shortages which threaten the world. To this end, the President shall—

(1) encourage, support, and expedite studies relating to the long-range implications of the world food situation (including studies of national and world production, distribution, and utilization of agricultural commodities and other foodstuffs) and support the organizing of a world food conference under United Nations auspices in 1974;

(2) request the member nations of the General Agreement on Tariffs and Trade to explore the means of assuring equitable access by all nations to national markets and mineral and agricultural resources;

(3) Consult and cooperate with appropriate international agencies, such as the Food and Agricultural Organization of the United Nations, in determining the need for, the feasibility of, and cost of an equitably-shared basis of, establishing an international system of strategic food reserves; and

(4) report his findings and recommendations to the Congress on the implementation of this section no later than December 31, 1974.

(b) It is further the sense of the Congress that—

(1) in making assessments which would affect or relate to the level of domestic production, the Executive Branch should include in the estimates of overall utilization the expected demands for humanitarian food assistance through such programs as are carried out under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480); and

(2) legislation providing increased flexibility for responding to emergency and humanitarian requirements for food assistance should be considered as promptly as possible to the end that the last sentence of section 401 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), may be amended by striking the period and inserting in lieu thereof a comma and the following: "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act."

USE OF LOCAL CURRENCIES [16]

Sec. 40.[17] Effective July 1, 1974, no amount of any foreign currency (including principal and interest from loan repayments) which accrues in connection with any sale for foreign currency under any provision of law may be used under any agreement entered into after the date of the enactment of this Act, or any revision or extension entered into after such date of any prior or subsequent agreement, to provide any assistance to any foreign country

[15] 22 U.S.C. 2220 note.

[16] See also Mutual Security Act of 1954, as amended (Public Law 83–665; 68 Stat. 832), sec. 502, Use of Foreign Currencies, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[17] 22 U.S.C. 2151 note.

to procure equipment, materials, facilities, or services for the common defense, including internal security unless such agreement is specifically authorized by legislation enacted after such date.

cc. Foreign Assistance Act of 1971

Partial text of Public Law 92–226 [S. 2819], 86 Stat. 20, approved February 7, 1972

AN ACT To amend the Foreign Assistance Act of 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1971".

NOTE.—Except for the provisions quoted here, the Foreign Assistance Act of 1971 consists of amendments to the Foreign Assistance Act of 1961, the Foreign Military Sales Act, the 1971 Act to amend the FMS Act, the Act to authorize participation by the United States in the Interparliamentary Union, the Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization, Part IV of the Foreign Assistance Act of 1969, the Act to provide certain basic authority for the Department of State, the United States Information and Educational Exchange Act of 1948, the Special Foreign Assistance Act of 1971, and Public Law 89–367 (Armed Forces Appropriation Authorization, 1966).

FOOD-FOR-PEACE PROGRAM

Sec. 2.[1] It is the sense of the Congress that funds to administer the food-for-peace program should not be reduced as the result of any reduction in the authorizations provided to carry out the Foreign Assistance Act of 1961.

* * * * * * *

Sec. 304. * * *

(c) * * *

(3) The provisions of this subsection[2] and section 657 of such Act, as added by subsection (b) of this Act, shall apply with respect to each fiscal year commencing on or after July 1, 1971.

PART IV—MISCELLANEOUS PROVISIONS

* * * * * * *

[1] 22 U.S.C. 2151 note. See also the Food for Peace Act of 1966 (Public Law 89–808; 80 Stat. 1526), in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[2] This subsection provided that the definition of "Value" appearing in sec. 644(m) was not applicable when the word "Value" was used in sec. 657.

Sec. 403. Paragraph (9) of section 5314 of title 5, United States Code, relating to level III of the Executive Schedule, is amended by inserting before the period at the end thereof the following: "and an Under Secretary of State for Coordinating Security Assistance Programs".

* * * * * * *

Sec. 407.[3] (a) It is the purpose of this section to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in particular, to carry out the purposes and intent of the Legislative Reorganization Acts of 1946 and 1970, with respect to—

(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

(2) providing periodic authorizations of appropriations for that Department and Agency.

* * * * * * *

Sec. 410.[4] The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the "Lodge Commission") which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year.

[3] See also sec. 15 of the State Department Basic Authorities Act of 1956 (Public Law 84–885; 70 Stat. 890), and sec. 701 of the United States Information and Education Exchange Act of 1948 (Public Law 80–402; 62 Stat. 6), in *Legislation on Foreign Relations Through 2002*, vol. II, sec. E.

[4] See also Appropriations Limitation on Contributions to International Organizations (Public Law 92–544; 86 Stat. 1109), *Legislation on Foreign Relations Through 2002*, vol. II, sec. H.

dd. Special Foreign Assistance Act of 1971, as amended

Partial text of Public Law 91–652 [H.R. 19911), 84 Stat. 1942, approved January 5, 1971, as amended by Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 27, 35, approved February 7, 1972

NOTE.—Except for the provisions noted below, the Special Foreign Assistance Act of 1971 consists of amendments to the Foreign Assistance Act of 1961.

AN ACT To provide additional foreign assistance authorizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Foreign Assistance Act of 1971".

Sec. 2. There are authorized to be appropriated to the President for the fiscal year 1971 not to exceed—

(1) $85,000,000 for additional military assistance and $70,000,000 for special economic assistance for Cambodia;

(2) $100,000,000 for economic and military assistance programs to replace funds which were transferred by the President for use in Cambodia;

(3) $150,000,000 for additional military assistance for the Republic of Korea;

(4) $30,000,000 for additional military assistance for Jordan;

(5) $3,000,000 for additional military assistance for Indonesia and $10,000,000 to replace funds transferred from other programs for use in Indonesia;

(6) $5,000,000 for additional military assistance for Lebanon;

(7) $65,000,000 for additional supporting assistance for Vietnam; and

(8) $17,000,000 for additional general military assistance to compensate for a shortage in anticipated recovery of funds from past years' programs.

Sec. 3.[1] The President is authorized, until June 30, 1972, to transfer to the Republic of Korea such defense articles located in Korea and belonging to the Armed Forces of the United States on July 1, 1970, as he may determine, except that no funds heretofore or hereafter appropriated under this Act or the Foreign Assistance Act of 1961 shall be available for reimbursement to any agency of the United States Government for any transfer made pursuant to this section.

[1] 22 U.S.C. 2302 note.

Sec. 4. Except as otherwise provided in this Act, any assistance furnished out of funds appropriated under section 2 of this Act and any transfer made under section 3 of this Act shall be furnished or transferred, as the case may be, in accordance with all of the purposes and limitations applicable by statute to that type of assistance or transfer under the Foreign Assistance Act of 1961 (including the provisions of section 652 of such Act, as added by section 8 of this Act).

* * * * * * *

Sec. 6. (a) * * *

(b)[2] Excess foreign currencies held in Pakistan not allocated on the date of enactment of this section are authorized to be appropriated for a period of one year from such date of enactment to help Pakistan withstand the disaster which has occurred.

Sec. 7.[3] (a) In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for military, paramilitary, police, or other security or intelligence forces[4] in Cambodia.

(b) Military and economic assistance provided by the United States to Cambodia and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Cambodia for its defense.

* * * * * * *

[2] 22 U.S.C. 2261 note.

[3] 22 U.S.C. 2411 note.

[4] The words "military, paramilitary, police, or other security or intelligence forces" were inserted in lieu of "Cambodian military forces" by sec. 408 of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20).

ee. Foreign Military Sales Act Amendments, 1971, as amended

Partial text of Public Law 91–672 [H.R. 15628], 84 Stat. 2053, approved January 12, 1971, as amended by Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 33, approved February 7, 1972; Public Law 93–189 [Foreign Assistance Act of 1973, S. 1443], 87 Stat. 714, 729, approved December 17, 1973; Public Law 93–559 [Foreign Assistance Act of 1974, S. 3394], 88 Stat. 1795, 1799, approved December 31, 1974; Public Law 94–329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1579 at 1560, approved December 29, 1981

AN ACT To amend the Foreign Military Sales Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled * * *

* * * * * * *

NOTE.—Sections 1–4 of this Act amend the Foreign Military Sales Act (Arms Export Control Act), Public Law 90–629, October 22, 1968.

* * * * * * *

Sec. 5.[1] It is the sense of Congress that (1) the President should continue to press forward urgently with his efforts to negotiate with the Soviet Union and other powers a limitation on arms shipments to the Middle East, (2) the President should be supported in his position that arms will be made available and credits provided to Israel and other friendly states, to the extent that the President determines such assistance to be needed in order to meet threats to the security and independence of such states, and (3) if the authorization provided in the Foreign Military Sales Act, as amended, should prove to be insufficient to effectuate this stated policy, the President should promptly submit to the Congress requests for an appropriate supplementary authorization and appropriation.

Sec. 6.[1] It is the sense of the Congress that—

(1) the President should immediately institute a thorough and comprehensive review of the military aid programs of the United States, particularly with respect to the military assistance and sales operations of the Department of Defense, and

[1] 22 U.S.C. 2751 note.

(2) the President should take such actions as may be appropriate—

(A) to initiate multilateral discussions among the United States, the Union of Soviet Socialist Republics, Great Britain, France, West Germany, Italy and other countries on the control of the worldwide trade in armaments,

(B) to commence a general debate in the United Nations with respect to the control of the conventional arms trade, and

(C) to use the power and prestige of his office to signify the intention of the United States to work actively with all nations to check and control the international sales and distribution of conventional weapons of death and destruction.

Sec. 7.[2] * * *

Sec. 8.[3] (a)[4] * * * [Repealed—1976]

(b)[4] * * * [Repealed—1976]

(c)[4] * * * [Repealed—1976]

(d) The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.[5]

(e)[4] * * * [Repealed—1976]

Sec. 9.[6] * * * [Repealed—1973]

Sec. 10.[7] (a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) To the extent that legislation enacted after the making of an appropriation for foreign assistance (including foreign military sales) authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

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[2] Sec. 7, which prohibited the sale, grant, loan, or transfer of any international fighter aircraft by the United States to any foreign country other than South Vietnam without specific authorization made in accordance with the Foreign Assistance Act of 1961 or the Foreign Military Sales Act, was repealed by sec. 734(a)(15) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560).

[3] 22 U.S.C. 2321b.

[4] Subsecs. (a), (b), (c), and (e) of sec. 8, which related to excess defense articles, were repealed by sec. 210(c)(2) of the International Security Assistance and Arms Export Control Act of 1976. Sec. 210(c)(2) further stated, "All funds in the suspense account referred to in subsection (a) of such section on July 1, 1976, shall be transferred to the general fund of the Treasury."

[5] This report, which was originally required on a quarterly basis, was changed to an annual report by sec. 29(a) of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 747).

[6] Sec. 9, which related to any transfer of a defense article to another country, was repealed by sec. 26(4) of the FA Act of 1973 (Public Law 93–189; 87 Stat. 714).

[7] 22 U.S.C. 2412.

(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of this section which specifically repeals or modifies the provisions of this section.

Sec. 11.[8] For purposes of sections 8 and 9—

(1) "defense article" and "excess defense articles" have the same meanings as given them in section 644 (d) and (g), respectively, of the Foreign Assistance Act of 1961; and

(2) "foreign country" includes any department, agency, or independent establishment of the foreign country.

Sec. 12. The joint resolution entitled "Joint resolution to promote the maintenance of international peace and security in Southeast Asia" approved August 10, 1964 (78 Stat. 384; Public Law 88–408), is terminated effective upon the day that the second session of the Ninety-first Congress is last adjourned.

Sec. 13.[9] No funds authorized or appropriated pursuant to this or any other law may be used to transport chemical munitions from the Island of Okinawa to the United States. Such funds as are necessary for the detoxification or destruction of the above described chemical munitions are hereby authorized and shall be used for the detoxification or destruction of chemical munitions only outside the United States. For purposes of this section, the term "United States" means the several States and the District of Columbia.

[8] 22 U.S.C. 2321c.
[9] 50 U.S.C. 1512 note.

ff. Foreign Assistance Act of 1969, as amended

Partial text of Public Law 91–175 [H.R. 14480], 83 Stat. 805, approved December 30, 1969, as amended by Public Law 92–226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 34, approved February 7, 1972; Public Law 95–105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 859, approved August 17, 1977; Public Law 97–241 [Department of Defense Authorization Act, 1983; S. 1193], 96 Stat. 273 at 297, approved August 24, 1982; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985, H.R. 2915], 97 Stat. 1017 at 1051, approved November 22, 1983; Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 247, approved August 8, 1985; Public Law 99–529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; Public Law 101–246 [Foreign Relations Authorization Act for Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102–138 [Foreign Relations Authorization Act for Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and by Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999

NOTE.—Except for Part IV, which related to the Inter-American Social Development Institute (title changed to The Inter-American Foundation Act by sec. 406(1) of the FA Act of 1971) and Part V, which related to amendments to other acts, the Foreign Assistance Act of 1969 consisted of amendments to the Foreign Assistance Act of 1961, as amended.

Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), authorized the President to abolish the Inter-American Foundation and made conforming amendments to legislation related to the Inter-American Foundation to reflect the abolishment. These amendments are to be effective and executed only after the Director of the Office of Management and Budget transmits to Congress a certification that responsibilities delegated to the Director, primarily that of administering and winding-up any outstanding obligations of the Inter-American Foundation, have been fully discharged.

That certification and subsequent administration have not yet been executed. Upon execution of these requirements, sec. 586(c)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will repeal sec. 401 of this Act.

* * * * * * *

PART IV—THE INTER-AMERICAN FOUNDATION ACT [1]

Sec. 401.[2] **Inter-American Foundation.**—(a) There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation (hereinafter in this section referred to as the "Foundation").[3]

(b) The future of freedom, security, and economic development in the Western Hemisphere rests on the realization that man is the foundation of all human progress. It is the purpose of this section to provide support for developmental activities designed to achieve conditions in the Western Hemisphere under which the dignity and the worth of each human person will be respected and under which all men will be afforded the opportunity to develop their potential, to seek through gainful and productive work the fulfillment of their aspirations for a better life, and to live in justice and peace. To this end, it shall be the purpose of the Foundation,[4] primarily in cooperation with private, regional, and international organizations, to—

(1) strengthen the bonds of friendship and understanding among the peoples of this hemisphere;

(2) support self-help efforts designed to enlarge the opportunities for individual development;

(3) stimulate and assist effective and ever wider participation of the people in the development process;

(4) encourage the establishment and growth of democratic institutions, private and governmental, appropriate to the requirements of the individual sovereign nations of this hemisphere.

In pursuing these purposes, the Foundation shall place primary emphasis on the enlargement of educational opportunities at all levels, the production of food and the development of agriculture, and the improvement of environmental conditions relating to health, maternal and child care, family planning, housing, free trade union development, and other social and economic needs of the people.

(c) The Foundation shall carry out the purposes set forth in subsection (b) of this section primarily through and with private organizations, individuals, and international organizations by undertaking or sponsoring appropriate research and by planning, initiating, assisting, financing, administering, and executing programs and projects designed to promote the achievement of such purposes.

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[1] Sec. 406(1) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20), inserted the title "Part IV—The Inter-American Foundation Act" in lieu of "Part IV—Inter-American Social Development Institute".

[2] 22 U.S.C. 290f. Sec. 586(c)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), will repeal sec. 401 upon execution of the requirements of sec. 586.

[3] The caption of sec. 401 and subsec. (a) thereof, which were amended by sec. 406(2) of the Foreign Assistance Act of 1971, (Public Law 92–226; 86 Stat. 20), formerly read as follows: "Inter-American Social Development Institute.—(a) There is created as an agency of the United States of America a body corporate to be known as the 'Inter-American Social Development Institute' (hereafter in this section referred to as 'Institute').".

[4] Sec. 406(3) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20), amended sec. 401 by substituting "Foundation" in lieu of "Institute" wherever it appeared.

(d) In carrying out its functions under this section, the Foundation shall, to the maximum extent possible, coordinate its undertakings with the developmental activities in the Western Hemisphere of the various organs of the Organization of American States, the United States Government, international organizations, and other entities engaged in promoting social and economic development of Latin America.

(e) The Foundation, as a corporation—

(1) shall have perpetual succession unless sooner dissolved by an Act of Congress;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may make and perform contracts and other agreements with any individual, corporation, or other body of persons however designated whether within or without the United States of America, and with any government or governmental agency, domestic or foreign;

(4)[5] shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;

(5) may, as necessary for the transaction of the business of the Foundation, employ, and fix the compensation of not to exceed one hundred persons at any one time;

(6) may acquire by purchase, devise, bequest, or gift, or otherwise lease, hold, and improve, such real and personal property as it finds to be necessary to its purposes, whether within or without the United States, and in any manner dispose of all such real and personal property held by it and use as general funds all receipts arising from the disposition of such property;

(7) shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(8) may, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section;

(9) may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes;

(10) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(11) shall have such other powers as may be necessary and incident to carrying out its powers and duties under this section.

[5] Sec. 401(e)(4) was amended by sec. 406(4) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20). It formerly read as follows: "(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid;".

(f) Upon termination of the corporate life of the Foundation all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

(g) The management of the Foundation shall be vested in a board of directors (hereafter in this section referred to as the "Board") composed of nine[6] members appointed by the President, by and with the advice and consent of the Senate, one of whom he shall designate to serve as Chairman of the Board and one of whom he shall designate to serve as Vice Chairman of the Board. Six members of the Board shall be appointed from private life. Three members of the Board shall be appointed from among officers or employees of agencies of the United States concerned with inter-American affairs. Members of the Board shall be appointed for terms of six years, except that of the members first appointed two shall be appointed for terms of two years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A member of the Board appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified. Members of the Board shall be eligible for reappointment. All individuals appointed to the Board shall possess an understanding of and sensitivity to community level development processes. No more than 5 members of the Board may be members of any one political party.[7]

(h) Members of the Board shall serve without additional compensation, but shall be reimbursed for travel expenses, including per diem, in lieu of subsistence, in accordance with section 5703 of title 5, United States Code,[8] while engaged in their duties on behalf of the corporation.

(i) The Board shall direct the exercise of all the powers of the Foundation.

(j) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(k) In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Foundation as the Board finds to be for the best interests of the Foundation, each committee to consist of two or more members of the Board, which committees, together with officers and agents duly authorized by the Board and to the extent

[6] Sec. 403(a) of Public Law 99–529 (100 Stat. 3010) added "nine" and "six", respectively, in lieu of "seven" and "four".

[7] Sec. 173(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 679), added the last sentence. Subpar. (2) of that section further provided that: "The requirements established by the amendment made by paragraph (1) do not affect appointments made to the Board of the Inter-American Foundation before the date of enactment of this Act.".

[8] The words "travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code" were inserted in lieu of "actual and necessary expenses not in excess of $50 per day, and for transportation expenses" by sec. 501(b) of Public Law 97–241 (96 Stat. 297).

provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation.

(l)[9] (1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) Experts and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5, United States Code.

(m) In order to further the purposes of the Foundation there shall be established a Council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable concerning developmental activities in the Western Hemisphere. The Board shall, from time to time, consult with the Council concerning the objectives of the Foundation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this subsection.

(n) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes set forth in this section. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interest of any corporation, partnership, or organization in which he is directly or indirectly interested.

(o) When approved by the Foundation, in furtherance of its purpose, the officers and employees of the Foundation may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries.

(p) The Secretary of State shall have authority to detail employees of any agency under his jurisdiction to the Foundation under such circumstances and upon such conditions as he may determine. Any such employee so detailed shall not lose any privileges, rights, or seniority as an employee of any such agency by virtue of such detail.

(q)[10] The Foundation shall maintain its principal office in the metropolitan Washington, D.C., area. The Foundation may establish agencies, branch offices, or other offices in any place or places outside the United States in which the Foundation may carry on all or any of its operations and business.

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[9] Sec. 406(5) of the Foreign Assistance Act of 1971 (Public Law 92–226; 86 Stat. 20), amended sec. 401(1), which formerly read as follows: "(1) The chief executive officer of the Institute shall be an Executive Director who shall be appointed by the Board of Directors on such terms as the Board may determine. The Executive Director shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title V, United States Code."

[10] Sec. 173(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 680), amended and restated subsec. (q).

(r) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(s)(1) Notwithstanding any other provision of law, not to exceed an aggregate amount of $50,000,000 of the funds made available for the fiscal years 1970 and 1971 to carry out part I of the Foreign Assistance Act of 1961 shall be available to carry out the purposes of this section. Funds made available to carry out the purposes of this section under the preceding sentence are authorized to remain available until expended.

(2)[11] There are authorized to be appropriated $28,800,000 for the fiscal year 1992 and $31,000,000 for the fiscal year 1993 to carry out this section.

(t) The Foundation shall be subject to the provisions of the Government Corporation Control Act.

(u)[12] When, with the permission of the Foundation, funds made available to a grantee under this section are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purposes for which the grant was made. This subsection applies with respect to both interest earned before and interest earned after the enactment of this subsection.

(v)[13] Funds made available to the Foundation may be used for the expenses described in section 1345 of title 31 of the United

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[11] Par. (2) was added by sec. 508 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–426; 91 Stat. 859).

The authorization figures for fiscal years 1992 and 1993 were added by sec. 173(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 679).

Authorizations provided in recent years under this section include the following: Fiscal year 1982—$12,000,000; fiscal year 1983—$12,800,000; fiscal year 1984—$16,000,000; fiscal year 1985—$16,000,000; fiscal year 1986—$11,969,000; fiscal year 1987—$11,969,000; fiscal year 1988—no authorization; fiscal year 1989—no authorization; fiscal year 1990—$16,932,000; fiscal year 1991—$25,000,000; fiscal years 1994 through 2003—no authorization.

Congress did not enact an authorization for fiscal year 2003. Instead, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 171), provided the following:

"INTER-AMERICAN FOUNDATION

"For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, $16,200,000, to remain available until September 30, 2004.".

Title V of that Act (117 Stat. 180, 192) provided the following:

"LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. * * * *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: * * *.".

* * * * * * *

"AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

"SEC. 532. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.".

[12] Subsec. (u) was added by sec. 501(c) of Public Law 97–241 (96 Stat. 297).

[13] Sec. 173(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 680), added new subsecs. (v) and (w).

States Code (relating to travel, transportation, and subsistence expenses for meetings).

(w)[13] Funds made available to the Foundation may be used for printing and binding without regard to section 501 of title 44, United States Code.

PART V—AMENDMENTS TO OTHER ACTS

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gg. Foreign Assistance Act of 1968

Partial text of Public Law 90–554 [H.R. 15263], 82 Stat. 960, approved October 8, 1968

NOTE.—Except for Part IV, which relates to amendments to other acts, and Part V, which relates to reappraisal of foreign assistance programs, the Foreign Assistance Act of 1968 consists of amendments to the Foreign Assistance Act of 1961, as amended.

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PART V—REAPPRAISAL OF FOREIGN ASSISTANCE PROGRAMS

DECLARATION OF POLICY

Sec. 501. The Congress declares that, in view of changing world conditions and the continued need to make United States foreign assistance programs an effective implement of United States foreign policy, there should be a comprehensive review and reorganization of all United States foreign assistance programs, including economic development and technical assistance programs, military assistance and sales programs, and programs involving contributions and payments by the United States to international lending institutions and other international organizations concerned with the development of friendly foreign countries and areas.

REAPPRAISAL BY THE PRESIDENT

Sec. 502. (a) In furtherance of the policy of this part, the President is requested to make a thorough and comprehensive reappraisal of United States foreign assistance programs, as described in section 501, and to submit to the Congress, on or before March 31, 1970, his recommendations for achieving such reforms in any reorganization of future foreign assistance programs as he determines to be necessary and appropriate in the national interest in the light of such reappraisal. The President is requested to submit to the Congress, on or before July 1, 1969, an interim report presenting any preliminary recommendations formulated by him pursuant to this section.

(b) It is the sense of the Congress that the reappraisal provided for in subsection (a) should include, but not be limited to, an analysis and consideration of proposals concerning the establishment of a Government corporation or a federally chartered private corpora-

tion designed to mobilize and facilitate the use of United States private capital and skills in less developed friendly countries and areas, including whether such corporation should be authorized to—

(1) utilize Government guarantees and funds as well as private funds;

(2) seek, develop, promote, and underwrite new investment projects;

(3) assist in transferring skills and technology to less developed friendly countries and areas; and

(4) invest in the securities of development financing institutions and assist in the formation and expansion of local capital markets.

hh. Foreign Assistance Act of 1967

Public Law 90–137 [S. 1872], 81 Stat. 445, approved November 14, 1967

NOTE.—The Foreign Assistance Act of 1967 consists of amendments to the Foreign Assistance Act of 1961, the Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization, the Act to authorize participation by the United States in the Interparliamentary Union, and the Mutual Security Act of 1954.

ii. Foreign Assistance Act of 1966

Public Law 89–583 [H.R. 15750], 80 Stat. 795, approved September 19, 1966

NOTE.—The Foreign Assistance Act of 1966 consists wholly of amendments to the Foreign Assistance Act of 1961, as amended.

jj. Foreign Assistance Act of 1965

Public Law 89–171 [H.R. 7750], 79 Stat. 653, approved September 6, 1965

NOTE.—Except for Chapter 4, which relates to an amendment to section 107 of the Agricultural Trade Development and Assistance Act of 1954, the Foreign Assistance Act of 1965 consists of amendments to the Foreign Assistance Act of 1961, as amended.

kk. Foreign Assistance Act of 1964

Partial text of Public Law 88–633 [H.R. 11380], 78 Stat. 1009, approved October 7, 1964

NOTE.—Except for the provision quoted here, the Foreign Assistance Act of 1964 consists of amendments to the Foreign Assistance Act of 1964, the Act to authorize participation by the United States in the Interparliamentary Union, and the Mutual Security Act of 1954.

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PART V—RELIGIOUS PERSECUTION

Sec. 501.[1] It is the sense of the Congress that the United States deeply believes in the freedom of religion for all people and is opposed to infringement of this freedom anywhere in the world. The Congress condemns the persecution of any persons because of their religion. It is further the sense of Congress that all persons should be permitted the free exercise of religion and the pursuit of their culture.

[1] 22 U.S.C. 2151 note.

ll. Foreign Assistance Act of 1963

Public Law 88–205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963

NOTE.—The Foreign Assistance Act of 1963 consists of amendments to the Foreign Assistance Act of 1961, the Latin American Development Act, the Trade Expansion Act of 1962, the Agricultural Trade Development and Assistance Act of 1954, the Foreign Service Act of 1946, the Act to provide certain basic authority for the Department of State, and the Act to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization.

mm. Foreign Assistance Act of 1962

Public Law 87–565 [S. 2996], 76 Stat. 255, approved August 1, 1962

NOTE.—The Foreign Assistance Act of 1962 consists of amendments to the Foreign Assistance Act of 1961, the Act to provide certain basic authority for the Department of State, the Mutual Educational and Cultural Exchange Act of 1961, and the Act authorizing participation by the United States in the Interparliamentary Union.

2. Foreign Assistance Appropriations

a. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003

Division E of Public Law 108–7 [Consolidated Appropriations Resolution; H.J. Res. 2], 117 Stat. 11 at 159, approved February 20, 2003; amended by Public Law 108–11 [Emergency Wartime Supplemental Appropriations Act, 2003; H.R. 1559], 117 Stat. 559, approved April 16, 2003

* * * * * * *

DIVISION E—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, 2003

JOINT RESOLUTION

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes.

NOTE.—Fiscal year 2002 appropriations were continued into fiscal year 2003 in Public Law 107–229 (116 Stat. 1465; approved September 30, 2002), as amended, pending final passage of several annual appropriations bills including foreign assistance appropriations. Public Law 107–229, as amended, may be found beginning at page 895.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible

to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: *Provided further,* That[1] notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through September 30, 2003.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $512,900,000, to remain available until September 30, 2006: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until September 30, 2021 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2003, 2004, 2005, and 2006: *Provided further,* That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, and related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger

[1] 12 U.S.C. 635 note. Sec. 1(a) and (b) of Public Law 103–428 amended sec. 2(b)(6)(H) and (I) of the Export-Import Bank Act of 1945. Sec. 1(c) of that Act, however, provided that the amendments would remain in effect from enactment through September 30, 1997. Sec. 2(b)(6)(H) and (I) of that Act provides as follows:

"(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

"(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

"(I) the Bank determines that—

"(aa) the defense articles or service are nonlethal; and

"(bb) the primary end use of the defense articles or services will be for civilian purposes; and

"(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

"(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

"(ii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.".

motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $68,300,000: *Provided,* That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: *Provided further,* That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2003.[2]

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $39,885,000: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2003 and 2004: *Provided further,* That such sums shall remain available through fiscal year 2011 for the disbursement of direct and guaranteed loans obligated in fiscal year 2003, and through fiscal year 2012 for the disbursement of direct and guaranteed loans obligated in fiscal year 2004.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

[2] 12 U.S.C. 635a note.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $44,512,000, to remain available until September 30, 2004.

In addition, for an additional amount for "Trade and Development Agency" for trade capacity building assistance, $2,500,000, to remain available until September 30, 2003: *Provided,* That any funds made available by this paragraph shall be made available subject to the regular notification procedures of the Committees on Appropriations.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2003, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND [3]

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,836,500,000, to remain available until September 30, 2005: *Provided,* That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for displaced and orphaned children; (5) programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases; and (6) family planning/reproductive health: *Provided further,* That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further,* That of the funds appropriated under this heading, not to exceed $150,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further,* That the following amounts should be allocated as follows: $324,000,000 for child survival and maternal health; $27,000,000 for vulnerable chil-

[3] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 572), provided the following:

"CHILD SURVIVAL AND HEALTH PROGRAMS FUND

"For an additional amount for 'Child Survival and Health Programs Fund', $90,000,000, to remain available until September 30, 2004.".

dren; $591,500,000 for HIV/AIDS including not less than $18,000,000 which should be made available to support the development of microbicides as a means for combating HIV/AIDS; $155,500,000 for other infectious diseases; $368,500,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species; and $120,000,000 for UNICEF: *Provided further,* That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That the cumulative amount of United States contributions to the Global Fund may not exceed the total resources provided by other donors and available for use by the Global Fund: *Provided further,* That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, up to $10,500,000 should be made available for the International AIDS Vaccine Initiative, and up to $100,000,000 should be made available for the International Mother and Child HIV Prevention Initiative: *Provided further,* That of the funds appropriated under this heading, up to $60,000,000 may be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under the preceding provisos: *Provided further,* That notwithstanding any other provision of this Act, funds appropriated under this heading that are available for child survival and health programs shall be apportioned to the United States Agency for International Development, and the authority of sections 632(a) or 632(b) of the Foreign Assistance Act of 1961, or any comparable provision of law, may not be used to transfer or allocate any part of such funds to the Department of Health and Human Services including any office of that agency, except that the authority of those sections may be used to transfer or allocate up to $25,000,000 of such funds to the Centers for Disease Control and Prevention: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries: *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further,* That in order to re-

duce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That the funds under this heading that are available for the treatment and prevention of HIV/AIDS should also include programs and activities that are designed to maintain and preserve the families of those persons living with

HIV/AIDS and to reduce the numbers of orphans created by HIV/AIDS.

DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,389,000,000, to remain available until September 30, 2004: *Provided,* That none of the funds appropriated under title II of this Act that are managed by or allocated to the United States Agency for International Development's Global Development Secretariat, may be made available except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That $159,000,000 should be allocated for trade capacity building: *Provided further,* That $218,000,000 should be allocated for basic education, of which $20,000,000 should be made available only for programs to increase the professional competence of national and regional education administrators: *Provided further,* That none of the funds appropriated under this heading may be made available for any activity which is in contravention to the Convention on International Trade in Endangered Species of Flora and Fauna: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $32,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further,* That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $25,000,000 should be made available for plant biotechnology research and development: *Provided further,* That not less than $2,300,000 should be made available for core support for the International Fertilizer Development Center: *Provided further,* That of the funds appropriated under this heading, not less than $18,000,000 should be made available for the American Schools and Hospitals Abroad program: *Provided further,* That of the funds appropriated by this Act, $100,000,000 shall be made available for drinking water supply projects and related activities.

INTERNATIONAL DISASTER ASSISTANCE [4]

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $230,000,000, to remain available until expended.

[4] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 573), provided the following:

"INTERNATIONAL DISASTER ASSISTANCE

"For an additional amount for 'International Disaster Assistance', $143,800,000, to remain available until expended: *Provided,* That amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961 for the purpose of addressing relief and rehabilitation needs in Iraq, prior to enactment of this Act, shall be in addition to the amount that may be obligated in any fiscal year under that section: *Provided further,* That during the remainder of fiscal year 2003 the authority referenced in the preceding proviso may not be utilized unless written notice has been provided to the Committees on Appropriations not less than 5 days prior to the exercise of such authority.".

In addition, for assistance for Afghanistan, $60,000,000 to remain available until expended: *Provided,* That these funds shall be used for humanitarian and reconstruction assistance for the Afghan people including health and education programs, housing, to improve the status of women, infrastructure, and assistance for victims of war and displaced persons.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $50,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided,* That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further,* That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance.

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[5] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 576), provided the following:

"LOAN GUARANTEES TO ISRAEL

"During the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made available to Israel, guaranteeing 100 percent of the principal and interest on such loans, the principal amount, any part of which is to be guaranteed, not to exceed $9,000,000,000, of which up to $3,000,000,000 may be issued prior to October 1, 2003, or thereafter and of which $3,000,000,000 may be issued subsequent to September 30, 2004: *Provided,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005, the authority to issue the balance of such guarantees shall extend to the subsequent fiscal year: *Provided further,* That guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967: *Provided further,* That the amount of guarantees that may be issued shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the period from March 1, 2003, to the date of issue of the guarantee, for activities which the President determines are inconsistent with the objectives and understandings reached between the United States and the Government of Israel regarding the implementation of the loan guarantee program: *Provided further,* That the President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under the preceding proviso and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year: *Provided further,* That the interest rate for loans guaranteed under this heading may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this heading in the event the borrower elects not to finance such costs or fees out of loan principal: *Provided further,* That no appropriations under this heading are available for the subsidy costs for these loan guarantees: *Provided further,* That the Government of Israel will pay the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, including any non-payment exposure risk, associated with the loan guarantees issued in any fiscal year, on a pro rata basis as each guarantee is issued during that year: *Provided further,* That all fees (as defined in section 601(e) of Public Law 102–391) associated with the loan guarantees shall be paid by the Government of Israel to the Government of the United States: *Provided further,* That funds made available for assistance to Israel under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government: *Provided further,* That the President shall determine the terms and conditions for issuing guarantees, taking into consideration the budgetary and economic reforms undertaken by Israel: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the loan guarantees not yet issued under this heading.".

DEVELOPMENT CREDIT AUTHORITY[5]

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading "Assistance for Eastern Europe and the Baltic States": *Provided,* That such funds when added to the funds transferred pursuant to the authority contained under this heading in Public Law 107–115, shall not exceed $24,500,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997,[6] shall be applicable to direct loans and loan guarantees provided under this heading. In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $7,591,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided further,* That funds made available under this heading shall remain available until September 30, 2007.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $45,200,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT[7]

For necessary expenses to carry out the provisions of section 667, $572,000,000: *Provided,* That none of the funds appropriated under this heading and under the heading "Capital Investment Fund" may be made available to finance the construction (including architect and engineering services), purchase, or long term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed con-

[6] Sec. 306 of H.R. 1486, as reported by the House Committee on International Relations on May 9, 1997, sought to add a new sec. 107A to the Foreign Assistance Act of 1961. Subsec. (d) of that amendment provided as follows:

"(d) GENERAL PROVISIONS APPLICABLE TO DEVELOPMENT CREDIT AUTHORITY.—

[7] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 573), provided the following:

"OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

"For an additional amount for 'Operating Expenses of the United States Agency for International Development', $24,500,000, of which not less than $3,500,000 may be transferred to and merged with 'Operating Expenses of the United States Agency for International Development Office of Inspector General' for financial and program audits of the Iraq Relief and Reconstruction Fund and other assistance for Iraq.".

struction (including architect and engineering services), purchase, or long term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further,* That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long term lease of offices does not exceed $1,000,000.

CAPITAL INVESTMENT FUND

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667, $43,000,000, to remain available until expended: *Provided,* That this amount is in addition to funds otherwise available for such purposes: *Provided further,* That of the funds appropriated under this heading, up to $10,000,000 may be made available for costs related to the construction of temporary, secure facilities for United States Agency for International Development personnel in Afghanistan: *Provided further,* That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this account as an offsetting collection: *Provided further,* That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the assignment of United States Government employees or contractors to space in buildings constructed using funds appropriated under this heading shall be subject to the concurrence of the Administrator of the United States Agency for International Development: *Provided further,* That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $33,300,000, to remain available until September 30, 2004, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

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[8] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 574), provided the following:

"ECONOMIC SUPPORT FUND

"For an additional amount for 'Economic Support Fund', $2,422,000,000, of which:

"(1) not less than $700,000,000 shall be made available for assistance for Jordan;

"(2) $300,000,000, to remain available until September 30, 2005, shall be made available only for grants for Egypt: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made to Egypt, the principal amount, any part of which is to be guaranteed, shall not exceed $2,000,000,000: *Provided further,* That the Government of Egypt will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND [8]

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,270,000,000, to remain available until September 30, 2004: *Provided,* That of the funds appropriated under this heading, not less than $600,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That not less than $615,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous

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loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Egypt to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Egypt may be used by the Government of Egypt to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for full payment and performance of such obligations: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Egypt: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph;

"(3) not to exceed $1,000,000,000, to remain available until September 30, 2005, for grants for Turkey: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, direct loans or loan guarantees may be made to Turkey, the principal amount of direct loans or loans, any part of which is to be guaranteed, shall not exceed $8,500,000,000: *Provided further,* That the Government of Turkey will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loans or loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loans or loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Turkey to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Turkey may be used by the Government of Turkey to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That none of the funds made available by this paragraph may be made available for assistance for Turkey if the Secretary of State determines and reports to the Committees on Appropriations of the House and Senate, the Committee on Foreign Relations of the Senate and Committee on International Relations of the House that the Government of Turkey is not cooperating with the United States in Operation Iraqi Freedom, including the facilitation of humanitarian assistance to Iraq, or has unilaterally deployed troops into northern Iraq: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Turkey: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph: *Provided further,* That any balance of funds not made available to Turkey under this paragraph shall be transferred to, and merged with, funds appropriated for 'Iraq Relief and Reconstruction Fund';

"(4) not less than $30,000,000 for the Philippines to further prospects for peace in Mindanao, and not less than $167,000,000 for assistance for Afghanistan: *Provided,* That of the funds appropriated under this heading, $10,000,000 should be made available for investigations and research into allegations of war crimes, crimes against humanity, or genocide committed by Saddam Hussein or other Iraqis, and for a contribution to an international tribunal to bring these individuals to justice;

"(5) regional funds made available under this heading for assistance that are not specified in paragraphs (1) through (4) shall be subject to the regular notification procedures of the Committees on Appropriations; and

"(6) unless otherwise specified herein, funds appropriated under this heading shall remain available until September 30, 2004.".

fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: *Provided further,* That of the funds appropriated under this heading, $250,000,000 should be made available for assistance for Jordan: *Provided further,* That of the funds appropriated under this heading, up to $1,000,000 should be used to further legal reforms in the West Bank and Gaza, including judicial training on commercial disputes and ethics: *Provided further,* That not to exceed $200,000,000 of the funds appropriated under this heading in this Act may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: *Provided further,* That not to exceed $15,000,000 of the funds appropriated under this heading in Public Law 107–206, the Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States, FY 2002, may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Jordan: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further,* That not less than $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon to be used, among other programs, for scholarships and direct support of the American educational institutions in Lebanon: *Provided further,* That notwithstanding section 534(a) of this Act, funds appropriated under this heading that are made available for assistance for the Central Government of Lebanon shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the Government of Lebanon should enforce the custody and international pickup orders, issued during calendar year 2001, of Lebanon's civil courts regarding abducted American children in Lebanon: *Provided further,* That of the funds appropriated under this heading, $60,000,000 shall be made available for the United States Agency for International Development for assistance for Indonesia: *Provided further,* That of the funds appropriated under this heading, not less than $25,000,000 shall be made available for assistance for the Democratic Republic of Timor-Leste of which up to $1,000,000 may be available for administrative expenses of the United States Agency for International Development: *Provided further,* That of the funds appropriated under this heading, not less than $2,000,000 should be made available for assistance for countries to implement and enforce the Kimberley Process Certification Scheme: *Provided further,* That $3,000,000 should be made available for the international youth exchange program for secondary

school students from countries with significant Muslim populations: *Provided further,* That funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That in the previous proviso, the term "assistance" includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes: *Provided further,* That of the funds appropriated under this heading, not less than $10,000,000 should be made available during fiscal year 2003 for a contribution to the Special Court for Sierra Leone: *Provided further,* That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $25,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415):[9] *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 2004.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989,[10] $525,000,000, to remain available until September 30, 2004, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: *Provided,* That funds made available for assistance for Kosovo from funds appropriated under this heading and under the headings "Economic Support Fund" and "International Narcotics Control and Law Enforcement" should not exceed 15 percent of the total resources pledged by all donors for calendar year 2003 for assistance for Kosovo as of March 31, 2003: *Provided further,* That none of the funds made available under this Act for assistance for Kosovo shall be made

[9] For text, see *Legislation on Foreign Relations Through 2002,* vol. I–B.
[10] For text of the SEED Act, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

available for large scale physical infrastructure reconstruction: *Provided further,* That of the funds made available under this heading for assistance for Kosovo, up to $1,000,000 should be made available for assistance to support training programs for Kosovar women: *Provided further,* That not less than $5,000,000 shall be made available for assistance for the Baltic States: *Provided further,* That of the funds made available under this heading for assistance for Bulgaria, $2,000,000 should be made available to enhance safety at nuclear power plants.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(d) With regard to funds appropriated under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program) the Administrator of the United States Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee.

(e) The provisions of section 529 of this Act shall apply to funds made available under subsection (d) and to funds appropriated under this heading: *Provided,* That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

(f) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related ac-

tivities between state sponsors of terrorism and terrorist organizations and Bosnian officials has not been terminated.[11]

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act,[12] for assistance for the Independent States of the former Soviet Union and for related programs, $760,000,000, to remain available until September 30, 2004: *Provided,* That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further,* That of the funds made available for the Southern Caucasus region, notwithstanding any other provision of law, funds may be used for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further*, That of the funds appropriated under this heading, not less than $1,500,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: *Provided further,* That of the funds appropriated under this heading $17,500,000 shall be made available solely for assistance for the Russian Far East: *Provided further,* That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of the FREEDOM Support Act (Public Law 102–511) shall be subject to a 6 percent ceiling on administrative expenses.

(b) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than $20,000,000 should be made available for nuclear reactor safety initiatives, and not less than $1,500,000 shall be made available for coal mine safety programs, including mine ventilation and fire prevention and control.

(c) Of the funds appropriated under this heading, not less than $90,000,000 shall be made available for assistance for Armenia.

(d)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President de-

[11] Article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina provides as follows:

"WITHDRAWAL OF FOREIGN FORCES

"1. All Forces in Bosnia and Herzegovina as of the date this Annex enters into force which are not of local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, or Republika Srpska, shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within thirty (30) days. Furthermore, all Forces that remain on the territory of Bosnia and Herzegovina must act consistently with the territorial integrity, sovereignty, and political independence of Bosnia and Herzegovina. In accordance with Article II, paragraph 1, this paragraph does not apply to UNPROFOR, the International Police Task Force referred to in the General Framework Agreement, the IFOR or other elements referred to in Article I, paragraph 1(c).

"2. In particular, all foreign Forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other States, shall be withdrawn from the Territory of Bosnia and Herzegovina in accordance with Article III, paragraph 1.".

[12] For text of the FREEDOM Support Act, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

termines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation:

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(e) Of the funds appropriated under this heading, not less than $60,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, basic education, environmental and reproductive health/family planning, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

(f) None of the funds appropriated under this heading may be made available for assistance for the central Government [13] of Ukraine if [14] the Secretary of State determines and certifies to the Committees on Appropriations that, since September 30, 2000, the Government of Ukraine has facilitated [15] or engaged in arms sales or arms transfers to Iraq: *Provided,* That this paragraph shall not apply to assistance to combat infectious diseases, nuclear safety programs and activities, or assistance for victims of trafficking in persons, and to activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(g) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 [16] or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

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[13] Sec. 1505(1) of Public Law 108–11 (117 Stat. 580) struck out "assistance for the Government" and inserted in lieu thereof "assistance for the central Government".

[14] Sec. 1505(2) of Public Law 108–11 (117 Stat. 580) struck out "unless" and inserted in lieu thereof "if".

[15] Sec. 1505(3) of Public Law 108–11 (117 Stat. 580) struck out "not facilitated" and inserted in lieu thereof "facilitated".

[16] Sec. 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2301 note) relates to international border security among the states of the former Soviet Union, the Baltic States, and other countries of Eastern Europe. For text, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. F.

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969,[17] $16,200,000, to remain available until September 30, 2004.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533,[18] $18,689,000, to remain available until September 30, 2004: *Provided,* That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: *Provided further,* That interest earned shall be used only for the purposes for which the grant was made: *Provided further,* That this authority applies to interest earned both prior to and following enactment of this provision: *Provided further,* That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: *Provided further,* That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612),[19] $297,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 2004: *Provided further,* That the Director of the Peace Corps may make appointments or assignments, or extend current appointments or assignments, to permit United States citizens to serve for periods in excess of 5 years in the case of individuals whose appointment or assignment, such as regional safety security officers and employees within the Office of the Inspector General, involves the safety of Peace Corps volunteers: *Provided further,* That the Director of the

[17] For text, see page 791.
[18] For text, see page 723.
[19] The Peace Corps Act, as amended (Public Law 87–293), may be found in *Legislation on Foreign Relations Through 2002*, vol. I–B.

Peace Corps may make such appointments or assignments notwithstanding the provisions of section 7 of the Peace Corps Act limiting the length of an appointment or assignment, the circumstances under which such an appointment or assignment may exceed 5 years, and the percentage of appointments or assignments that can be made in excess of 5 years.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT [20]

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $197,000,000, to remain available until expended: *Provided*, That during fiscal year 2003, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading, not less than $5,000,000 shall be apportioned directly to the Department of the Treasury, International Affairs Technical Assistance, to be used for financial crimes and law enforcement technical assistance programs: *Provided further,* That of the funds appropriated under this heading, $10,000,000 should be made available for the demand reduction program: *Provided further,* That of the funds appropriated under this heading, $10,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: *Provided further,* That of the funds appropriated under this heading, not more than $24,180,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE [21]

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $700,000,000, to remain available until expended: *Provided,* That in addition to the funds appropriated under this heading and subject to the regular notification procedures of the Committees on Appropriations, the President may make available up to an additional $31,000,000 for the Andean Counterdrug Initiative, which may be derived from funds appro-

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[20] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 577), provided the following:

"INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

"For an additional amount for 'International Narcotics Control and Law Enforcement', $25,000,000, to remain available until September 30, 2004.".

[21] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 577), provided the following:

"ANDEAN COUNTERDRUG INITIATIVE

"For an additional amount for the 'Andean Counterdrug Initiative', $34,000,000, to remain available until September 30, 2004: *Provided,* That of the funds appropriated under this heading that are made available for Colombia, not less than $5,000,000 should be made available for programs and activities to assist persons who have been displaced as a result of armed conflict.".

priated under the heading "International Narcotics Control and Law Enforcement" in this Act and in prior Acts making appropriations for foreign operations, export financing, and related programs: *Provided further,* That in fiscal year 2003, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further,* That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further,* That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: *Provided further,* That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the amount appropriated under this heading, not less than $250,000,000 shall be apportioned directly to the United States Agency for International Development, to be used for economic and social programs: *Provided further,* That of the funds appropriated under this heading and under the heading "Foreign Military Financing Program", not less than $5,000,000 should be made available to support a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations: *Provided further,* That of the funds made available for assistance for Colombia under this heading, up to $3,000,000 should be made available for commercially developed, web monitoring software, and training on the usage thereof, for the Colombian National Police: *Provided further,* That of the funds made available for assistance for Colombia under this heading, not less than $1,500,000 should be made available for vehicles, equipment, and other assistance for the human rights unit of the Procurador General: *Provided further,* That not more than 20 percent of the funds appropriated by this Act that

are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State, after consultation with the Administrator of the Environmental Protection Agency (EPA), certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for comparable use in the United States and any additional controls recommended by the EPA for this program, and with the Colombian Environmental Management Plan for aerial fumigation; (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment; (3) complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims; and such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961, as amended, shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the provisions of section 3204(b) through (d) of Public Law 106–246,[22] as amended by Public Law 107–115, shall be applicable to funds appropriated for fiscal year 2003: *Provided further,* That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further,* That of the funds appropriated under this heading, not less than $3,500,000 shall be made available for assistance for the Colombian National Park Service for training, equipment, and other assistance to protect Colombia's national parks and reserves: *Provided further,* That of the funds appropriated under this heading, not more than $15,680,000 may be available for administrative expenses of the Department of State, and not more than $4,500,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by

[22] Public Law 106–246, as amended, implements "Plan Colombia"; for text, see page 923.

the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $787,000,000, which shall remain available until expended: *Provided,* That not more than $16,565,000 may be available for administrative expenses: *Provided further,* That not less than $60,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel: *Provided further,* That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)),[23] $26,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS[24]

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $306,400,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act,[25] section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), con-

[23] For text, see *Legislation on Foreign Relations Through 2002*, vol. II.

Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 577), provided the following:

"UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

"For an additional amount for 'United States Emergency Refugee and Migration Assistance Fund', $80,000,000, to remain available until expended, notwithstanding section 2(c)(2) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)(2)).".

[24] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 577), provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For an additional amount for 'Nonproliferation, Anti-Terrorism, Demining and Related Programs', $28,000,000: *Provided,* That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.".

[25] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

sistent with the provisions of section 562 of this Act, and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further,* That of this amount not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further,* That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so following consultation with the appropriate committees of Congress: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That of the funds made available for demining and related activities, not to exceed $675,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further,* That the Secretary of State is authorized to provide not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961 (relating to international affairs technical assistance activities), $10,800,000, to remain available until expended, which shall be available notwithstanding any other provision of law.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $80,000,000, of which up to $3,000,000 may remain available until expended: *Provided,* That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further,* That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training and funds made available for Algeria,

Nigeria and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM [26]

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,072,000,000: *Provided,* That of the funds appropriated under this heading, not less than $2,100,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $550,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That except as provided in the following proviso, none of the funds appropriated by this paragraph may be made available for helicopters and related support costs for Colombia: *Provided further,* That up to $93,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading "Andean Counterdrug Initiative" for helicopters, training and other assistance for the Colombian Armed Forces for security for the Cano Limon pipeline: *Provided further,* That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

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[26] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 577), provided the following:

"FOREIGN MILITARY FINANCING PROGRAM

"For an additional amount for the 'Foreign Military Financing Program', $2,059,100,000: *Provided,* That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided further,* That of the funds appropriated under this heading, not less than $406,000,000 shall be made available for grants only for Jordan and not less than $1,000,000,000 shall be available for grants only for Israel: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed to by the United States and Israel, be available for advanced weapons systems, of which not less than $263,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That up to $20,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading 'Andean Counterdrug Initiative' for aircraft, training, and other assistance for the Colombian Armed Forces: *Provided further,* That, except for Israel and Jordan, funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the commitment of funds: *Provided further,* That such notification shall be in the form of a report (in classified or unclassified form) which contains each country receiving assistance from funds aggregated under this heading, other than Israel and Jordan, the amount of assistance to be provided and a description of the equipment and other assistance being financed from such funds.".

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Sudan and Liberia: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That none of the funds appropriated under this heading shall be available for assistance for Guatemala: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs[27] may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That not more than $38,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $356,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2003 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2003 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.

PEACEKEEPING OPERATIONS[28]

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $115,000,000: *Provided,* That

[27] In Africa: Kenya; in East Asia and the Pacific: Indonesia, Thailand; in Europe: Greece, Portugal, Spain, Turkey,; in Near East and South Asia: Egypt, Israel, Jordan, Morocco, Pakistan, Tunisia, and Yemen. See *Congressional Presentation for Security Assistance Programs*, Fiscal Year 1989, page 19.

[28] Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 578), provided the following:

none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $147,812,533, to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $850,000,000, to remain available until expended.

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

For payment to the Multilateral Investment Guarantee Agency by the Secretary of the Treasury, $1,631,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Multilateral Investment Guarantee Agency may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $7,609,793.

CONTRIBUTION TO THE INTER-AMERICAN INVESTMENT CORPORATION

For payment to the Inter-American Investment Corporation, by the Secretary of the Treasury, $18,351,667, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $24,590,667, to remain available until expended.

"PEACEKEEPING OPERATIONS

"For an additional amount for 'Peacekeeping Operations', $100,000,000, to remain available until September 30, 2004.".

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $97,886,133, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $5,104,473, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,602,688.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $108,073,333, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,804,955 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $123,328,178.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $15,003,667, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973,[29] $195,150,000: *Provided*, That none of the funds appropriated under this heading may be made available to the Korean Peninsula Energy Development Organization (KEDO) or the International Atom-

[29] For this and other legislation relating to the United Nations, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. H.

ic Energy Agency (IAEA): *Provided further,* That of the funds appropriated under this heading, not less than $500,000 should be made available for a United States contribution to the International Coffee Organization (ICO) if the United States becomes a member of the ICO prior to June 1, 2003: *Provided further,* That if the United States does not rejoin the International Coffee Organization by June 1, 2003, the amount allocated under the previous proviso should be made available for the United Nations Center for Human Settlements (UN–HABITAT) in addition to other funds made available for UN–HABITAT under this heading.

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501.[30] Except for the appropriations entitled "International Disaster Assistance" and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 percent of any appropriation item made available by this Act shall be obligated during the last month of availability.

PRIVATE AND VOLUNTARY ORGANIZATIONS

SEC. 502.[31] (a) None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the Administrator of the United States Agency for International Development, after informing the Committees on Appropriations, may, on a case-by-case basis, waive the restriction contained in this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency.

(b) Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is at least equivalent to the level provided in fiscal year 1995.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503.[32] Of the funds appropriated or made available pursuant to this Act, not to exceed $100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

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[30] First enacted as sec. 108 of the Mutual Security Appropriations Act of 1955.

[31] 22 U.S.C. 2151u note.

[32] Similar language was first enacted as sec. 113 of the Foreign Assistance Appropriations Act, 1976.

LIMITATION ON EXPENSES

SEC. 504.[33] Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505.[34] Of the funds appropriated or made available pursuant to this Act, not to exceed $125,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $125,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506.[35] None of the funds appropriated or made available (other than funds for "Nonproliferation, Anti-terrorism, Demining and Related Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507.[36] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to fi-

[33] Similar language was first enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1976.

[34] Similar language was first enacted as sec. 115 of the Foreign Assistance Appropriations Act, 1976. The second through fifth proviso clauses were first enacted as sec. 526 of H.R. 4473, as made applicable to the Continuing Appropriations Act, 1981. The second proviso, regarding general costs of administering the Foreign Military Financing Program, has been reworded somewhat; the proviso formerly referred to: "the total funds made available by this Act under the headings 'Military Assistance' and 'Foreign Military Credit Sales'". The last proviso clause was first enacted in the Foreign Assistance Appropriations Act, 1986.

[35] Similar language was first enacted as sec. 112 of the Foreign Assistance Appropriations Act, 1978. The FY 1994 Act added the clause, "except for purposes of nuclear safety,".

[36] Language similar to that in the main clause was first enacted as sec. 111 of the Foreign Assistance Appropriations Act, 1974. The Foreign Operations, Export Financing, and Related Programs Act, 1990 (Public Law 101–167; 103 Stat. 2268), added two provisos, the first of which

nance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents: *Provided further,* That assistance or other financing under this Act or under prior foreign operations, export financing, and related programs appropriations Acts may be provided for humanitarian and relief assistance for Iraq notwithstanding the provisions of this section or any other provision of law, including comparable provisions contained in prior foreign operations, export financing, and related programs appropriations Acts, if the President determines that the provision of assistance or other financing for Iraq is important to the national security interests of the United States: *Provided further,* That such assistance or financing shall be subject to the regular notification procedures of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of obligations of funds: *Provided further,* That the President shall submit a report to the Committees on Appropriations on the status of the allocation, obligation and expenditure of funds made available for Iraq not later than every 60 days during fiscal year 2003, beginning on March 1, 2003: *Provided further,* That each such report shall include information on programs, projects, and activities that are being funded or will be funded with such assistance or financing, and the departments and agencies responsible for managing each such program, project, and activity: *Provided further,* That the authority of the second proviso of this section to provide assistance for Iraq shall expire on the date of enactment of the first subsequent supplemental appropriations Act for fiscal year 2003 that contains supplemental funding for appropriations accounts contained in this Act.

MILITARY COUPS

SEC. 508.[37] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup: *Provided,* That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: *Provided further,* That the provisions of this section shall not apply to

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has been continued in subsequent years. In fiscal year 2003, five additional provisos are added to allow conditional assistance for Iraq.

The following countries have been listed in similar sections in recent previous fiscal years:

Fiscal years 1997 through 2002—Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria;

Fiscal years 1995 and 1996—Cuba, Iraq, Libya, North Korea, Iran, Serbia, Sudan, or Syria;

Fiscal year 1994—Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, Serbia, Sudan, or Syria;

Fiscal years 1992 and 1993—Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria; and

Fiscal year 1991—Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria.

[37] Language similar to that in the main clause was first enacted as sec. 513 of the Foreign Assistance Appropriations Act, 1986; reference to "government of any country" replaced "any country" in fiscal year 2002. The first proviso first appeared in sec. 513 of the Foreign Assistance Appropriations Act, 1988. The second and third provisos were first enacted in the Foreign Assistance Appropriations Act, 2002.

assistance to promote democratic elections or public participation in democratic processes: *Provided further,* That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509.[38] (a) None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

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

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

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

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided,* That the authority of this section may not be used in fiscal year 2003.

AVAILABILITY OF FUNDS

SEC. 511.[39] No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the cur-

[38] Language similar to that in subsec. (c) was first enacted as sec. 115 of the Foreign Assistance Appropriations Act, 1978.

[39] Similar language first enacted as sec. 403 of the Foreign Assistance Appropriations Act, 1967. Reference to funds provided for Eastern Europe and the Baltic States was added in sec. 511 of the Foreign Assistance Appropriations Act, 1997. Reference to chapter 12 of the Foreign Assistance Act of 1961 was added in fiscal year 2001. Reference to sec. 23 of the Arms Export

rent fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, section 23 of the Arms Export Control Act, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512.[40] No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 513.[41] (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected

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Control Act was added in fiscal year 2002. Sections in prior years required the report required by section 653(a) of the Foreign Assistance Act of 1961 to include information regarding funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

[40] Popularly referred to as the Brooke-Alexander Amendment. Similar language was first enacted as sec. 506 of the Foreign Assistance Appropriations Act, 1976. Prior to FY2001, this section referred to "any loan made to such country"; the reference to the government of such country was added in FY2001. In FY2003, "the government of" was added before "any country which is in default". Beginning in fiscal year 1990, a proviso was enacted to exempt certain countries from application of the section for narcotics-related funding (sec. 518 of the Foreign Assistance Appropriations Act, 1990). Colombia, Bolivia, and Peru were cited in that section, but were omitted the following year. Reference to Nicaragua was added in the Foreign Assistance Appropriations Act, 1991. Liberia was added in the Foreign Assistance Appropriations Act, 1998. Brazil was added in the Foreign Assistance Appropriations Act, 1999. Nicaragua, Liberia, and Brazil were subsequently omitted for FY2000.

In fiscal year 2002, the President's authority to waive application of the section was added.

[41] Language contained in subsec. (a) was first enacted as sec. 608 of the Foreign Assistance Appropriations Act, 1979. Language contained in subsec. (b) was first enacted in sec. 521 of the Foreign Assistance Appropriations Act, 1991. That Act, and Appropriations Acts through FY 1995 also included a subsec. (c), relating to the development of import-sensitive products that would compete with U.S. products.

to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b)[42] None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514.[43] The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515.[44] For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Health Pro-

[42] Popularly referred to as the Bumpers amendment.

[43] 22 U.S.C. 262h note. Similar language was first enacted as sec. 22 of the Export-Import Bank Act Amendments of 1986. The Foreign Assistance Appropriations Act, 1999, included a subsec. (b), which required the Secretary of the Treasury to "instruct the United States executive directors of international financial institutions listed in subsection (a) of this section to use the voice and vote of the United States to support the purchase of American produced agricultural commodities with funds appropriated or made available pursuant to this Act.".

[44] Similar language, without the proviso clauses, was enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1974.

Prior year appropriations measures since FY1990, most recently as part of this section, required that drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 be subject to the regular notification procedures of the Committees on Appropriations.

grams Fund", "Development Assistance", "International Organizations and Programs", "Trade and Development Agency", "International Narcotics Control and Law Enforcement", "Andean Counterdrug Initiative","Assistance for Eastern Europe and the Baltic States", "Assistance for the Independent States of the Former Soviet Union", "Economic Support Fund", "Peacekeeping Operations", "Capital Investment Fund", "Operating Expenses of the United States Agency for International Development", "Operating Expenses of the United States Agency for International Development Office of Inspector General", "Nonproliferation, Anti-terrorism, Demining and Related Programs", "Foreign Military Financing Program", "International Military Education and Training", "Peace Corps", and "Migration and Refugee Assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assist-

ance Act of 1961, shall remain available for obligation until September 30, 2004.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517. (a) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union—

(1) unless that government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

Assistance may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

(b)[45] None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(c) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for any state to enhance its military capability: *Provided,* That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(d) Funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(e) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(f) Funds appropriated in this or prior appropriations Acts that are or have been made available for an Enterprise Fund in the Independent States of the Former Soviet Union may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

[45] 22 U.S.C. 5814 note.

(g) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading "Assistance for the Independent States of the Former Soviet Union" and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518.[46] None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 519.[47] Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2003, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

[46] Similar language was first enacted as sec. 541 of the Foreign Assistance Appropriations Act, 1986. Beginning in FY1997, a proviso was included to prohibit the use of funds from being used to lobby for or against abortion. See also sec. 104(f) of the Foreign Assistance Act of 1961.

[47] Similar language was first enacted as sec. 519 of the Foreign Assistance Appropriations Act, 2000.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520.[48] None of the funds appropriated by this Act shall be obligated or expended for Colombia, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of the Congo except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521.[49] For the purpose of this Act, "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development "program, project, and activity" shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 522.[50] Up to $13,500,000 of the funds made available by this Act for assistance under the heading "Child Survival and

[48] The following countries have been listed in similar sections in recent previous fiscal years:
Fiscal year 2002—Colombia, Haiti, Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or the Democratic Republic of Congo;
Fiscal year 2001—Colombia, Haiti, Liberia, Serbia, Sudan, Ethiopia, Eritrea, Zimbabwe, Pakistan, or the Democratic Republic of Congo;
Fiscal year 2000—Colombia, Haiti, Liberia, Pakistan, Panama, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1999—Colombia, Honduras, Haiti, Liberia, Pakistan, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1998—Colombia, Haiti, Liberia, Pakistan, Panama, Peru, Serbia, Sudan, or the Democratic Republic of Congo;
Fiscal year 1997—Colombia, Guatemala (except development assistance for Guatemala), Dominican Republic, Haiti, Liberia, Pakistan, Peru, Serbia, Sudan, or Zaire;
Fiscal year 1996—Colombia, Dominican Republic, Guatemala, Haiti, Liberia, Nicaragua (with exception), Pakistan, Peru, Russia, Sudan, or Zaire;
Fiscal year 1995—Colombia, Dominican Republic, El Salvador (with exception), Guatemala, Haiti, Indonesia, Liberia, Nicaragua (with exception), Pakistan, Peru, Rwanda, Sudan, or Zaire;
Fiscal year 1994—Afghanistan, Cambodia, Colombia, El Salvador (with exception), Guatemala, Haiti, Indonesia, Jordan, Liberia, Malawi, Nicaragua (with exception), Peru, Sudan, Togo, or Zaire;
Fiscal year 1993—Sudan, Liberia, Lebanon, Zaire, Yemen, Haiti, Ivory Coast, Guatemala, Malawi, Peru, Uganda, Cambodia, Indonesia, or Somalia;
Fiscal year 1992—Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia; and
Fiscal year 1991—Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia.

[49] Similar language was first enacted as sec. 550 of the Foreign Assistance Appropriations Act, 1987. Reference to country and regional program level funding was added in FY2003.

[50] Similar language was first enacted as sec. 551 of the Foreign Assistance Appropriations Act, 1987. References to activities relating to control and treatment of Acquired Immune Deficiency Syndrome (AIDS) in developing countries first appeared in sec. 545 of the Foreign Assistance Appropriations Act, 1989; the current proviso regarding AIDS was added in sec. 542 of the Foreign Assistance Appropriations Act, 1993. A proviso exempting family planning funds from the application of sections of law pertaining default or external debt was added in sec. 542 of the Foreign Assistance Appropriations Act, 1993, and stated annually through FY2000. A proviso, relating to AID personnel policy, was included in the section from FY1989 through FY 1995.

Health Programs Fund", may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided,* That up to $3,500,000 of the funds made available by this Act for assistance under the heading "Development Assistance" may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further,* That funds appropriated by this Act that are made available for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law: *Provided further,* That funds appropriated under title II of this Act may be made available pursuant to section 301 of the Foreign Assistance Act of 1961 if a primary purpose of the assistance is for child survival and related programs: *Provided further,* That of the funds appropriated under title II of this Act, not less than $446,500,000 shall be made available for family planning/reproductive health.

AFGHANISTAN

SEC. 523. Of the funds appropriated by title II of this Act, not less than $295,500,000 shall be made available for humanitarian, reconstruction, and related assistance for Afghanistan: *Provided,* That of the funds made available pursuant to this section, not less than $50,000,000 should be from funds appropriated under the heading "Economic Support Fund" for rehabilitation of primary roads, implementation of the Bonn Agreement and women's development, of which not less than $5,000,000 is to support activities coordinated by the Afghan Ministry of Women's Affairs, including the establishment and support of multi-service women's centers in Afghanistan: *Provided further,* That of the funds made available pursuant to this section from "Development Assistance", "International Disaster Assistance" and "Transition Initiatives", high priority should be placed on girls' and women's education, health, legal and social rights, economic opportunities, and political participation by women: *Provided further,* That assistance should be made available to communities and families that were adversely affected by the military operations: *Provided further,* That of the funds made available pursuant to this section, up to $9,850,000 may be transferred to and merged with funds appropriated by this Act under the headings "Operating Expenses of the United States Agency for International Development" and "Operating Expenses of

The Foreign Assistance Appropriations Act, 1999, expanded the section to refer to other infectious diseases, prevention, and disease programs. That Act also included a reference to family planning programs; exempting such funding from restrictions related to debt arrearage. That language was omitted the following year. The first proviso, referring to development assistance and reimbursements, was added in Foreign Assistance Appropriations Act, 2000. In fiscal year 2002, the title of the section was restated.

the United States Agency for International Development Inspector General".

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 524.[51] Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 525. Funds appropriated by this Act, except funds appropriated under the headings "Trade and Development Agency", "International Military Education and Training", "Foreign Military Financing Program", "Migration and Refugee Assistance", "Peace Corps", and "Nonproliferation, Anti-Terrorism, Demining and Related Programs", may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

DEMOCRACY PROGRAMS

SEC. 526.[52] (a) Notwithstanding any other provision of law, of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $15,000,000 shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the People's Republic of China, Hong Kong and Tibet: *Provided,* That not to exceed $3,000,000 may be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China: *Provided further,* That funds appropriated under the heading "Economic Support Fund" should be made available for assistance for Taiwan for the purposes of furthering political and legal reforms: *Provided further,* That such funds shall only be made available to the extent that they are matched from sources other than the United States Gov-

[51] Similar language, excluding the first proviso, was first enacted as sec. 559 of the Foreign Assistance Appropriations Act, 1988. Language similar to that in the first proviso was added by sec. 548 of the Foreign Assistance Appropriations Act, 1991. Reference to "significant military equipment" and valuation was added in FY 2002.

[52] Sec. 527 of the Foreign Operations Appropriations Act, 1999, first enacted language pertaining to "Democracy in China" funding.

ernment: *Provided further,* That funds made available pursuant to the authority of this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(b) In addition to the funds made available in subsection (a), of the funds appropriated by this Act under the heading "Economic Support Fund" not less than $15,000,000 shall be made available for programs and activities to foster democracy, human rights, civic education, women's development, press freedoms, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism: *Provided,* That funds made available pursuant to the authority of this subsection should support new initiatives or bolster ongoing programs and activities in those countries: *Provided further,* That not less than $3,000,000 should be made available for programs and activities that provide professional training for journalists: *Provided further,* That notwithstanding any other provision of law, funds made available pursuant to the authority of this subsection may be made available to support the advancement of democracy and human rights in Iran: *Provided further,* That funds made available pursuant to this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) Of the funds made available under subsection (a), not less than $9,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, to support the activities described in subsection (a), and of the funds made available under subsection (b), not less than $7,000,000 shall be made available for such Fund to support the activities described in subsection (b): *Provided,* That funds made available in this section for such Fund are in addition to the $12,000,000 requested by the President for the Fund for fiscal year 2003.

(d) Of the funds made available under subsection (a), not less than $3,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (a), and of the funds made available under subsection (b), not less than $5,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (b): *Provided,* That the funds appropriated by this Act that are made available for the National Endowment for Democracy may be made available notwithstanding any other provision of law or regulation, and the Secretary of State shall provide a report to the Committees on Appropriations within 120 days of the date of enactment of this Act on the status of the allocation, obligation, and expenditure of such funds.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527.[53] (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such

[53] Sec. 576 of the Foreign Assistance Appropriations Act, 1988, first enacted a "Prohibition on Bilateral Assistance to Terrorist Countries". Sec. 564 of the Foreign Assistance Appropriations

Continued

heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 528.[54] In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 529.[55] (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

Act, 1990, substantially reworded this prohibition, providing the criteria for restriction, and the requirement for Presidential determination and waiver.

See also sec. 620A of the Foreign Assistance Act of 1961, sec. 40 of the Arms Export Control Act (this volume), and sec. 6(j) of the Export Administration Act (volume III).

[54] Similar language was first enacted as sec. 584 of the Foreign Assistance Appropriations Act, 1990.

[55] 22 U.S.C. 2362 note. Similar language was first contained in sec. 592 of the Foreign Assistance Appropriations Act, 1990.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).[56]

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed

[56] Provisions referred to in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159) include: sec. 604 of the Foreign Assistance Act of 1961, as amended; section 901(b)(1) of the Merchant Marine Act of 1936, as amended; section 5 of the International Air Transportation Fair Competitive Practice Act of 1974; section 644 of the Small Business Act; section 2711 of the Competition in Contracting Act of 1984; and the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 530.[57] (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 531.[58] None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

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[57] Similar language was first enacted as sec. 578 of the Foreign Assistance Appropriations Act, 1991. Reference to the North American Development Bank was added in the Foreign Assistance Appropriations Act, 1996.

[58] 50 U.S.C. 1701 note. Language similar to that in this section was first enacted as sec. 586D(a) of the Foreign Assistance Appropriations Act, 1991 (part of the Iraq Sanctions Act of 1990—secs. 586–586J of the Foreign Assistance Appropriations Act, 1991). The section, as it was continued in annual foreign assistance appropriations acts, was expanded to include Serbia and Montenegro during fiscal years 1995 through 1997.

Sec. 586D(b) of the Foreign Assistance Appropriations Act, 1991, and subsequent foreign assistance appropriations acts through fiscal year 1997, authorized the President to prohibit importation into the United States of any or all products of any foreign country that had not prohibited exports to or imports from Iraq. Serbia and Montenegro were added to this language for fiscal years 1995 through 1997.

For text of sec. 586D of the 1991 Act, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 532.[59] Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 533.[60] None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(b) assistance for any program, project, or activity that contributes to the violation of internationally recognized workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided,* That the application of section 507(4)(D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 534.[61] (a) AFGHANISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds

[59] Similar language was first enacted in sec. 589 of the Foreign Assistance Appropriations Act, 1993. FY1999 through 2001 legislation included an exemption for funding directed to the International Fund for Agricultural Development, first enacted in sec. 537 of the Foreign Assistance Appropriations Act, 1999.

[60] Similar language was first enacted, except the proviso in subsec. (b), as sec. 599 of the Foreign Assistance Appropriations Act, 1993. That proviso was added by sec. 547 of the Foreign Assistance Appropriations Act, 1994. Prior language, FY1993 through 2001, included a reference to discrepancy in tax, tariff, labor, environment, and safety laws.

[61] Language similar to that in subsecs. (a) and (b) was first enacted as sec. 549 of the Foreign Assistance Appropriations Act, 1994. Various provisos in subsec. (a) have been added and omitted since the section's introduction. Subsec. (c) was added as subsec. (d) in fiscal year 1995. New subsec. (d) was added in sec. 540 of the Foreign Assistance Appropriations Act, 1999. Subsecs.

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appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 512 of this Act and any similar provision of law, and funds appropriated in titles I and II of this Act that are made available for Lebanon, Montenegro, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

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

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 20 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided*, That not more than 7 of such contractors shall be assigned to any bureau or office: *Provided further*, That such funds appropriated to carry out the Foreign Assistance Act of 1961 may be made available for personal services contractors assigned only to the Office of Procurement; the Bureau for Africa; and the Bureau for Asia and the Near East: *Provided further*, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assist-

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(e) and (f) were added in sec. 534 in FY 2002. Subsecs. (g) through (j) were added in sec. 534 in FY 2003.

Reference to "victims of war" and "displaced children" have been included annually. Reference to assisting "victims of trafficking in persons" was added in FY 2003. The following countries and groups have been listed in similar sections in previous fiscal years:

Fiscal Years 2001 and 2002—Afghanistan, Lebanon, Montenegro, victims of war, displaced children, displaced Burmese;

Fiscal Year 2000—Afghanistan, Lebanon, Montenegro, victims of war, displaced children, displaced Burmese, Romania (humanitarian assistance), Kosova (humanitarian assistance);

Fiscal Year 1999—Afghanistan, Lebanon, Montenegro, victims of war, displaced children, displaced Burmese, Romania (humanitarian assistance), (Kosova) humanitarian assistance;

Fiscal Year 1998—Afghanistan, Lebanon, displaced Burmese, Romania (humanitarian assistance), and humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia and Kosova;

Fiscal Year 1997—Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia and Kosova;

Fiscal Year 1996—Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova;

Fiscal Year 1995—Haiti, Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova; and

Fiscal Year 1994—Haiti, Afghanistan, Lebanon, Cambodia (with conditions), displaced Burmese, Romania (humanitarian assistance), humanitarian assistance for the peoples of Bosnia-Herzegovina, Croatia and Kosova.

ance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)[62] (1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

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

(e) CONTINGENCIES.—During fiscal year 2003, the President may use up to $45,000,000 under the authority of section 451 of the Foreign Assistance Act, notwithstanding the funding ceiling in section 451(a).

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

(g) SHIPMENT OF HUMANITARIAN ASSISTANCE.—During fiscal year 2003, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made

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[62] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115); see secs. 534(d), 546, 549, and 555 (115 Stat. 2151, 2155, 2156, and 2160, respectively). See also sec. 566 (115 Stat. 2164), requiring a report on PLO compliance, and sec. 569 (115 Stat. 2166), prohibiting assistance to the Palestinian Broadcasting Corporation.

On December 5, 1997, the President waived the provisions of section 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); and through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327).

available to nongovernmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.

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

(i) REPEAL.—Section 545(d) of Public Law 106–429, and comparable provisions contained in prior Acts making appropriations for foreign operations, export financing, and related programs, are hereby repealed.[63]

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

ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 535.[64] It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) the three Arab League countries with diplomatic and trade relations with Israel should return their ambassadors to Israel, should refrain from downgrading their relations with Israel, and should play a constructive role in securing a peaceful resolution of the Israeli-Arab conflict;

(4) the remaining Arab League states should normalize relations with their neighbor Israel;

(5) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(6) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, in-

[63] Sec. 545(d) of Public Law 106–429 (114 Stat. 1900A–39) had required the Secretary of the Treasury to report to Congress annually on the efforts of heads of Federal agencies and U.S. directors of international financial institutions in purchasing American-made equipment and products.

[64] Language pertaining to the Arab League boycott of Israel was first enacted as sec. 598(b) of the Foreign Assistance Appropriations Act, 1993.

cluding those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ADMINISTRATION OF JUSTICE ACTIVITIES

SEC. 536.[65] Of the funds appropriated or otherwise made available by this Act for "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act. Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 537.[66] (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States": *Provided,* That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 2003, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

[65] Language similar to this section has been enacted in previous years' appropriations Act, but under the section heading "Anti-Narcotics Activities".

[66] Similar language was first enacted in sec. 562 of the Foreign Assistance Appropriations Act, 1993.

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

EARMARKS

SEC. 538.[67] (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided,* That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 539.[68] Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 540.[69] No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided,* That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.[70]

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[67] Language pertaining to earmarks was first enacted in the Foreign Assistance Appropriations Act, 1988, but has substantially changed since then. Subsec. (b) was first added in the Foreign Assistance Appropriations Act, 1993.

[68] First enacted, not including the second sentence, as sec. 538 of the Foreign Assistance Appropriations Act, 1985.

[69] First enacted, not including proviso, as sec. 102 of the Mutual Security Appropriations Act, 1958. The proviso, which originally prohibited any funds from foreign assistance appropriations being made available to carry out the provisions of sec. 316 of Public Law 96–533, was added by the Foreign Assistance Appropriations Act, 1996.

See also sec. 109 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204), *Legislation on Foreign Relations Through 2002*, vol. II, for related language.

[70] Sec. 316 of Public Law 96–533 provided the following:

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 541.[71] None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 542.[72] None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 543.[73] (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional com-

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"WORLD HUNGER

"Sec. 316. (a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961, the Director of the United States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

"(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues.".

[71] Language through "dues of any member of the United Nations" first enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1964. Text following that point was added in sec. 546 of the Foreign Assistance Appropriations Act, 2000.

[72] Similar language was first enacted as sec. 546 of the Foreign Assistance Appropriations Act, 1986.

[73] Similar language was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1994, which referred to section 40(d) of the Arms Export Control Act in subsec. (a). In FY 1999, the text referred to that Act "or any other comparable provision of law". In FY 2002, the text referred instead to section 6(j) of the Export Administration Act.

See also sec. 620A of the Foreign Assistance Act of 1961.

mittees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 544.[74] (a) IN GENERAL.—Of the funds appropriated under this Act that are made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fines determined to be owed under the parking programs in the District of Columbia and New York City, New York by such country as of September 30, 2002 that were incurred after the first day of the fiscal year preceding the current fiscal year shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the governments of the District of Columbia and New York City, New York.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 545.[75] None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 546.[76] If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assist-

[74] Similar language was first enacted as sec. 574 of the Foreign Assistance Appropriations Act, 1994. References to penalties and fines owed to New York were added in FY 2001.

[75] Similar language first enacted as sec. 565 of the Foreign Assistance Appropriations Act, 1995.

[76] Funding for war crimes tribunals drawdown was first enacted in sec. 548(e) of the Foreign Assistance Appropriations Act, 1994. Language enacted in prior years codified at 22 U.S.C. 2656 note. The proviso referring to establishment of any standing or permanent international criminal tribunal or court was added in FY 2003.

ance Act of 1961, as amended, of up to $30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further*, That funds made available for tribunals other than Yugoslavia or Rwanda shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 547.[77] Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 548.[78] None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided,* That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further,* That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

[77] Similar language was first enacted as sec. 578 of the Foreign Assistance Appropriations Act, 1995.

[78] Similar language was first enacted as sec. 585 of the Foreign Assistance Appropriations Act, 1995.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 549.[79] None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities or under the headings "Child Survival and Health Programs Fund", "Development Assistance", and "Economic Support Fund" may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 550.[80] None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

CARIBBEAN BASIN

SEC. 551.[81] (a) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

(b) Of the funds appropriated by title II of this Act and of the funds appropriated to carry out food assistance programs managed by the United States Agency for International Development, a total of not less than $52,500,000 should be allocated for assistance for Haiti in fiscal year 2003.

(c) Of the funds appropriated by title II of this Act, a total of $37,680,000 should be allocated for assistance for Nicaragua and $40,130,000 should be allocated for assistance for Honduras, to address the conditions of increasing poverty in the rural sectors of those countries through programs that support, among other things, increased agricultural production and other income generating opportunities, improved health, and expanded education opportunities, especially for disadvantaged youth.

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[79] Similar language was first enacted as sec. 579 of the Foreign Assistance Appropriations Act, 1995. Reference to Child Survival and Disease Programs Fund, Development Assistance, and Economic Support Fund was added in sec. 555 of the Foreign Assistance Appropriations Act, 2000. Earlier texts included a prohibition on the use of funds for "food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation".

[80] Similar language was first enacted as sec. 581 of the Foreign Assistance Appropriations Act, 1997. Prior to FY 2003, the section required Presidential certification "that the United Nations is not engaged in any effort to implement or impose any taxation on United States persons in order to raise revenue for the United Nations or any of its specialized agencies" 15 days in advance of disbursement of funds.

[81] Language similar to subsec. (a) was first enacted as sec. 582 of the Foreign Assistance Appropriations Act, 1997. Prior to fiscal year 2001, the section stated eligibility for both Haiti's Coast Guard and the civilian-led Haitian National Police.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 552.[82] (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

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

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 553.[83] None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: *Provided,* That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: *Provided further,* That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

PROTECTION OF BIODIVERSITY AND TROPICAL FORESTS

SEC. 554. Of the funds appropriated under the heading "Development Assistance", not less than $145,000,000 should be made avail-

[82] First enacted as sec. 566 of the Foreign Assistance Appropriations Act, 1998.

[83] Popularly referred to as the Leahy amendment. Similar language was first enacted pertaining to appropriations to carry out international narcotics control programs in title II of the Foreign Assistance Appropriations Act, 1997.

Sec. 1502 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 578), provided the following:

"SEC. 1502. Assistance or other financing under this chapter may be provided for Iraq notwithstanding any other provision of law: *Provided,* That the authority contained in this section shall not apply to section 553 of Public Law 108–7: *Provided further,* That funds made available for Iraq pursuant to this authority shall be subject to the regular reprogramming procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except that notification shall be transmitted at least 5 days in advance of obligation: *Provided further,* That the notification requirements of this section may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.".

able for programs and activities which directly protect biodiversity, including forests, in developing countries: *Provided,* That of the funds made available under this section, $50,000,000 shall be made available to carry out tropical forest conservation activities authorized by the Foreign Assistance Act of 1961, of which amount up to $40,000,000 may be made available for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, pursuant to the provisions of part V of such Act, the Tropical Forest Conservation Act of 1998.

ENERGY CONSERVATION, ENERGY EFFICIENCY AND CLEAN ENERGY PROGRAMS

SEC. 555.[84] (a) FUNDING.—Of the funds appropriated by this Act, not less than $175,000,000 should be made available to support policies and programs in developing countries and countries in transition that directly: (1) promote a wide range of energy conservation, energy efficiency and clean energy programs and activities, including the transfer of clean and environmentally sustainable energy technologies; (2) measure, monitor, and reduce greenhouse gas emissions; (3) increase carbon sequestration activities; and (4) enhance climate change mitigation and adaptation programs.

(b) GREENHOUSE GAS EMISSIONS REPORT.—Not later than 45 days after the date on which the President's fiscal year 2004 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2003, including an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President's Budget Appendix; and

(2) all fiscal year 2002 obligations and estimated expenditures, fiscal year 2003 estimated expenditures and estimated obligations, and fiscal year 2004 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (i) to promote the transfer and deployment of a wide range of United States clean energy and energy efficiency technologies; (ii) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (iii) to promote carbon capture and sequestration measures; (iv) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (v) to develop assessments of the vulnerability to impacts of climate change and mitigation and adaptation response strategies.

[84] Language pertaining to greenhouse gas emissions was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1999. A report similar to that required by subsec. (b) was first required by sec. 580 of the Foreign Assistance Appropriations Act, 1998.

ZIMBABWE

SEC. 556.[85] The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans, to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.

NIGERIA

SEC. 557. None of the funds appropriated under the headings "International Military Education and Training" and "Foreign Military Financing Program" may be made available for assistance for Nigeria until the President certifies to the Committees on Appropriations that the Nigerian Minister of Defense, the Chief of the Army Staff, and the Minister of State for Defense/Army are suspending from the Armed Forces those members, of whatever rank, against whom there is credible evidence of gross violations of human rights in Benue State in October 2001, and the Government of Nigeria and the Nigerian Armed Forces are taking effective measures to bring such individuals to justice: *Provided,* That the President may waive such prohibition if he determines that doing so is in the national security interest of the United States: *Provided further,* That prior to exercising such waiver authority, the President shall submit a report to the Committees on Appropriations describing the involvement of the Nigerian Armed Forces in the incident in Benue State, the measures that are being taken to bring such individuals to justice, and whether any Nigerian Armed Forces units involved with the incident in Benue State are receiving United States assistance.

BURMA

SEC. 558.[86] Of the funds appropriated under the heading "Economic Support Fund", not less than $7,000,000 shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma's borders: *Provided,* That of this amount $500,000 should be made available to support newspapers, publications, and other media activities promoting democracy inside Burma: *Provided further,* That funds made available under this heading may be made available notwithstanding any other provision of law: *Provided further,* That funds made available by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

[85] First enacted as sec. 560 of the Foreign Assistance Appropriations Act, 2002.
[86] Similar language first enacted in title II of the Foreign Assistance Appropriations Act, 1996

ENTERPRISE FUND RESTRICTIONS

SEC. 559.[87] Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

CAMBODIA

SEC. 560.[88] (a) The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

(b)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia.

(2) Paragraph (1) shall not apply to assistance for basic education, reproductive and maternal and child health, cultural and historic preservation, programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases, programs to combat human trafficking that are provided through nongovernmental organizations, and for the Ministry of Women and Veterans Affairs to combat human trafficking.

(c) Of the funds appropriated by this Act under the heading "Economic Support Fund", up to $5,000,000 may be made available for activities to support democracy, including assistance for democratic political parties.

(d) Of the funds appropriated by this Act, $3,750,000 shall be made available, notwithstanding subsection (b), as a contribution for an endowment to sustain rehabilitation programs for Cambodians suffering from physical disabilities that are administered by an American nongovernmental organization that is directly supported by the United States Agency for International Development: *Provided,* That such funds may be made available only if an amount at least equal to one-half the United States contribution is provided for the endowment from sources other than the United States Government.

FOREIGN MILITARY TRAINING REPORT

SEC. 561.[89] (a) The Secretary of Defense and the Secretary of State shall jointly provide to the Congress by May 1, 2003, a report on all military training provided to foreign military personnel (excluding sales, and excluding training provided to the military personnel of countries belonging to the North Atlantic Treaty Organization) under programs administered by the Department of Defense and the Department of State during fiscal years 2002 and

[87] First enacted as sec. 577 of the Foreign Assistance Appropriations Act, 1999.

[88] Language similar to subsec. (a) was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1998. The remaining subsecs. have changed substantially in each fiscal year.

[89] Similar language was first enacted as sec. 581 of the Foreign Assistance Appropriations Act, 1999. See also sec. 656 of the Foreign Assistance Act of 1961 (Public Law 87–195; 22 U.S.C. 2416).

2003, including those proposed for fiscal year 2003. This report shall include, for each such military training activity, the foreign policy justification and purpose for the training activity, the cost of the training activity, the number of foreign students trained and their units of operation, and the location of the training. In addition, this report shall also include, with respect to United States personnel, the operational benefits to United States forces derived from each such training activity and the United States military units involved in each such training activity. This report may include a classified annex if deemed necessary and appropriate.

(b) For purposes of this section a report to Congress shall be deemed to mean a report to the Appropriations and Foreign Relations Committees of the Senate and the Appropriations and International Relations Committees of the House of Representatives.

KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

SEC. 562. None of the funds appropriated by this Act, or prior Acts making appropriations for foreign operations, export financing, and related programs, may be made available for assistance to the Korean Peninsula Energy Organization (KEDO): *Provided,* That the President may waive this restriction and provide up to $5,000,000 of funds appropriated under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for assistance to KEDO for administrative expenses only notwithstanding any other provision of law, if he determines that it is vital to the national security interests of the United States and provides a written policy justification to the appropriate congressional committees: *Provided further,* That funds may be obligated for assistance to KEDO subject to the regular notification procedures of the Committees on Appropriations.

PALESTINIAN STATEHOOD

SEC. 563. (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated by this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections;

(2) the elected governing entity of a new Palestinian state—

(A) has demonstrated a firm commitment to peaceful coexistence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures;

(C) is establishing a new Palestinian security entity that is fully cooperative with appropriate Israeli and other appropriate security organizations; and

(3) the Palestinian Authority (or the governing body of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel

and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the newly elected governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is vital to the national security interests of the United States to do so.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or a newly elected governing entity, in order to help meet the requirements of subsection (a), consistent with the provisions of section 552 of this Act ("Limitation on Assistance to the Palestinian Authority").

COLOMBIA

SEC. 564. (a) DETERMINATION AND CERTIFICATION REQUIRED.—Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(1) Up to 75 percent of such funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2).

(2) Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

(A) The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

(B) The Colombian Government is prosecuting those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

(C) The Colombian Armed Forces are cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces are severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with paramilitary organizations.

(E) The Colombian Armed Forces are executing orders for capture of leaders of paramilitary organizations that continue armed conflict.

(3) The balance of such funds may be obligated after July 31, 2003, if the Secretary of State certifies and reports to the appropriate congressional committees, after such date, that the Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(b) CONSULTATIVE PROCESS.—At least 10 days prior to making the certifications required by subsection (a), the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in that subsection.

(c) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term "aided or abetted" means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 565.[90] (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

[90] First enacted as sec. 568 of the Foreign Assistance Appropriations Act, 2002.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 566.[91] None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

IRAQ

SEC. 567. Notwithstanding any other provision of law, funds appropriated under the heading "Economic Support Fund" may be made available for programs benefitting the Iraqi people and to support efforts to bring about a political transition in Iraq: *Provided,* That none of the funds made available pursuant to the authorities provided in this section may be made available to any organization to reimburse or pay for costs incurred by such organization in prior fiscal years: *Provided further,* That funds made available under this section are made available subject to the regular notification procedures of the Committees on Appropriations.

WEST BANK AND GAZA PROGRAM

SEC. 568.[92] (a) OVERSIGHT.—For fiscal year 2003, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading "Economic Support Fund" for the West Bank and Gaza.

(b) VETTING.—Prior to the obligation of funds appropriated by this Act under the heading "Economic Support Fund" for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual or entity that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection.

(c) AUDITS.—(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

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[91] First enacted as sec. 584 of the Foreign Assistance Appropriations Act, 1999.
[92] Subsec. (a) was first enacted as sec. 587 of the Foreign Assistance Appropriations Act, 2000.

(2) Of the funds appropriated by this Act under the heading "Economic Support Fund" that are made available for assistance for the West Bank and Gaza, up to $1,000,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

INDONESIA

SEC. 569.[93] Funds appropriated by this Act under the heading "Foreign Military Financing Program" may be made available for assistance for Indonesia, and licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the President certifies to the appropriate congressional committees that—

(1) the Indonesia Minister of Defense is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups;

(2) the Indonesian Government is prosecuting those members of the Indonesian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups, and is punishing those members of the Indonesian Armed Forces found to have committed such violations of human rights or to have aided or abetted militia groups;

(3) the Indonesian Armed Forces are cooperating with civilian prosecutors and judicial authorities in such cases (including providing access to witnesses, relevant military documents, and other requested information); and

(4) the Minister of Defense is making publicly available audits of receipts and expenditures of the Indonesian Armed Forces.

RESTRICTIONS ON ASSISTANCE TO GOVERNMENTS DESTABILIZING SIERRA LEONE

SEC. 570.[94] (a) None of the funds appropriated by this Act may be made available for assistance for the government of any country for which the Secretary of State determines there is credible evidence that such government has aided or abetted, within the previous 6 months, in the illicit distribution, transportation, or sale of diamonds mined in Sierra Leone.

(b) Whenever the prohibition on assistance required under subsection (a) is exercised, the Secretary of State shall notify the Committees on Appropriations in a timely manner.

[93] Language pertaining to providing IMET and FMF funding to Indonesia was first enacted as sec. 589 of the Foreign Assistance Appropriations Act, 2000.

[94] Similar language was first enacted in sec. 583 of the Foreign Assistance Appropriations Act, 2001.

VOLUNTARY SEPARATION INCENTIVES

SEC. 571. Section 579(c)(2)(D) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as enacted by section 1000(a)(2) of the Consolidated Appropriations Act, 2000 (Public Law 106–113), as amended, is amended by striking "December 31, 2002" and inserting in lieu thereof "January 1, 2003".

CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. 572.[95] Funds appropriated in Public Law 107–115 that were available for the United Nations Population Fund (UNFPA), and an equal amount in this Act, shall be made available for the UNFPA if the President determines that the UNFPA no longer supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided,* That none of the funds made available for the UNFPA may be used in the People's Republic of China: *Provided further,* That the other conditions on availability of funds for abortion and abortion-related activities contained in either this Act or Public Law 107–115, including but not limited to section 576(c), shall apply to any assistance provided for the UNFPA in this Act or Public Law 107–115, respectively: *Provided further,* That the conditions on availability of funds for the UNFPA as contained in section 576(c) of Public Law 107–115 shall apply to any assistance provided for the UNFPA in this Act: *Provided further,* That the amount of funds that the UNFPA plans to spend in the People's Republic of China in calendar years 2002 and 2003, as determined by the Secretary of State, shall be deducted from funds made available to the UNFPA under Public Law 107–115 and this Act.

PROCUREMENT AND FINANCIAL MANAGEMENT REFORM

SEC. 573.[96] (a) FUNDING CONDITIONS.—Of the funds made available under the heading "International Financial Institutions" in this Act, 10 percent of the United States portion or payment to such International Financial Institution shall be withheld by the Secretary of the Treasury, until the Secretary certifies to the Com-

[95] Sec. 576 of Public Law 107–115 provided as follows:

"UNITED NATIONS POPULATION FUND

"SEC. 576. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under 'International Organizations and Programs', not more than $34,000,000 for fiscal year 2002 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the 'UNFPA').

"(b) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under 'International Organizations and Programs' may be made available for the UNFPA for a country program in the People's Republic of China.

"(c) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under 'International Organizations and Programs' for fiscal year 2002 for the UNFPA may not be made available to UNFPA unless—

"(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

"(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

"(3) the UNFPA does not fund abortions.".

[96] Similar language was first enacted as sec. 588 of the Foreign Assistance Appropriations Act, 2001.

mittees on Appropriations that, to the extent pertinent to its lending programs, the institution is—

(1) implementing procedures for conducting annual audits by qualified independent auditors for all new investment lending;

(2) implementing procedures for annual independent external audits of central bank financial statements for countries making use of International Monetary Fund resources under new arrangements or agreements with the Fund;

(3) taking steps to establish an independent fraud and corruption investigative organization or office;

(4) implementing a process to assess a recipient country's procurement and financial management capabilities including an analysis of the risks of corruption prior to initiating new investment lending; and

(5) taking steps to fund and implement programs and policies to improve transparency and anti-corruption programs and procurement and financial management controls in recipient countries.

(b) DEFINITIONS.—The term "International Financial Institutions" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Enterprise for the Americas Multilateral Investment Fund, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the International Monetary Fund.

CENTRAL ASIA

SEC. 574. (a) Funds appropriated by this Act may be made available for assistance for the Government of Uzbekistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America".

(b) Funds appropriated by this Act may be made available for assistance for the Government of Kazakhstan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Kazakhstan has made significant improvements in the protection of human rights during the preceding 6 month period.

(c) The Secretary of State may waive the requirements under subsection (b) if he determines and reports to the Committees on Appropriations that such a waiver is in the national security interests of the United States.

(d) Not later than October 1, 2003, the Secretary of State shall submit a report to the Committees on Appropriations describing the following:

(1) The defense articles, defense services, and financial assistance provided by the United States to the countries of Cen-

tral Asia during the 6-month period ending 30 days prior to submission of each such report.

(2) The use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the armed forces, border guards, or other security forces of such countries.

(e) For purposes of this section, the term "countries of Central Asia" means Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 575.[97] Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

WAR CRIMINALS

SEC. 576.[98] (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the "Tribunal") all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

[97] Previously codified at 22 U.S.C. 2763 note. Similar language first enacted as sec. 580 of the Foreign Assistance Appropriations Act, 1989.

[98] Popularly referred to as the Lautenberg amendment. For earliest version of this section, see sec. 573 of the Foreign Assistance Appropriations Act, 1998.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

(f) DEFINITIONS.—As used in this section—

(1) COUNTRY.—The term "country" means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term "entity" refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term "municipality" means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term "Dayton Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 577.[99] The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' financing programs.

[99] Similar language first enacted as sec. 596 of the Foreign Assistance Appropriations Act, 2001.

FUNDING FOR SERBIA

SEC. 578. (a) Funds appropriated by this Act may be made available for assistance for Serbia after June 15, 2003, if the President has made the determination and certification contained in subsection (c).

(b) After June 15, 2003, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of the Federal Republic of Yugoslavia (or a government of a successor state) subject to the conditions in subsection (c): *Provided,* That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended, shall not apply to the provision of loans and assistance to the Federal Republic of Yugoslavia (or a successor state) through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of the Federal Republic of Yugoslavia (or a government of a successor state) is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law, including the release of political prisoners from Serbian jails and prisons.

(d) This section shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy in municipalities.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

SEC. 579. (a) PROHIBITION ON TAXATION.—None of the funds appropriated by this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2003 by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors, as of the date of the enactment of this Act, shall be withheld from obligation from funds appropriated for assistance for fiscal year 2004 and allocated for the central govern-

ment of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REFUND TO THE TREASURY AND REPROGRAMMING OF FUNDS.—Of the funds withheld from obligation for each country or entity pursuant to subsection (b), one-half may become available for reprogramming for other purposes (pursuant to section 515 of this Act and consistent with the purposes for which such funds were originally appropriated) and one-half shall be deposited in the General Fund of the Treasury on, or within 5 days after, September 1, 2004, pursuant to the certification required under subsection (b).

(e) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

(f) REPORT.—Not later than February 1, 2004, the Comptroller General of the United States shall submit a report to the Committees on Appropriations which assesses the following—

(1) the extent to which existing bilateral agreements provide exemption from taxation;

(2) the status of negotiations of new framework bilateral agreements or modifications of existing framework bilateral agreements;

(3) the reasons why new framework bilateral agreements or modifications of existing bilateral agreements, entered into within the previous 5 years, have (as appropriate) failed to include exemption from taxation; and

(4) the administrative procedures that foreign governments use to ensure that United States assistance commodities are not taxed or, if they are, that such taxes are reimbursed to the United States Government, and the adequacy of those procedures.

(g) DEFINITIONS.—As used in this section—

(1) the terms "taxes" and "taxation" refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term "bilateral agreement" refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be accorded the United States assistance provided under that agreement.

GAO REPORT

SEC. 580. Not later than November 1, 2003, the Comptroller General of the United States shall provide a report to the Committees

on Appropriations on the extent to which the Department of State is complying with section 301(c) of the Foreign Assistance Act of 1961, and on the implementation of procedures that have been established to meet the standards of the Department of State regarding compliance with the requirements of section 301(c).[100]

TRAINING PROGRAM EVALUATION

SEC. 581. Not later than June 30, 2003, the Secretary of State, in consultation with the Secretary of Defense, shall submit a report to the Committees on Appropriations describing in detail the steps that the Departments of State and Defense are making to improve performance evaluation procedures for the International Military Education and Training (IMET) program and the progress that the Departments of State and Defense are making in implementing section 548 of the Foreign Assistance Act of 1961.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 582.[101] (a) AUTHORITY.—Funds made available to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority in Jamaica and El Salvador through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict and foster improved police relations with the communities they serve.

(b) REPORT.—

(1) The Administrator of the United States Agency for International Development shall submit, at the time of submission of the agency's Congressional Budget Justification Document for fiscal year 2004, and annually thereafter, a report to the Committees on Appropriations describing the progress these programs are making toward improving police relations with the communities they serve and institutionalizing an effective community-based police program.

(2) The requirements of paragraph (1) are in lieu of the requirements contains in section 587(b) of Public Law 107–115.[102]

(c) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.

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[100] Sec. 301(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2221(c)) reads as follows:

"(c) No contributions by the United States shall be made to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.".

[101] 22 U.S.C. 2151 note.

[102] Sec. 587(b) of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115), provided as follows:

"(b) REPORT.—Twelve months after the initial obligation of funds for Jamaica for activities authorized under subsection (a), the Administrator of the United States Agency for International Development shall submit a report to the appropriate congressional committees describing the progress the program is making toward improving police relations with the communities they serve and institutionalizing an effective community-based police program.".

OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK RESTRICTIONS

SEC. 583.[103] (a) LIMITATION ON USE OF FUNDS BY OPIC.—None of the funds made available in this Act may be used by the Overseas Private Investment Corporation to insure, reinsure, guarantee, or finance any investment in connection with a project involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(b) LIMITATION ON USE OF FUNDS BY THE EXPORT-IMPORT BANK.—None of the funds made available in this Act may be used by the Export-Import Bank of the United States to guarantee, insure, extend credit, or participate in an extension of credit in connection with the export of any goods to a country for use in an enterprise involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsections (a) and (b) are that the country concerned is implementing the recommendations, obligations and requirements developed by the Kimberley Process on conflict diamonds, or taking other measures that the Secretary of State determines to contribute effectively to preventing and eliminating the trade in conflict diamonds.

TRADE CAPACITY BUILDING

SEC. 584. Of the funds appropriated by this Act, under the headings "Trade and Development Agency", "Development Assistance", "Transition Initiatives", "Economic Support Fund", "International Affairs Technical Assistance", and "International Organizations and Programs", not less than $452,000,000 should be made available for trade capacity building assistance.

TRANSPARENCY AND ACCOUNTABILITY

SEC. 585. (a) FINDINGS.—The Congress finds that—

(1) There is a lack of transparency in the revenues and expenditures of the national budgets of many developing countries that receive United States assistance.

(2) In such countries, official revenues—particularly from natural resource extraction—are often unreported, under-reported, or inaccurately recorded by foreign government agencies.

(3) Such inefficiencies—which in some instances mask outright theft—result in the failure of such governments to adequately provide their citizens with social, political, economic, and legal benefits and opportunities, and undermine the effectiveness of assistance provided to such countries by the United States and other international donors.

(4) Good governance and respect for the rule of law are critical to a nation's development.

[103] Similar language first enacted as sec. 590 of the Foreign Assistance Appropriations Act, 2002.

(b) REPORT.—Not more than 90 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations, describing in detail—

(1) Those countries whose central governments receive foreign assistance from the United States;

(2) Relevant laws and regulations in such countries governing the public disclosure of revenues and expenditures in national budgets;

(3) The adequacy of those laws and regulations, and the extent to which they are implemented and enforced;

(4) Those countries receiving such assistance where no such laws or regulations exist, and the extent to which such revenues and expenditures are publicly disclosed; and

(5) Programs and activities sponsored by the United States Government to promote accurate disclosure of revenues and expenditures in the national budgets of such countries, and the results of those programs and activities.

AMERICAN CHURCHWOMEN AND OTHER CITIZENS IN EL SALVADOR AND GUATEMALA

SEC. 586.[104] (a) Information relevant to the December 2, 1980, murders of four American churchwomen in El Salvador, and the May 5, 2001, murder of Sister Barbara Ann Ford and the murders of other American citizens in Guatemala since December 1999, should be investigated and made public.

(b) Not later than 45 days after enactment of this Act, the President shall order all Federal agencies and departments, including the Federal Bureau of Investigation, that possess relevant information, to expeditiously declassify and release to the victims' families such information, consistent with existing standards and procedures on classification, and shall provide a copy of such order to the Committees on Appropriations.

(c) In making determinations concerning declassification and release of relevant information, all Federal agencies and departments should use the discretion contained within such existing standards and procedures on classification in support of releasing, rather than withholding, such information.

(d) All reasonable efforts should be taken by the American Embassy in Guatemala to work with relevant agencies of the Guatemalan Government to protect the safety of American citizens in Guatemala, and to assist in the investigations of violations of human rights.

This division may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003".

[104] Language pertaining to the murdered American churchwomen in El Salvador was first enacted in sec. 728 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113). In appropriations measures, such language was first enacted in sec. 595 of the Foreign Assistance Appropriations Act, 1999. Reference to the deaths in Guatemala was added in FY 2002.

b. Emergency Wartime Supplemental Appropriations Act, 2003

Partial text of Public Law 108–11 [H.R. 1559], 117 Stat. 559, approved April 16, 2003

AN ACT Making emergency wartime supplemental appropriations for the fiscal year 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, and for other purposes, namely:

TITLE I—WAR-RELATED APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

* * * * * * *

PUBLIC LAW 480 TITLE II GRANTS

(INCLUDING TRANSFER OF FUNDS)

For additional expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $369,000,000, to remain available until expended, for commodities supplied in connection with dispositions abroad under title II of said Act: *Provided,* That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2003 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further,* That of the funds provided under this heading, the Secretary of Agriculture shall transfer to the Commodity Credit Corporation $69,000,000 to acquire a quantity of commodities for use in administering the Bill Emerson Humanitarian Trust: *Provided further,* That the authority contained in 7 U.S.C. 1736f-1(c)(4) shall not apply during fiscal year 2003 for any release of commodities after the date of enactment of this Act.

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CHAPTER 2

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DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", $88,420,000, to remain available until December 31, 2003: *Provided,* That $35,800,000 shall be available for costs associated with the re-establishment of a United States diplomatic presence in Baghdad, Iraq.

In addition, for the costs of worldwide security upgrades, $10,000,000, to remain available until December 31, 2003.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", $149,500,000, to remain available until expended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $50,000,000, to remain available until expended, which may be transferred to, and merged with, the appropriations for "Diplomatic and Consular Programs".

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations" for activities related to the Middle East Television Network broadcasting to the Middle East and radio broadcasting to Iraq, $30,500,000, to remain available until September 30, 2004.

GENERAL PROVISION, THIS CHAPTER

SEC. 1201. Funds appropriated under this chapter for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and section 15 of the State Department Basic Authorities Act of 1956, as amended.

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

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IRAQ FREEDOM FUND

(TRANSFER OF FUNDS)

There is established in the Treasury of the United States a special account to be known as the "Iraq Freedom Fund". For additional expenses for ongoing military operations in Iraq, and those operations authorized by Public Law 107–40, and other operations and related activities in support of the global war on terrorism, not otherwise provided for, necessary to finance the estimated partial costs of combat, stability operations (including natural resource risk remediation activities), force reconstitution, replacement of munitions and equipment, and other costs, there is hereby appropriated $15,678,900,000, to remain available for transfer until September 30, 2004: *Provided,* That amounts provided under this heading shall be available for transfer for the following activities:

Not less than $1,771,180,000 for classified programs, which shall be in addition to amounts provided for elsewhere in this chapter, and under this heading, for procurement and research, development, test and evaluation;

Not less than $1,100,000,000 for increased fuel costs, for transfer to "Defense Working Capital Funds";

Up to $1,400,000,000 for transfer to "Operation and Maintenance, Defense-Wide", only for purposes further specified in section 1310 of this chapter;

Up to $489,300,000 for transfer to the "Natural Resources Risk Remediation Fund";

Up to $400,000,000 for transfer to Department of Homeland Security, "United States Coast Guard, Operating Expenses", to support military activities in connection with operations in and around Iraq and the global war on terrorism;

Up to $57,600,000 for research, development, test, and evaluation; and

Up to $25,000,000 for counter-terrorism military training activities for foreign governments in connection with the global war on terrorism, including equipment, supplies and services, on such terms as the Secretary of Defense, with the concurrence of the Secretary of State and 15 days following submission of a financial plan for the use of such funds to the congressional defense committees, may determine:

Provided further, That in addition to the transfers authorized in the preceding proviso, the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster Assistance, and Civic Aid; procurement; research, development, test and evaluation; military construction; the Defense Health Program appropriation; and working capital funds: *Provided further,* That the funds transferred under this heading shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be

transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary of Defense shall submit a report no later than July 1, 2003, and then 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

NATURAL RESOURCES RISK REMEDIATION FUND

(TRANSFER OF FUNDS)

There is established in the Treasury of the United States a special account to be known as the "Natural Resources Risk Remediation Fund". Funds transferred to, appropriated to, and contributions made to, the Natural Resources Risk Remediation Fund may be made available for expenses necessary, in and around Iraq, to address emergency fire fighting, repair of damage to oil facilities and related infrastructure, and preserve a distribution capability, and may remain available until expended: *Provided,* That up to $489,300,000 of the funds appropriated to the Iraq Freedom Fund in this Act may be transferred to this fund: *Provided further,* That the Secretary of Defense may accept from any person, foreign government, or international organization, and credit to this fund, any contribution of money for such purposes: *Provided further,* That funds available in the Defense Cooperation Account may be transferred to and merged with the Natural Resources Risk Remediation Fund: *Provided further,* That the Secretary of Defense may transfer funds available in the Natural Resources Risk Remediation Fund to other appropriations or funds of the Department of Defense to carry out such purposes, or to reimburse such appropriations or funds for expenses incurred for such purposes: *Provided further,* That funds so transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided, such amounts may be transferred back to this appropriation: *Provided further,* That in administering the Natural Resources Risk Remediation Fund during fiscal year 2003, the Secretary of Defense may transfer funds from the Iraq Freedom Fund only to the extent that amounts transferred from the Defense Cooperation Account and amounts accepted pursuant to the authority of the second proviso of this paragraph are not currently available: *Provided further,* That, hereafter, contributions of money deposited into the Natural Resources Risk Remediation Fund shall be reported to the Congress in the same report, and under the same terms and conditions, as the report required for contributions to the Defense Cooperation Account under section 2608, chapter 155 of title 10, United States Code: *Provided further,* That the Secretary of Defense shall submit a report no later than 30 days after

the end of each fiscal quarter to the congressional defense committees of any transfer of funds from this appropriation.

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GENERAL PROVISIONS, THIS CHAPTER

SEC. 1301. Except as otherwise specifically provided in this chapter, amounts provided to the Department of Defense under each of the headings in this chapter shall be available for the same time period, and subject to the same terms and conditions, as the amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 2003 (Public Law 107–248) and Making Further Continuing Appropriations for the Fiscal Year 2003, and for Other Purposes (Public Law 108–7).

SEC. 1302. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in previous fiscal year 2003 appropriations acts which make appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees.

SEC. 1303. None of the funds in this chapter may be used to develop or procure any item or capability that will not be fielded within 4 years of enactment of this Act.

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(INCLUDING TRANSFER OF FUNDS)

SEC. 1307. In addition to amounts made available elsewhere in this Act for the Department of Defense, $165,000,000 is appropriated to the Department of Defense to reimburse applicable appropriations for the value of drawdown support provided by the Department of Defense under the Afghanistan Freedom Support Act of 2002: *Provided,* That this appropriation shall not increase the limitation set forth in section 202(b) of that Act: *Provided further,* That the Secretary of Defense may transfer the funds provided herein to the applicable appropriations of the Department of Defense: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That notwithstanding any other provision of law, none of the funds provided in this or any other appropriations Act for the Department of Defense may be used for the drawdown authority in section 202 of the Afghanistan Freedom Support Act of 2002 (Public Law 107–327) prior to notifying in writing the House and Senate Committees on Appropriations of the source of the funds to be used for such purpose.

SEC. 1308. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 1309. (a) Of the amounts available to the Secretary of Defense, $63,500,000 may be used to reimburse applicable appropriations for the value of support provided by the Department of Defense under the Iraq Liberation Act of 1998: *Provided,* That this appropriation shall not increase the limitation set forth in section (4)(a)(2)(B) of that Act.

(b) Section (4)(a)(2) of the Iraq Liberation Act of 1998 [1] is amended by adding the following new subparagraph at the end:

> "(C) The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under this paragraph may not exceed $86,500,000 in fiscal year 2003.".

(c) Notwithstanding any other provision of law, none of the funds provided in this or any other appropriations Act for the Department of Defense may be used for the drawdown authority in section (4)(a)(2) of the Iraq Liberation Act of 1998 (including the drawdown authority of this section) unless the House and Senate Committees on Appropriations are notified in writing of the sources of the funds to be used for such purpose not later than 7 days following the exercise of the drawdown authority.

(INCLUDING TRANSFER OF FUNDS)

SEC. 1310. Up to $1,400,000,000 of funds transferred under the authority provided under the heading "Iraq Freedom Fund" to "Operation and Maintenance, Defense-Wide" may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military support provided, or to be provided, to United States military operations in connection with military action in Iraq and the global war on terrorism: *Provided,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That unless expressly provided in an appropriations Act enacted after the date of enactment of this Act, and notwithstanding any other provision of law, no funds other than those additional amounts provided herein shall be made available for any payments intended to fulfill the purposes specified in this section and similar reimbursement authorities expressly provided in section 304 of Public Law 107–117 and within the "Operation and Maintenance, Defense-Wide" appropriation account enacted in Public Law 107–206: *Provided further,* That not later than July 1, 2003, the Secretary of Defense shall submit a report in writing to the Committees on Appropriations that includes a financial plan for the obligation and expenditure of such funds: *Provided further,* That if such report is not provided to the Committees on Appropriations by the date spec-

[1] Public Law 105–338 (112 Stat. 3178) may be found in *Legislation on Foreign Relations Through 2002*, vol. I–B.

ified in the previous proviso, unobligated balances of funds that are available from the amounts provided in this chapter for the purposes specified under this section shall be returned to the Treasury of the United States: *Provided further,* That, beginning not later than July 1, 2003, the Secretary of Defense shall provide quarterly reports to the Committees on Appropriations on the uses of funds made available for payments to Pakistan, Jordan, and other key cooperating nations for logistical and military support provided to United States military operations in connection with military action in and around Iraq and the global war on terrorism.

(TRANSFER OF FUNDS)

SEC. 1311. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may transfer between appropriations up to $2,000,000,000 of the funds made available in this chapter: *Provided,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 107–248 except for the fourth proviso.

* * * * * * *

(TRANSFER OF FUNDS)

SEC. 1313. As of October 31, 2003, all balances of funds remaining in the "Defense Emergency Response Fund" shall be transferred to, and merged with, the "Iraq Freedom Fund", and shall be available for the same purposes, and under the same terms and conditions, as funds appropriated to the "Iraq Freedom Fund" in this chapter.

* * * * * * *

CHAPTER 5

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for "Child Survival and Health Programs Fund", $90,000,000, to remain available until September 30, 2004.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance", $143,800,000, to remain available until expended: *Provided,* That amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961 for the purpose of addressing relief and rehabilitation needs in Iraq, prior to enactment of this Act, shall be

in addition to the amount that may be obligated in any fiscal year under that section: *Provided further,* That during the remainder of fiscal year 2003 the authority referenced in the preceding proviso may not be utilized unless written notice has been provided to the Committees on Appropriations not less than 5 days prior to the exercise of such authority.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development", $24,500,000, of which not less than $3,500,000 may be transferred to and merged with "Operating Expenses of the United States Agency for International Development Office of Inspector General" for financial and program audits of the Iraq Relief and Reconstruction Fund and other assistance for Iraq.

OTHER BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

IRAQ RELIEF AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for humanitarian assistance in and around Iraq and to carry out the purposes of the Foreign Assistance Act of 1961 for rehabilitation and reconstruction in Iraq, there is appropriated to the President, $2,475,000,000, to remain available until September 30, 2004, including for the costs of: (1) water/sanitation infrastructure; (2) feeding and food distribution; (3) supporting relief efforts related to refugees, internally displaced persons, and vulnerable individuals, including assistance for families of innocent Iraqi civilians who suffer losses as a result of military operations; (4) electricity; (5) healthcare; (6) telecommunications; (7) economic and financial policy; (8) education; (9) transportation; (10) rule of law and governance; (11) humanitarian demining; and (12) agriculture: *Provided,* That these funds shall be apportioned only to the Department of State, the United States Agency for International Development, the Department of the Treasury, the Department of Defense, and the Department of Health and Human Services, as appropriate, for expenses to meet such costs: *Provided further,* That funds appropriated under this heading shall be used to fully reimburse accounts administered by the Department of State, the Department of the Treasury and the United States Agency for International Development, not otherwise reimbursed from funds appropriated by this chapter, for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: *Provided further,* That prior to the initial apportionment of funds made available under this heading to any agency or department, the President, or his designee, shall consult with the Committees on Appropriations on plans for the use of the funds appropriated under this heading that will be used for assistance for Iraq: *Provided further,* That upon a determina-

tion that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the United States may accept from any person, foreign government, or international organization, and credit to this Fund, any contribution of money for such purposes: *Provided further,* That funds appropriated under this heading shall be available notwithstanding any other provision of law, including section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided further,* That funds appropriated under this heading or transferred under provisions of this chapter or section 632 of the Foreign Assistance Act of 1961 that are made available for assistance for Iraq shall be subject to notification of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the obligation of funds.

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund", $2,422,000,000, of which:

(1) not less than $700,000,000 shall be made available for assistance for Jordan;

(2) $300,000,000, to remain available until September 30, 2005, shall be made available only for grants for Egypt: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made to Egypt, the principal amount, any part of which is to be guaranteed, shall not exceed $2,000,000,000: *Provided further,* That the Government of Egypt will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Egypt to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Egypt may be used by the Government of Egypt to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for full payment and performance of such obligations: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Egypt: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph;

(3) not to exceed $1,000,000,000, to remain available until September 30, 2005, for grants for Turkey: *Provided,* That dur-

ing the period beginning March 1, 2003, and ending September 30, 2005, direct loans or loan guarantees may be made to Turkey, the principal amount of direct loans or loans, any part of which is to be guaranteed, shall not exceed $8,500,000,000: *Provided further,* That the Government of Turkey will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loans or loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loans or loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Turkey to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Turkey may be used by the Government of Turkey to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That none of the funds made available by this paragraph may be made available for assistance for Turkey if the Secretary of State determines and reports to the Committees on Appropriations of the House and Senate, the Committee on Foreign Relations of the Senate and Committee on International Relations of the House that the Government of Turkey is not cooperating with the United States in Operation Iraqi Freedom, including the facilitation of humanitarian assistance to Iraq, or has unilaterally deployed troops into northern Iraq: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Turkey: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph: *Provided further,* That any balance of funds not made available to Turkey under this paragraph shall be transferred to, and merged with, funds appropriated for "Iraq Relief and Reconstruction Fund";

(4) not less than $30,000,000 for the Philippines to further prospects for peace in Mindanao, and not less than $167,000,000 for assistance for Afghanistan: *Provided,* That of the funds appropriated under this heading, $10,000,000 should be made available for investigations and research into allegations of war crimes, crimes against humanity, or genocide committed by Saddam Hussein or other Iraqis, and for a contribution to an international tribunal to bring these individuals to justice;

(5) regional funds made available under this heading for assistance that are not specified in paragraphs (1) through (4)

shall be subject to the regular notification procedures of the Committees on Appropriations; and

(6) unless otherwise specified herein, funds appropriated under this heading shall remain available until September 30, 2004.

LOAN GUARANTEES TO ISRAEL

During the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made available to Israel, guaranteeing 100 percent of the principal and interest on such loans, the principal amount, any part of which is to be guaranteed, not to exceed $9,000,000,000, of which up to $3,000,000,000 may be issued prior to October 1, 2003, or thereafter and of which $3,000,000,000 may be issued subsequent to September 30, 2004: *Provided,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005, the authority to issue the balance of such guarantees shall extend to the subsequent fiscal year: *Provided further,* That guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967: *Provided further,* That the amount of guarantees that may be issued shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the period from March 1, 2003, to the date of issue of the guarantee, for activities which the President determines are inconsistent with the objectives and understandings reached between the United States and the Government of Israel regarding the implementation of the loan guarantee program: *Provided further,* That the President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under the preceding proviso and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year: *Provided further,* That the interest rate for loans guaranteed under this heading may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this heading in the event the borrower elects not to finance such costs or fees out of loan principal: *Provided further,* That no appropriations under this heading are available for the subsidy costs for these loan guarantees: *Provided further,* That the Government of Israel will pay the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, including any non-payment exposure risk, associated with the loan guarantees issued in any fiscal year, on a pro rata basis as each guarantee is issued during that year: *Provided further,* That all fees (as defined in section 601(e) of Public Law 102–391) associated with the loan guarantees shall be paid by the Government of Israel to the Government of the United States: *Provided further,* That funds made available for assistance to Israel under chapter

4 of part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government: *Provided further,* That the President shall determine the terms and conditions for issuing guarantees, taking into consideration the budgetary and economic reforms undertaken by Israel: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the loan guarantees not yet issued under this heading.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement", $25,000,000, to remain available until September 30, 2004.

ANDEAN COUNTERDRUG INITIATIVE

For an additional amount for the "Andean Counterdrug Initiative", $34,000,000, to remain available until September 30, 2004: *Provided,* That of the funds appropriated under this heading that are made available for Colombia, not less than $5,000,000 should be made available for programs and activities to assist persons who have been displaced as a result of armed conflict.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for "United States Emergency Refugee and Migration Assistance Fund", $80,000,000, to remain available until expended, notwithstanding section 2(c)(2) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)(2)).

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs", $28,000,000: *Provided,* That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for the "Foreign Military Financing Program", $2,059,100,000: *Provided,* That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided further,* That of the funds appropriated under this heading, not less than $406,000,000 shall be

made available for grants only for Jordan and not less than $1,000,000,000 shall be available for grants only for Israel: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed to by the United States and Israel, be available for advanced weapons systems, of which not less than $263,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That up to $20,000,000 of the funds appropriated by this paragraph may be transferred to and merged with funds appropriated under the heading "Andean Counterdrug Initiative" for aircraft, training, and other assistance for the Colombian Armed Forces: *Provided further,* That, except for Israel and Jordan, funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the commitment of funds: *Provided further,* That such notification shall be in the form of a report (in classified or unclassified form) which contains each country receiving assistance from funds aggregated under this heading, other than Israel and Jordan, the amount of assistance to be provided and a description of the equipment and other assistance being financed from such funds.

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", $100,000,000, to remain available until September 30, 2004.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1501. Any appropriation made available in this chapter under the headings "International Disaster Assistance", "United States Emergency Refugee and Migration Assistance Fund", "Nonproliferation, Anti-Terrorism, Demining and Related Programs", "Peacekeeping Operations", or "Iraq Relief and Reconstruction Fund" may be transferred between such appropriations for use for any of the purposes for which the funds in such receiving account may be used: *Provided,* That the total amount transferred from funds appropriated under these headings shall not exceed $100,000,000: *Provided further,* That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority contained in this section: *Provided further,* That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 5 days in advance of the obligations of funds.

SEC. 1502. Assistance or other financing under this chapter may be provided for Iraq notwithstanding any other provision of law: *Provided,* That the authority contained in this section shall not apply to section 553 of Public Law 108–7: *Provided further,* That funds made available for Iraq pursuant to this authority shall be subject to the regular reprogramming procedures of the Commit-

tees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except that notification shall be transmitted at least 5 days in advance of obligation: *Provided further,* That the notification requirements of this section may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

SEC. 1503. The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

SEC. 1504. Notwithstanding any other provision of law, the President may authorize the export to Iraq of any nonlethal military equipment controlled under the International Trafficking in Arms Regulations on the United States Munitions List established pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778),

if the President determines and notifies within 5 days prior to export the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that the export of such nonlethal military equipment is in the national interest of the United States: *Provided,* That the limitation regarding nonlethal military equipment shall not apply to military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

SEC. 1505. Division E of Public Law 108–7, under the heading "Assistance for the Independent States of the Former Soviet Union", is amended in subsection (f) by: (1) striking "assistance for the Government" and inserting "assistance for the central Government"; and (2) striking "unless" and inserting "if"; and striking "not facilitated" and inserting "facilitated".

SEC. 1506.[2] REPORTS ON UNITED STATES STRATEGY FOR RELIEF AND RECONSTRUCTION IN IRAQ.

(a) INITIAL REPORT.—Not later than 45 days after the date of enactment of this Act, the President shall submit to the Committees on Appropriations a report on the United States strategy regarding activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) The distribution of duties and responsibilities regarding such activities among agencies of the United States Government, including the Department of State, the United States Agency for International Development, and the Department of Defense (to be provided within 30 days of enactment of this Act).

(2) A detailed plan describing the roles and responsibilities of foreign governments and international organizations including the United Nations, in carrying out activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq.

(3) A strategy for coordinating such activities among the United States Government, foreign governments and international organizations, including the United Nations.

(4) An initial estimate of the costs expected to be associated with such activities.

(5) A strategy for distributing the responsibility for paying costs associated with reconstruction activities in Iraq among the United States, foreign governments, and international organizations, including the United Nations, and an estimate of the revenue expected to be generated by Iraqi oil production that could be used to pay such costs.

[2] 22 U.S.C. 2151 note.

(b) SUBSEQUENT REPORTS.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2004, the President shall submit to the Committees on Appropriations a report that contains:

(1) A list of significant United States Government-funded activities related to reconstruction in Iraq that, during the 90-day period ending 15 days prior to the date the report is submitted to the Committees on Appropriations—

(A) were initiated; or

(B) were completed.

(2) A list of the significant activities related to reconstruction in Iraq that the President anticipates initiating during the 90-day period beginning on the date the report is submitted to the Committees on Appropriations, including:

(A) Cost estimates for carrying out the proposed activities.

(B) The source of the funds that will be used to pay such costs.

(3) Updated strategies, if changes are proposed regarding matters included in the reports required under subsection (a).

(4) An updated list of the financial pledges and contributions made by foreign governments or international organizations to fund activities related to humanitarian, governance, and reconstruction assistance in Iraq.

* * * * * * *

TITLE VI—GENERAL PROVISIONS—THIS ACT

SEC. 6001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the "Emergency Wartime Supplemental Appropriations Act, 2003".

c. Continuing Appropriations for FY 2003

Partial text of Public Law 107–229 [H.J. Res. 111], 116 Stat. 1465, approved September 30, 2002; amended by Public Law 107–235 [H.J. Res. 112], 116 Stat. 1482, approved October 4, 2002; Public Law 107–240 [H.J. Res. 122], 116 Stat. 1492, approved October 11, 2002; Public Law 107–244 [H.J. Res. 123], 116 Stat. 1503, approved October 18, 2002; Public Law 108–2 [H.J. Res. 1], 117 Stat. 5, approved January 10, 2003; Public Law 108–4 [H.J. Res. 13], 117 Stat. 8, approved January 31, 2003, and Public Law 108–5 [H.J. Res. 18], 117 Stat. 9, approved February 7, 2003

JOINT RESOLUTION Making continuing appropriations for the fiscal year 2003, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2003, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2002, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

(1) the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002;

(2) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, notwithstanding[1] section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(3) the Department of Defense Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(4) the District of Columbia Appropriations Act, 2002;

(5) the Energy and Water Development Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(6) the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956;

[1] Sec. 2 of Public Law 107–240 (116 Stat. 1492) struck out "section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and" after "notwithstanding".

(7) the Department of the Interior and Related Agencies Appropriations Act, 2002;

(8) the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002;

(9) the Legislative Branch Appropriations Act, 2002;

(10) the Military Construction Appropriations Act, 2002;

(11) the Department of Transportation and Related Agencies Appropriations Act, 2002;

(12) the Treasury and General Government Appropriations Act, 2002; and

(13) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 2002 or prior years, for the increase in production rates above those sustained with fiscal year 2002 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during fiscal year 2002: *Provided,* That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2002.

SEC. 105. (a) For purposes of section 101, the term "rate for operations not exceeding the current rate"—

(1) has the meaning given such term (including supplemental appropriations and rescissions) in the attachment to Office of Management and Budget Bulletin No. 01–10 entitled "Apportionment of the Continuing Resolution(s) for Fiscal Year 2002" and dated September 27, 2001, applied by substituting "FY 2002" for "FY 2001" each place it appears; but

(2) does not include any unobligated balance of funds appropriated in Public Law 107–38 and carried forward to fiscal year 2002, other than funds transferred by division B of Public Law 107–117.

(b) The appropriations Acts listed in section 101 shall be deemed to include supplemental appropriation laws enacted during fiscal year 2002.

SEC. 106. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) February 20, 2003,[2] whichever first occurs.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2002 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2003 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. For the Overseas Private Investment Corporation Program account, for the cost of direct and guaranteed loans, at an annual rate not to exceed $19,000,000, to be derived by transfer from the Overseas Private Investment Corporation non-credit account, subject to section 107(c).

* * * * * * *

SEC. 128.[3] Notwithstanding any other provision of this joint resolution, during fiscal year 2003, direct loans under section 23 of the Arms Export Control Act may be made available for Poland, gross obligations for the principal amounts of which shall not exceed $3,800,000,000: *Provided,* That such loans shall be repaid in not

[2] Public Law 107–235 (116 Stat. 1482) struck out "October 4, 2002" and inserted in lieu thereof "October 11, 2002". This was subsequently extended to October 18, 2002, by Public Law 107–240 (116 Stat. 1492); to November 22, 2002, by Public Law 107–244 (116 Stat. 1503); to January 11, 2003, by Public Law 107–294 (116 Stat. 2062); to January 31, 2003, by Public Law 108–2 (117 Stat. 5); to February 7, 2003, by Public Law 108–4 (117 Stat. 8); and to February 20, 2003, by Public Law 108–5 (117 Stat. 9). The Consolidated Appropriations Resolution, 2003 (Public Law 108–7; 117 Stat. 11), approved February 20, 2003, provided appropriations for FY 2003.

[3] Sec. 5 of Public Law 107–240 (116 Stat. 1492) added secs. 120 through 137.

more than 15 years, including a grace period of up to 8 years on repayment of principal: *Provided further,* That no funds are available for the subsidy costs of these loans: *Provided further,* That the Government of Poland shall pay the full cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with the loans, including the cost of any defaults: *Provided further,* That any fees associated with these loans shall be paid by the Government of Poland prior to any disbursement of loan proceeds: *Provided further,* That no funds made available to Poland under this joint resolution or any other Act may be used for payment of any fees associated with these loans.

SEC. 129.[4] Notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect until the date specified in section 107(c).

SEC. 133.[3] (a) Each specified department or agency shall, by December 6, 2002, submit directly to the Committees on Appropriations a report containing an evaluation of the effect on the specified management areas of operating through September 30, 2003, under joint resolutions making continuing appropriations for fiscal year 2003 that fund programs and activities at not exceeding the current rate of operations.

(b) For purposes of subsection (a):

(1) The term "specified department or agency" means a department or agency identified on page 49 or 50 of the Budget of the United States Government, Fiscal Year 2003 (H. Doc. 107–159, Vol. I), except for the Department of Defense.

(2) The term "specified management areas" means the following management priorities described in the President's Management Agenda (August 2001): strategic management of human capital, competitive sourcing, improved financial performance, expanded electronic government, and budget and performance integration.

SEC. 134.[3] (a) The Director of the Office of Management and Budget shall submit to the Committees on Appropriations a monthly report on all departmental and agency obligations made since the beginning of fiscal year 2003 while operating under joint resolutions making continuing appropriations for such fiscal year.

(b) Each report required by subsection (a) shall set forth obligations by account, and shall contain a comparison of such obligations to the obligations incurred during the same period for fiscal year 2002.

(c) Reports shall be submitted under subsection (a) beginning 1 month after the enactment of this section, and ending 1 month after the expiration of the period covered by the final joint resolution making continuing appropriations for fiscal year 2003.

(d)(1) Each report required by subsection (a) shall include a list of all executive branch accounts for which departments and agencies are operating under apportionments that provide for a rate of operations that is lower than the current rate, within the meaning of sections 101 and 105. For each such account, the report shall include an estimate of the current rate for the period covered by this joint resolution and the estimate of obligations during such period.

[4] 12 U.S.C. 635 note.

(2) By December 6, 2002, the Comptroller General shall submit to the Committees on Appropriations a report identifying executive branch accounts for which apportionments made from funds appropriated or authority granted by this joint resolution provide for a rate of operations that differs from the current rate, within the meaning of sections 101 and 105.

SEC. 135. Appropriations made by this joint resolution are hereby reduced, at an annual rate, by the amounts specified and in the accounts identified for one-time, non-recurring projects and activities in Attachment C of Office of Management and Budget Bulletin No. 02–06, Supplement No. 1, dated October 4, 2002.

* * * * * * *

d. 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States

Partial text of Public Law 107–206 [H.R. 4775], 116 Stat. 820, approved August 2, 2002

AN ACT Making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—SUPPLEMENTAL APPROPRIATIONS

* * * * * * *

CHAPTER 2

* * * * * * *

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", for emergency expenses for activities related to combating international terrorism, $47,450,000, to remain available until September 30, 2003: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for "Educational and Cultural Exchange Programs", for emergency expenses for activities related to combating international terrorism, $15,000,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $5,000,000 shall be available only to the extent an official budget request that includes designation of the $5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control

Act of 1985, as amended, is transmitted by the President to the Congress.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", for emergency expenses for activities related to combating international terrorism, $210,516,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $10,000,000 shall be available only to the extent an official budget request that includes designation of the $10,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to International Organizations", for emergency expenses for activities related to combating international terrorism, $7,000,000, to remain available until September 30, 2003: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities" to make United States peacekeeping payments to the United Nations at a time of multilateral cooperation in the war on terrorism, $23,034,000: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", for emergency expenses for activities related to combating international terrorism, $7,400,000, to remain available until September 30, 2003: *Provided,* That funds appropriated by this paragraph shall be available notwithstanding sections 308(c) and 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for "Broadcasting Capital Improvements" for emergency expenses for activities related to combating international terrorism, $7,700,000, to remain available until expended: *Provided,* That funds appropriated by this paragraph shall be available notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

* * * * * * *

GENERAL PROVISIONS—THIS CHAPTER

SEC. 201. Funds appropriated by this Act for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, as amended.

* * * * * * *

SEC. 207. The American Section, International Joint Commission, United States and Canada, is authorized to receive funds from the United States Army Corps of Engineers for the purposes of conducting investigations, undertaking studies, and preparing reports in connection with a reference to the International Joint Commission on the Devils Lake project mentioned in Public Law 106–377.

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CHAPTER 3

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

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OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $721,975,000, to remain available for obligation until September 30, 2003, of which $390,000,000 may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations for logistical and military support provided to United States military operations in connection with the Global War on Terrorism: *Provided,* That such payments may be made in such amounts as the Secretary may determine in his discretion, based on documentation determined by the Secretary to adequately account for the support provided, in consultation with the Director of the Office of Management and Budget and 15 days following notification to the appropriate Congressional committees: *Provided further,* That such determination shall be final and conclusive upon the accounting officers of the United States: *Provided further,* That amounts for such payments shall be in addition to any other funds that may be available for such purpose: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEFENSE EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Defense Emergency Response Fund", $11,901,900,000, to remain available for obligation until September 30, 2003, of which $77,900,000 shall be available for enhancements to North American Air Defense Command capabilities: *Provided,* That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; the Defense Health Program; Overseas Humanitarian, Disaster, and Civic Aid; and working capital funds: *Provided further,* That notwithstanding the preceding proviso, $120,000,000 of the funds provided in this paragraph are available for transfer to any other appropriations accounts of the Department of Defense, for certain classified activities, and notwithstanding any other provision of law and of this Act, such funds may be obligated to carry out projects not otherwise authorized by law: *Provided further,* That any funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That during the current fiscal year, upon a determination by the Secretary of Defense that funds previously made available to the "Defense Emergency Response Fund" are required to meet other essential operational or readiness requirements of the military services, the Secretary may transfer up to $275,000,000 of funds so required to the appropriate funds or appropriations of the Department of Defense, 15 days after notification to the congressional defense committees: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $601,900,000 shall be available only to the extent that an official budget request that includes designation of $601,900,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

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GENERAL PROVISIONS—THIS CHAPTER

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SEC. 302. During the current fiscal year, the restrictions contained in subsection (d) of 22 U.S.C. 5952 and section 502 of the Freedom Support Act (Public Law 102–511) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that

waiving such restrictions is important to the national security interests of the United States.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414): *Provided,* That any funds appropriated or transferred to the Central Intelligence Agency for agent operations or covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2003.

* * * * * * *

SEC. 305. (a)(1) In fiscal year 2002, funds available to the Department of Defense for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(2) The provision shall also apply to unexpired balances and assistance previously provided from prior years' Acts available for purposes identified in subsection (a)(1).

(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.

(b) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of section 601(b) of this Act have been complied with.

(c) Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this chapter, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

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CHAPTER 6

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for "Child Survival and Health Programs Fund" for emergency expenses for activities related to combating HIV/AIDS, tuberculosis, and malaria, $200,000,000, to remain available until June 30, 2003: *Provided,* That such activities should include maternal health and related assistance in communities heavily impacted by HIV/AIDS: *Provided further,* That additional assistance should be provided to prevent transmission of HIV/AIDS from mother to child: *Provided further,* That of the funds appropriated under this heading in this Act, not less than $100,000,000 should be made available for a further United States contribution to the Global Fund to Fight AIDS, Tuberculosis, and Malaria: *Provided further,* That the cumulative amount of United States contributions to the Global Fund may not exceed the total resources provided by other donors and available for use by the Global Fund as of December 31, 2002: *Provided further,* That of the funds appropriated under this heading, up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health: *Provided further,* That funds appropriated by this paragraph shall be apportioned to the United States Agency for International Development, and the authority of sections 632(a) or 632(b) of the Foreign Assistance Act of 1961, or any similar provision of law, may not be used to transfer or allocate any part of such funds to any agency of the United States Government: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That the funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance" for emergency expenses for activities related to combating international terrorism, including repairing homes of Afghan citizens that were damaged as a result of military operations, $134,000,000, to remain available until September 30, 2003.

In addition, for an additional amount for "International Disaster Assistance" for assistance for the West Bank and Gaza,

$50,000,000, to remain available until September 30, 2003: *Provided,* That none of the funds appropriated by this Act may be obligated or expended with respect to providing funds to the Palestinian Authority: *Provided further,* That the entire amount provided under this heading in this Act is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $144,000,000 shall be available only to the extent an official budget request, that includes designation of $144,000,000, including $50,000,000 for the West Bank and Gaza, as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development" for emergency expenses for activities related to combating international terrorism, $7,000,000, to remain available until September 30, 2003: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund" for emergency expenses for activities related to combating international terrorism, $665,000,000, to remain available until June 30, 2003: *Provided,* That of the funds appropriated by this paragraph that are made available for assistance for Pakistan, $1,000,000 should be made available for programs and activities which support the development of independent media in Pakistan: *Provided further,* That of the funds appropriated by this paragraph, $10,000,000 should be made available for the establishment of a pilot academic year international youth exchange program for secondary school students from countries with significant Muslim populations: *Provided further,* That funds made available pursuant to the previous proviso shall not be available for a country in which a similar academic year youth exchange program is currently funded by the United States: *Provided further,* That of the funds appropriated by this paragraph, $200,000,000 shall be made available for assistance for Israel, all or a portion of which may be transferred to, and merged with, funds appropriated by this Act under the heading "nonproliferation, anti-terrorism, demining and related programs" for defensive, non-lethal anti-terrorism assistance in accordance with the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $200,000,000 shall be available only to the extent an official budget request, that in-

cludes designation of $200,000,000 for Israel as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That funds appropriated under this heading, and funds appropriated under this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of Public Law 107–115 or any similar provision of law: *Provided further,* That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

For an additional amount for "Assistance for the Independent States of the Former Soviet Union" for emergency expenses for activities related to combating international terrorism, $110,000,000, to remain available until June 30, 2003: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement" for emergency expenses for activities related to combating international terrorism, $117,000,000, to remain available until September 30, 2003: *Provided,* That funds appropriated under this heading should be made available to train and equip a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations: *Provided further,* That of the funds appropriated by this paragraph, not to exceed $6,000,000 may be made available for assistance for the Colombian Armed Forces for purposes of protecting the Cano Limon pipeline: *Provided further,* That prior to the obligation of funds under the previous proviso, the Secretary of State shall submit a report to the Committees on Appropriations describing: (1) the estimated oil revenues collected by the Government of Colombia from the Cano Limon pipeline for the preceding 12 months; (2) the amounts expended during such period by the Government of Colombia and private companies owning a financial interest in the pipeline for primary health care, basic education, micro-enterprise and other programs and activities to improve the lives of the people of Arauca department; (3) steps that are being taken to increase and expand support for these programs and activities; and (4) mechanisms that are being established to adequately monitor such funds: *Provided further,* That of the funds appropriated by this paragraph, not to exceed $4,000,000 should be made available for law enforcement training for Indonesian police forces: *Provided further,* That the Secretary of State shall inform the Committees on Appropriations

at least 15 days prior to the obligation of funds appropriated by this paragraph: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $3,000,000 shall be available only to the extent an official budget request, that includes designation of $3,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance" for emergency expenses for activities related to combating international terrorism, $40,000,000, to remain available until June 30, 2003: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for emergency expenses for activities related to combating international terrorism, $88,000,000, to remain available until September 30, 2003: *Provided,* That of the funds appropriated by this paragraph, not to exceed $12,000,000 should be made available for assistance for Indonesia: *Provided further,* That of the funds appropriated by this paragraph, up to $1,000,000 may be made available for small arms and light weapons destruction in Afghanistan: *Provided further,* That of the funds appropriated by this paragraph, up to $1,000,000 may be made available for the Nonproliferation and Disarmament Fund: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $5,000,000 shall be available only to the extent an official budget request, that includes designation of $5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That funds appropriated by this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program" for emergency expenses for activities related to combating international terrorism, $387,000,000, to remain available until June 30, 2003: *Provided,* That funds made available by this Act for assistance for the Government of Uzbekistan may be made available if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America": *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $30,000,000 shall be available only to the extent an official budget request, that includes designation of $30,000,000 for the Philippines as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph: *Provided further,* That funds appropriated under this heading, and funds appropriated under this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 or any similar provision of law: *Provided further,* That not to exceed $2,000,000 of the funds appropriated in this paragraph may be obligated for necessary expenses, including the purchase of passenger motor vehicles for use outside of the United States, for the general cost of administering military assistance and sales.

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations" for emergency expenses for activities related to combating international terrorism, $20,000,000, to remain available until June 30, 2003: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That funds appropriated by this paragraph shall be available only for Afghanistan, and may be made available notwithstanding section 512 of Public Law 107–115 or any similar provision of law.

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

(RESCISSION)

Of the funds appropriated under the heading "Export-Import Bank of the United States" that are available for tied-aid grants in title I of Public Law 107–115 and under such heading in prior Acts making appropriations for foreign operations, export financing, and related programs, $50,000,000 are rescinded.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

(RESCISSION)

Of the funds appropriated to carry out the provisions of parts I and II of the Foreign Assistance Act of 1961, the Support for East European Democracy (SEED) Act of 1989, and the FREEDOM Support Act, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as contained in Public Law 106–113) and in prior Acts making appropriations for foreign operations, export financing, and related programs, $60,000,000 are rescinded: *Provided,* That not more than a total of $25,000,000 may be rescinded from funds appropriated under the heading "Development Assistance" in said Acts: *Provided further,* That no rescission may be made from funds appropriated to carry out the provisions of section 104(c) of the Foreign Assistance Act of 1961.

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

(RESCISSION)

The unobligated balances of funds provided in Public Law 92–301 and Public Law 93–142 for maintenance of value payments to international financial institutions are rescinded.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 601. (a) COUNTER-TERRORISM AUTHORITY.—

(1) In fiscal year 2002, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(2) This provision shall also apply to unexpired balances and assistance previously provided from prior years' Acts available for the purposes identified in paragraph (1).

(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.

(b) In order to ensure effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the Committees on Appropriations that—

(1) the newly elected President of Colombia has—

(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;

(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and

(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the country's previous commitments under "Plan Colombia"; and

(2) no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available for Colombia under this chapter.

(c) The authority provided in subsection (a) shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(d) Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).

DONATED SHIPMENT OF HUMANITARIAN ASSISTANCE OVERSEAS

SEC. 602. During fiscal year 2002, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made available to non-governmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.

REPORTS ON AFGHANISTAN SECURITY AND DELIVERY OF ASSISTANCE

SEC. 603. The President shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate two reports setting forth a strategy for meeting the security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government. The first report, which should be transmitted no later than 30 days after enactment of this Act, should report on the strategy for meeting the immediate security needs of Afghanistan. The second report, which should be transmitted no later than 90 days after enactment of this Act, should report on a long term strategy for meeting the security needs of Afghanistan and should include a reassessment of the strategy to meet the immediate security needs if they have changed substantially.

* * * * * * *

CHAPTER 14

GENERAL PROVISIONS

SEC. 1401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 1402. Notwithstanding any other provision of law, all adjustments made pursuant to section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 to the highway category and to section 8103(a)(5) of the Transportation Equity Act for the 21st Century for fiscal year 2003 shall be deemed to be zero. This section shall apply immediately to all reports issued pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2003, including the discretionary sequester preview report.

SEC. 1403. (a) Of the funds available to the agencies of the Federal Government from prior Appropriations Acts, $350,000,000 are hereby rescinded: *Provided,* That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: *Provided further,* That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.

(b) Within 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section: *Provided,* That the Office of Management and Budget shall also include with such listing an explanation of the methodology used to identify the offices, accounts, and amounts to be reduced.

SEC. 1404. Any amount appropriated in this Act for which availability is made contingent by a provision of this Act on designation by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be available for obligation unless all such contingent amounts are designated by the President, within 30 days of enactment of this Act, as such emergency requirements.

TITLE II—AMERICAN SERVICE-MEMBERS' PROTECTION ACT [1]

* * * * * * *

TITLE III—OTHER MATTERS

SEC. 3001. AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT. * * * [2]

* * * * * * *

This Act may be cited as the "2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States".

[1] For text of the American Service-Members' Protection Act, see *Legislation on Foreign Relations Through 2002*, vol. II.
[2] For text, see *Legislation on Foreign Relations Through 2002*, vol. III.

e. Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002

Public Law 107–115 [H.R. 2506], 115 Stat. 2118, approved January 10, 2002

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

* * * * * * *

TITLE II—BILATERAL ECONOMIC ASSISTANCE

* * * * * * *

OTHER BILATERAL ECONOMIC ASSISTANCE

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a)–(f) * * *

(g)(1) Section 907 of the FREEDOM Support Act shall not apply to—

(A) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 [1] or non-proliferation assistance;

(B) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(C) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(D) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(E) any financing provided under the Export-Import Bank Act of 1945; or

(F) humanitarian assistance.

(2) [2] The President may waive section 907 of the FREEDOM Support Act if he determines and certifies to the Committees on Appropriations that to do so—

[1] Sec. 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2301 note) relates to international border security among the states of the former Soviet Union, the Baltic States, and other countries of Eastern Europe. For text, see *Legislation on Foreign Relations Through 2002*, vol. II, sec. F.

[2] 22 U.S.C. 5812 note.

(A) is necessary to support United States efforts to counter international terrorism; or

(B) is necessary to support the operational readiness of United States Armed Forces or coalition partners to counter international terrorism; or

(C) is important to Azerbaijan's border security; and

(D) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia.

(3)[2] The authority of paragraph (2) may only be exercised through December 31, 2002.

(4)[2] The President may extend the waiver authority provided in paragraph (2) on an annual basis on or after December 31, 2002 if he determines and certifies to the Committees on Appropriations in accordance with the provisions of paragraph (2).

(5)[2] The Committees on Appropriations shall be consulted prior to the provision of any assistance made available pursuant to paragraph (2).

(6)[2] Within 60 days of any exercise of the authority under paragraph (2) the President shall send a report to the appropriate congressional committees specifying in detail the following—

(A) the nature and quantity of all training and assistance provided to the Government of Azerbaijan pursuant to paragraph (2);

(B) the status of the military balance between Azerbaijan and Armenia and the impact of United States assistance on that balance; and

(C) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations.

* * * * * * *

KENNETH M. LUDDEN

SEC. 592. This Act may be cited as the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002".

f. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001

H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429 [H.R. 4811], 114 Stat. 1900, approved November 6, 2000; amended by Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 101.[1] (a) The provisions of H.R. 5526 of the 106th Congress, as introduced on October 24, 2000, are hereby enacted into law.

(b) In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end an appendix setting forth the text of the bill referred to in subsection (a) of this section.

* * * * * * *

APPENDIX A—H.R. 5526

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

INDOCHINESE PAROLEES

SEC. 586.[2] (a) The status of certain aliens from Vietnam, Cambodia, and Laos described in subsection (b) of this section may be adjusted by the Attorney General, under such regulations as she may prescribe, to that of an alien lawfully admitted permanent residence if—

(1) within three years after the date of promulgation by the Attorney General of regulations in connection with this title the alien makes an application for such adjustment and pays the appropriate fee;

[1] 22 U.S.C. 2151u note.
[2] 8 U.S.C. 1255 note.

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence except as described in subsection (c); and

(3) the alien had been physically present in the United States prior to October 1, 1997.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who was inspected and paroled into the United States before October 1, 1997 and was physically present in the United States on October 1, 1997; and

(1) was paroled into the United States from Vietnam under the auspices of the Orderly Departure Program; or

(2) was paroled into the United States from a refugee camp in East Asia; or

(3) was paroled into the United States from a displaced person camp administered by the United Nations High Commissioner for Refugees in Thailand.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraph (4), (5), and (7)(A) and (9) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this subsection, and nothwithstanding[3] any other provision of law, the Attorney General may waive 212(a)(1); 212(a)(6)(B), (C), and (F); 212(8)(A); 212(a)(10)(B) and (D) with respect to such an alien in order to prevent extreme hardship to the alien or the alien's spouse, parent, son or daughter, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation.

(d) CEILING.—The number of aliens who may be provided adjustment of status under this provision shall not exceed 5,000.

(e) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(1), (b)(2) and (b)(3).

(f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

* * * * * * *

TITLE VIII—INTERNATIONAL DEBT FORGIVENESS AND INTERNATIONAL FINANCIAL INSTITUTIONS REFORM

SEC. 801. DEBT RELIEF UNDER THE HEAVILY INDEBTED POOR COUNTRIES (HIPC) INITIATIVE.

(a) REPEAL OF LIMITATION ON AVAILABILITY OF EARNINGS ON PROFITS OF NONPUBLIC GOLD SALES.—Paragraph (1) of section 62 of the Bretton Woods Agreements Act, as added by section 503(a) of H.R. 3425 of the 106th Congress (as enacted by sec-

[3] As enrolled. Should read "notwithstanding".

tion 1000(a)(5) of Public Law 106–113 (113 Stat. 1536)), is amended—[4]

(1) by adding "and" at the end of subparagraph (B); and

(2) by striking subparagraph (D).

(b) CONTRIBUTIONS TO HIPC TRUST FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTIONS.—There is authorized to be appropriated for the period beginning October 1, 2000, and ending September 30, 2003, $600,000,000[5] for purposes of United States contributions to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the Bank.

(2) AVAILABILITY OF AMOUNTS.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

(c) CERTIFICATION REQUIRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 30 days after the date of enactment of this Act, the Secretary shall certify to the appropriate congressional committees that the following requirements are satisfied:

(A) IMPLEMENTATION BY THE BANK OF CERTAIN POLICIES.—The Bank is implementing—

(i) policies providing for the suspension of a loan if funds are being diverted for purposes other than the purpose for which the loan was intended;

(ii) policies seeking to prevent loans from displacing private sector financing;

(iii) policies requiring that loans other than project loans must be disbursed—

(I) on the basis of specific prior reforms; or

(II) incrementally upon implementation of specific reforms after initial disbursement;

(iv) policies seeking to minimize the number of projects receiving financing that would displace a population involuntarily or be to the detriment of the people or culture of the area into which the displaced population is to be moved;

(v) policies vigorously promoting open markets and liberalization of trade in goods and services;

(vi) policies providing that financing by the Bank concentrates chiefly on projects and programs that promote economic and social progress rather than short-term liquidity financing; and

(vii) policies providing for the establishment of appropriate qualitative and quantitative indicators to measure progress toward graduation from receiving financing on concessionary terms, including an estimated timetable by which countries may graduate over the next 15 years.

(B) IMPLEMENTATION BY THE FUND OF CERTAIN POLICIES.—The Fund is implementing—

[4] For amended text, see *Legislation on Foreign Relations Through 2000*, vol. III.

[5] Sec. 583 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2118), struck out "$435,000,000" and inserted in lieu thereof "$600,000,000".

(i) policies providing for the suspension of a financing if funds are being diverted for purposes other than the purpose for which the financing was intended;

(ii) policies seeking to ensure that financing by the Fund normally serves as a catalyst for private sector financing and does not displace such financing;

(iii) policies requiring that financing must be disbursed—

(I) on the basis of specific prior reforms; or

(II) incrementally upon implementation of specific reforms after initial disbursement;

(iv) policies vigorously promoting open markets and liberalization of trade in goods and services;

(v) policies providing that financing by the Fund concentrates chiefly on short-term balance of payments financing; and

(vi) policies providing for the use, in conjunction with the Bank, of appropriate qualitative and quantitative indicators to measure progress toward graduation from receiving financing on concessionary terms, including an estimated timetable by which countries may graduate over the next 15 years.

(2) EXCEPTION.—In the event that the Secretary cannot certify that a policy described in paragraph (1)(A) or (1)(B) is being implemented, the Secretary shall, not later than 30 days after the date of enactment of this Act, submit a report to the appropriate congressional committees on the progress, if any, made by the Bank or the Fund in adopting and implementing such policy, as the case may be.

SEC. 802. STRENGTHENING PROCEDURES FOR MONITORING USE OF FUNDS BY MULTILATERAL DEVELOPMENT BANKS.

(a) IN GENERAL.—The Secretary shall instruct the United States Executive Director of each multilateral development bank to exert the influence of the United States to strengthen the bank's procedures and management controls intended to ensure that funds disbursed by the bank to borrowing countries are used as intended and in a manner that complies with the conditions of the bank's loan to that country.

(b) PROGRESS EVALUATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report evaluating the progress made toward achieving the objectives of subsection (a), including a description of—

(1) any progress made in improving the supervision, monitoring, and auditing of programs and projects supported by each multilateral development bank, in order to identify and reduce bribery and corruption;

(2) any progress made in developing each multilateral development bank's priorities for allocating anticorruption assistance;

(3) country-specific anticorruption programs supported by each multilateral development bank;

(4) actions taken to identify and discipline multilateral development bank employees suspected of knowingly being involved in corrupt activities; and

(5) the outcome of efforts to harmonize procurement practices across all multilateral development banks.

SEC. 803.[6] REPORTS ON POLICIES, OPERATIONS, AND MANAGEMENT OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) ANNUAL REPORT ON FINANCIAL OPERATIONS.—Beginning 180 days after the date of enactment of this Act, or October 31, 2000, whichever is later, and on October 31 of each year thereafter, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the sufficiency of audits of the financial operations of each multilateral development bank conducted by persons or entities outside such bank.

(b) ANNUAL REPORT ON UNITED STATES SUPPORTED POLICIES.—Beginning 180 days after the date of enactment of this Act, or October 31, 2000, whichever is later, and on October 31 of each year thereafter, the Secretary shall submit a report to the appropriate congressional committees on—

(1) the actions taken by recipient countries, as a result of the assistance allocated to them by the multilateral development banks under programs referred to in section 802(b), to strengthen governance and reduce the opportunity for bribery and corruption; and

(2) how International Development Association-financed projects contribute to the eventual graduation of a representative sample of countries from reliance on financing on concessionary terms and international development assistance.

(c) AMENDMENT OF REPORT ON FUND.—Section 1705(a) of the International Financial Institutions Act (22 U.S.C. 262r–4(a)) is amended—[7]

(1) by inserting "(1)" before "the progress"; and

(2) by inserting before the period at the end the following: ", and (2) the progress made by the International Monetary Fund in adopting and implementing the policies described in section 801(c)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001".

(d) REPORT ON DEBT RELIEF.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on the history of debt relief programs led by, or coordinated with, international financial institutions, including but not limited to—

(1) the extent to which poor countries and the poorest-of-the-poor benefit from debt relief, including measurable evidence of any such benefits; and

(2) the extent to which debt relief contributes to the graduation of a country from reliance on financing on concessionary terms and international development assistance.

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[6] 22 U.S.C. 262r–6.

[7] For amended text, see *Legislation on Foreign Relations Through 2000*, vol. III.

SEC. 804. REPEAL OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS.

Section 209(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2169(d); relating to bilateral funding for international financial institutions) is repealed.

Sec. 805. REFOCUSED ACTIVITIES OF THE IMF.

The Bretton Woods Agreement Act is amended by adding the following new section:

"SEC. 63.[8] PRINCIPLES FOR INTERNATIONAL MONETARY FUND LENDING.

"It is the policy of the United States to work to implement reforms in the International Monetary Fund (IMF) to achieve the following goals:

"(a) SHORT-TERM BALANCE OF PAYMENTS FINANCING.—Lending from the general resources of the Fund should concentrate chiefly on short-term balance of payments financing.

"(b) LIMITATIONS ON MEDIUM-TERM FINANCING.—Use of medium-term lending from the general resources of the Fund should be limited to a set of well-defined circumstances, such as—

"(1) when a member's balance of payments problems will be protracted,

"(2) such member has a strong structural reform program in place, and

"(3) the member has little or no access to private sources of capital.

"(c) PREMIUM PRICING.—Premium pricing should be introduced for lending from the general resources of the Fund, for greater than 200 per centum of a member's quota in the Fund, to discourage excessive use of Fund lending and to encourage members to rely on private financing to the maximum extent possible.

"(d) REDRESSING MISREPORTING OF INFORMATION.—The Fund should have in place and apply systematically a strong framework of safeguards and measures to respond to, correct, and discourage cases of misreporting of information in the context of a Fund program, including—

"(1) Suspending Fund disbursements and ensuring that Fund lending is not resumed to members that engage in serious misreporting of material information until such time as remedial actions and sanctions, as appropriate, have been applied;

"(2) Ensuring that members make early repayments, where appropriate, of Fund resources disbursed on the basis of misreported information;

"(3) Making public cases of serious misreporting of material information;

"(4) Requiring all members receiving new disbursements from the Fund to undertake annually independent audits of central bank financial statements and publish the resulting audits; and

"(5) Requiring all members seeking new loans from the Fund to provide to the Fund detailed information regarding their in-

[8] 22 U.S.C. 286*oo*. Incorporated into the Bretton Woods Agreement Act; see *Legislation on Foreign Relations Through 2000*, vol. III.

ternal control procedures, financial reporting and audit mechanisms and, in cases where there are questions about the adequacy of these systems, undertaking an on-site review and identifying needed remedies.".

SEC. 806.[9] DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and the Committee on Banking and Financial Services and the Committee on Appropriations of the House of Representatives.

(2) BANK.—The term "Bank" means the International Bank for Reconstruction and Development.

(3) FUND.—The term "Fund" means the International Monetary Fund.

(4) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term "international financial institutions" means the multilateral development banks and the International Monetary Fund.

(5) MULTILATERAL DEVELOPMENT BANKS.—The term "multilateral development banks" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

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

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001".

[9] 22 U.S.C. 262r–6 note.

g. Emergency Supplemental Act, 2000

Partial text of Public Law 106–246 [H.R. 4425], 114 Stat. 511, approved July 13, 2000; amended by Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002

AN ACT Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

DIVISION B—FISCAL YEAR 2000 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

* * * * * * *

TITLE III—COUNTERNARCOTICS

* * * * * * *

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

ASSISTANCE FOR COUNTERNARCOTICS ACTIVITIES

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support Central and South America and Caribbean counternarcotics activities, $1,018,500,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, not less than $110,000,000 shall be made available for assistance for Bolivia, of which not less than $85,000,000 may be made available for alternative development and other economic activities: *Provided further,* That of the funds appropriated under this heading, not less than $20,000,000 may be made available for assistance for Ecuador, of which not less than $8,000,000 may be made available for alternative development and other economic activities: *Provided further,* That of the funds appropriated under this heading, not less than $18,000,000 shall be made available for assistance for other countries in South and Central America and the Caribbean which are cooperating with United States

counternarcotics objectives: *Provided further,* That of the funds appropriated under this heading not less than $60,000,000 shall be made available for the procurement, refurbishing, and support for UH–1H Huey II helicopters for the Colombian Army: *Provided further,* That of the funds appropriated under this heading, not less than $234,000,000 shall be made available for the procurement of and support for UH–60 Blackhawk helicopters for use by the Colombian Army and the Colombian National Police: *Provided further,* That procurement of UH–60 Blackhawk helicopters from funds made available under this heading shall be managed by the United States Defense Security Cooperation Agency: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of an illegal self-defense group or illegal security cooperative, then such helicopter shall be immediately returned to the United States: *Provided further,* That of the amount appropriated under this heading, $2,500,000 shall be available for a program for the demobilization and rehabilitation of child soldiers in Colombia: *Provided further,* That funds made available under this heading shall be in addition to amounts otherwise available for such purposes: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That the Secretary of State, in consultation with the Secretary of Defense and the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 30 days after the date of the enactment of this Act and prior to the initial obligation of any funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project or activity: *Provided further,* That at least 20 days prior to the obligation of funds made available under this heading the Secretary of State shall inform the Committees on Appropriations: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount provided shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3201. CONDITIONS ON ASSISTANCE FOR COLOMBIA. (a) CONDITIONS.—

(1) CERTIFICATION REQUIRED.—Assistance provided under this heading may be made available for Colombia in fiscal years 2000 and 2001 only if the Secretary of State certifies to the appropriate congressional committees prior to the initial obligation of such assistance in each such fiscal year, that—

(A)(i) the President of Colombia has directed in writing that Colombian Armed Forces personnel who are credibly

alleged to have committed gross violations of human rights will be brought to justice in Colombia's civilian courts, in accordance with the 1997 ruling of Colombia's Constitutional court regarding civilian court jurisdiction in human rights cases; and

(ii) the Commander General of the Colombian Armed Forces is promptly suspending from duty any Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights or to have aided or abetted paramilitary groups; and

(iii) the Colombian Armed Forces and its Commander General are fully complying with (A)(i) and (ii); and

(B) the Colombian Armed Forces are cooperating fully with civilian authorities in investigating, prosecuting, and punishing in the civilian courts Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights;

(C) the Government of Colombia is vigorously prosecuting in the civilian courts the leaders and members of paramilitary groups and Colombian Armed Forces personnel who are aiding or abetting these groups;

(D) the Government of Colombia has agreed to and is implementing a strategy to eliminate Colombia's total coca and opium poppy production by 2005 through a mix of alternative development programs; manual eradication; aerial spraying of chemical herbicides; tested, environmentally safe mycoherbicides; and the destruction of illicit narcotics laboratories on Colombian territory; and

(E) the Colombian Armed Forces are developing and deploying in their field units a Judge Advocate General Corps to investigate Colombian Armed Forces personnel for misconduct.

(2) CONSULTATIVE PROCESS.—The Secretary of State shall consult with internationally recognized human rights organizations regarding the Government of Colombia's progress in meeting the conditions contained in paragraph (1), prior to issuing the certification required under paragraph (1).

(3) APPLICATION OF EXISTING LAWS.—The same restrictions contained in section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (Public Law 106–113) and section 8098 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79) shall apply to the availability of funds under this heading.

(4) WAIVER.—Assistance may be furnished without regard to this section if the President determines and certifies to the appropriate committees that to do so is in the national security interest.

(b) DEFINITIONS.—In this section:

(1) AIDING OR ABETTING.—The term "aiding or abetting" means direct and indirect support to paramilitary groups, including conspiracy to allow, facilitate, or promote the activities of paramilitary groups.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee

on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(3) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

(4) ASSISTANCE.—The term "assistance" means assistance appropriated under this heading for fiscal years 2000 and 2001, and provided under the following provisions of law:

(A) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; relating to counter-drug assistance).

(B) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; relating to counter-drug assistance to Colombia and Peru).

(C) Section 23 of the Arms Export Control Act (Public Law 90–629; relating to credit sales).

(D) Section 481 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to international narcotics control).

(E) Section 506 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to emergency drawdown authority).

SEC. 3202. REGIONAL STRATEGY. (a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, the Committee on International Relations and the Committee on Appropriations of the House of Representatives, a report on the current United States policy and strategy regarding United States counternarcotics assistance for Colombia and neighboring countries.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall address the following:

(1) The key objectives of the United States' counternarcotics strategy in Colombia and neighboring countries and a detailed description of benchmarks by which to measure progress toward those objectives.

(2) The actions required of the United States to support and achieve these objectives, and a schedule and cost estimates for implementing such actions.

(3) The role of the United States in the efforts of the Government of Colombia to deal with illegal drug production in Colombia.

(4) The role of the United States in the efforts of the Government of Colombia to deal with the insurgency and paramilitary forces in Colombia.

(5) How the strategy with respect to Colombia relates to and affects the United States' strategy in the neighboring countries.

(6) How the strategy with respect to Colombia relates to and affects the United States' strategy for fulfilling global counternarcotics goals.

(7) A strategy and schedule for providing material, technical, and logistical support to Colombia and neighboring countries in order to defend the rule of law and to more effectively impede the cultivation, production, transit, and sale of illicit narcotics.

(8) A schedule for making Forward Operating Locations (FOL) fully operational, including cost estimates and a description of the potential capabilities for each proposed location and an explanation of how the FOL architecture fits into the overall Strategy.

SEC. 3203. REPORT ON EXTRADITION OF NARCOTICS TRAFFICKERS.—(a) Not later than 6 months after the date of the enactment of this title, and every 6 months thereafter, during the period Plan Colombia resources are made available, the Secretary of State shall submit to the Committee on Foreign Relations, the Committee on the Judiciary, and the Committee on Appropriations of the Senate; and the Committee on International Relations, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives a report setting forth—

(1) a list of the persons whose extradition has been requested from any country receiving counternarcotics assistance from the United States, indicating those persons who—

(A) have been surrendered to the custody of United States authorities;

(B) have been detained by the authorities and who are being processed for extradition;

(C) have been detained by the authorities and who are not yet being processed for extradition; or

(D) are at large;

(2) a determination whether authorities of each country receiving counternarcotics assistance from the United States are making good faith efforts to ensure the prompt extradition of each of the persons sought by United States authorities; and

(3) an analysis of—

(A) any legal obstacles in the laws of each country receiving counternarcotics assistance from the United States regarding prompt extradition of persons sought by United States authorities; and

(B) the steps taken by authorities of the United States and the authorities of each country receiving counternarcotics assistance from the United States to overcome such obstacles.

SEC. 3204.[1] LIMITATIONS ON SUPPORT FOR PLAN COLOMBIA AND ON THE ASSIGNMENT OF UNITED STATES PERSONNEL IN COLOMBIA. (a) LIMITATION ON SUPPORT FOR PLAN COLOMBIA.—

(1) LIMITATION.—Except as provided in paragraph (2), none of the funds appropriated or otherwise made available by any Act shall be available for support of Plan Colombia unless and until—

[1] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public law 108–7; 117 Stat. 172), provides funding for the Andean Counterdrug Initiative, including the following proviso:

"*Provided further,* That the provisions of section 3204(b) through (d) of Public Law 106–246, as amended by Public Law 107–115, shall be applicable to funds appropriated for fiscal year 2003:".

(A) the President submits a report to Congress requesting the availability of such funds; and

(B) Congress enacts a joint resolution approving the request of the President under subparagraph (A).

(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to—

(A) appropriations made by this Act, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, the Military Construction Appropriations Act, 2001, the Commerce, Justice, State and the Judiciary Appropriations Act, 2001, the Treasury and General Government Appropriations Act, 2001, or the Department of Defense Appropriations Act, 2001, for the purpose of support of Plan Colombia; or

(B) the unobligated balances from any other program used for their originally appropriated purpose to combat drug production and trafficking, foster peace, increase the rule of law, improve human rights, expand economic development, and institute justice reform in the countries covered by Plan Colombia.

(3) WAIVER.—The limitations in subsection (a) may be waived by an Act of Congress.

(b) LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL IN COLOMBIA.—

(1) LIMITATION.—Except as provided in paragraph (2), none of the funds appropriated or otherwise made available by this or any other Act (including funds described in subsection (c)) may be available for—

(A) the assignment of any United States military personnel for temporary or permanent duty in Colombia in connection with support of Plan Colombia if that assignment would cause the number of United States military personnel so assigned in Colombia to exceed 400;[2] or

(B) the employment of any United States individual civilian retained as a contractor in Colombia if that employment would cause the total number of United States individual civilian contractors employed in Colombia in support of Plan Colombia who are funded by Federal funds to exceed 400.[3]

(2) EXCEPTION.—The limitation contained in paragraph (1) shall not apply if—

(A) the President submits a report to Congress requesting that the limitation not apply; and

(B) Congress enacts a joint resolution approving the request of the President under subparagraph (A).

(c) WAIVER.—The President may waive the limitation in subsection (b)(1) for a single period of up to 90 days in the event that the Armed Forces of the United States are involved in hostilities

[2] Title II, para. on Andean Counterdrug Inititiatve, of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131) struck out "500" and inserted in lieu thereof "400".

[3] Title II, para. on Andean Counterdrug Inititiatve, of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131) struck out "300" and inserted in lieu thereof "400".

or that imminent involvement by the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect the authority of the President to carry out any emergency evacuation of United States citizens or any search or rescue operation for United States military personnel or other United States citizens.

(e) REPORT ON SUPPORT FOR PLAN COLOMBIA.—Not later than June 1, 2001, and not later than June 1 and December 1 of each of the succeeding 4 fiscal years, the President shall submit a report to Congress setting forth any costs (including incremental costs incurred by the Department of Defense) incurred by any department, agency, or other entity of the executive branch of Government during the two previous fiscal quarters in support of Plan Colombia. Each such report shall provide an itemization of expenditures by each such department, agency, or entity.

(f) BIMONTHLY REPORTS.—Beginning within 90 days of the date of the enactment of this Act, and every 60 days thereafter, the President shall submit a report to Congress that shall include the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent United States military personnel and United States individual civilians retained as contractors involved in the antinarcotics campaign in Colombia.

(g) CONGRESSIONAL PRIORITY PROCEDURES.—

(1) JOINT RESOLUTIONS DEFINED.—

(A) For purposes of subsection (a)(1)(B), the term "joint resolution" means only a joint resolution introduced not later than 10 days of the date on which the report of the President under subsection (a)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the request of the President for additional funds for Plan Colombia contained in the report submitted by the President under section 3204(a)(1) of the 2000 Emergency Supplemental Appropriations Act.".

(B) For purposes of subsection (b)(2)(B), the term "joint resolution" means only a joint resolution introduced not later than 10 days of the date on which the report of the President under subsection (a)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the request of the President for exemption from the limitation applicable to the assignment of personnel in Colombia contained in the report submitted by the President under section 3204(b)(2)(B) of the 2000 Emergency Supplemental Appropriations Act.".

(2) PROCEDURES.—Except as provided in subparagraph (B), a joint resolution described in paragraph (1)(A) or (1)(B) shall be considered in a House of Congress in accordance with the procedures applicable to joint resolutions under paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473; 98 Stat. 1936).

(h) PLAN COLOMBIA DEFINED.—In this section, the term "Plan Colombia" means the plan of the Government of Colombia instituted by the administration of President Pastrana to combat drug production and trafficking, foster peace, increase the rule of law, improve human rights, expand economic development, and institute justice reform.

SEC. 3205. (a) DENIAL OF VISAS FOR PERSONS CREDIBLY ALLEGED TO HAVE AIDED AND ABETTED COLOMBIAN INSURGENT AND PARAMILITARY GROUPS.—None of the funds appropriated or otherwise made available in this Act for any fiscal year for the Department of State may be used to issue visas to any person who has been credibly alleged to have provided direct or indirect support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Colombian Self Defense organization (AUC), including conspiracy to allow, facilitate, or promote the illegal activities of such groups.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons, or to permit the prosecution of such person in the United States, or the person has cooperated fully with the investigation of crimes committed by individuals associated with the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Colombian Self Defense organization (AUC).

(c) WAIVER.—The President may waive the limitation in subsection (a) if the President determines that the waiver is in the national interest.

SEC. 3206. LIMITATION ON SUPPLEMENTAL FUNDS FOR POPULATION PLANNING.—Amounts appropriated under this division or under any other provision of law for fiscal year 2000 that are in addition to the funds made available under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as enacted into law by section 1000(a)(2) of Public Law 106–113) shall be deemed to have been appropriated under title II of such Act and shall be subject to all limitations and restrictions contained in section 599D of such Act, notwithstanding section 543 of such Act.

SEC. 3207. DECLARATION OF SUPPORT. (a) CERTIFICATION REQUIRED.—Assistance may be made available for Colombia in fiscal years 2000 and 2001 only if the Secretary of State certifies to the appropriate congressional committees, before the initial obligation of such assistance in each such fiscal year, that the United States Government publicly supports the military and political efforts of the Government of Colombia, consistent with human rights conditions in section 3101, necessary to effectively resolve the conflicts with the guerrillas and paramilitaries that threaten the territorial integrity, economic prosperity, and rule of law in Colombia.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the following:

(A) The Committees on Appropriations and Foreign Relations of the Senate.

(B) The Committees on Appropriations and International Relations of the House of Representatives.

(2) ASSISTANCE.—The term "assistance" means assistance appropriated under this heading for fiscal years 2000 and 2001, and provided under the following provisions of law:

(A) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; relating to counter-drug assistance).

(B) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; relating to counter-drug assistance to Colombia and Peru).

(C) Section 23 of the Arms Export Control Act (Public Law 90–629; relating to credit sales).

(D) Section 481 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to international narcotics control).

(E) Section 506 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to emergency drawdown authority).

* * * * * * *

This division may be cited as the "Emergency Supplemental Act, 2000".

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h. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000

H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113, 113 Stat. 1501 at 1535, approved November 29, 1999; amended by Public Law 106–429 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429], 114 Stat. 1900, approved November 6, 2000; Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002; and by Public Law 108–7 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003

A BILL Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

NOTE.—Fiscal year 1999 appropriations were continued into fiscal year 2000 in Public Law 106–62 (113 Stat. 505; approved September 30, 1999), as amended, pending final passage of several annual appropriations bills including foreign assistance appropriations.

NOTE.—Sec. 301 of the Miscellaneous Appropriations Act (H.R. 3425 enacted by reference in sec. 1000(a)(5) of Public Law 106–113; 113 Stat. 1535)), provided the following:

"SEC. 301. (a) GOVERNMENT-WIDE RESCISSIONS.—There is hereby rescinded an amount equal to 0.38 percent of the discretionary budget authority provided (or obligation limit imposed) for fiscal year 2000 in this or any other Act for each department, agency, instrumentality, or entity of the Federal Government.

"(b) RESTRICTIONS.—In carrying out the rescissions made by subsection (a)—

"(1) no program, project, or activity of any department, agency, instrumentality, or entity may be reduced by more than 15 percent (with 'programs, projects, and activities' as delineated in the appropriations Act or accompanying report for the relevant account, or for accounts and items not included in appropriations Acts, as delineated in the most recently submitted President's budget),

"(2) no reduction shall be taken from any military personnel account, and

"(3) the reduction for the Department of Defense and Department of Energy Defense Activities shall be applied proportionately to all Defense accounts.

"(c) REPORT.—The Director of the Office of Management and Budget shall include in the President's budget submitted for fiscal year 2001 a report specifying the reductions made to each account pursuant to this section.".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

* * * * * * *

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $759,000,000 to remain available until September 30, 2003: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until September 30, 2018 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2000, 2001, 2002, and 2003: *Provided further,* That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, or related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State or any agency or national thereof.

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OVERSEAS PRIVATE INVESTMENT CORPORATION

* * * * * * *

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961 to be derived by transfer from the Overseas Private Investment Corporation noncredit account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2000 and 2001: *Provided further,* That such sums shall remain available through fiscal year 2008 for the disbursement of direct and guaranteed loans obligated in fiscal year 2000, and through fiscal year 2009 for the disbursement of direct and guaranteed loans obligated

in fiscal year 2001: *Provided further,* That in addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account: *Provided further,* That funds made available under this heading or in prior appropriations Acts that are available for the cost of financing under section 234 of the Foreign Assistance Act of 1961, shall be available for purposes of section 234(g) of such Act, to remain available until expended.

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TITLE V—GENERAL PROVISIONS

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VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

SEC. 579.[1] (a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the United States Agency for International Development;

(2) the term "Administrator" means the Administrator, United States Agency for International Development; and

(3) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is to be separated involuntarily for misconduct or unacceptable performance, and to whom specific notice has been given with respect to that separation;

(D) an employee who has previously received any voluntary separation incentive payment by the Government of the United States under this section or any other authority and has not repaid such payment;

(E) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(F) any employee who, during the 24-month period preceding the date of separation, received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of such title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

[1] 5 U.S.C. 5597 note.

(1) IN GENERAL.—The Administrator, before obligating any resources for voluntary separation incentive payments under this section, shall submit to the Committees on Appropriations and the Office of Management and Budget a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered;

(C) a description of how the agency will operate without the eliminated positions and functions; and

(D) the time period during which incentives may be paid.

(3) APPROVAL.—The Director of the Office of Management and Budget shall review the agency's plan and approve or disapprove the plan and may make appropriate modifications in the plan with respect to the coverage of incentives as described under paragraph (2)(A), and with respect to the matters described in paragraphs (2)(B) through (D).

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by the agency to employees of such agency and only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment under this section—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any employee who voluntarily separates (whether by retirement or resignation) on or before January 1, 2003;[2]

[2] Sec. 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900), struck out "December 31, 2000" and inserted in lieu thereof "December 31, 2001". Sec. 575 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2168), struck out "December 31, 2001" and inserted in lieu thereof "December 31, 2002". Sec. 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 208), struck out "December 31, 2002" and inserted in lieu thereof "January 1, 2003".

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—

(1) An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the Government of the United States through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(2) If the employment under paragraph (1) is with an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under paragraph (1) is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) If the employment under paragraph (1) is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant for the position.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) REGULATIONS.—The Office of Personnel Management may prescribe such regulations as may be necessary to implement this section.

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ABOLITION OF THE INTER-AMERICAN FOUNDATION

SEC. 586.[3] (a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(2) FOUNDATION.—The term "Foundation" means the Inter-American Foundation.

(3) FUNCTION.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(b) ABOLITION OF INTER-AMERICAN FOUNDATION.—During fiscal years 2000 and 2001,[4] the President is authorized to abolish the Inter-American Foundation. The provisions of this section shall only be effective upon the effective date of the abolition of the Inter-American Foundation.

(c) TERMINATION OF FUNCTIONS.—

(1) Except as provided in subsection (d)(2), there are terminated upon the abolition of the Foundation all functions vested in, or exercised by, the Foundation or any official thereof, under any statute, reorganization plan, Executive order, or other provisions of law, as of the day before the effective date of this section.

(2) REPEAL.—Section 401 of the Foreign Assistance Act of 1969 (22 U.S.C. 290f)[5] is repealed upon the effective date specified in subsection (j).

(3) FINAL DISPOSITION OF FUNDS.—Upon the date of transmittal to Congress of the certification described in subsection (d)(4), all unexpended balances of appropriations of the Foundation shall be deposited in the miscellaneous receipts account of the Treasury of the United States.

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[3] 22 U.S.C. 290f note.

[4] Sec. 591(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–59), struck out "year 2000" and inserted in lieu thereof "years 2000 and 2001".

[5] Sec. 591(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–59), struck out "6290f" and inserted in lieu thereof "290f".

(d) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall be responsible for—

(A) the administration and wind-up of any outstanding obligation of the Federal Government under any contract or agreement entered into by the Foundation before the date of the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, except that the authority of this subparagraph does not include the renewal or extension of any such contract or agreement; and

(B) taking such other actions as may be necessary to wind-up any outstanding affairs of the Foundation.

(2) TRANSFER OF FUNCTIONS TO THE DIRECTOR.—There are transferred to the Director such functions of the Foundation under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the date of the enactment of this section, as may be necessary to carry out the responsibilities of the Director under paragraph (1).

(3) AUTHORITIES OF THE DIRECTOR.—For purposes of performing the functions of the Director under paragraph (1) and subject to the availability of appropriations, the Director may—

(A) enter into contracts;

(B) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule; and

(C) utilize, on a reimbursable basis, the services, facilities, and personnel of other Federal agencies.

(4) CERTIFICATION REQUIRED.—Whenever the Director determines that the responsibilities described in paragraph (1) have been fully discharged, the Director shall so certify to the appropriate congressional committees.

(e) REPORT TO CONGRESS.—The Director of the Office of Management and Budget shall submit to the appropriate congressional committees a detailed report in writing regarding all matters relating to the abolition and termination of the Foundation. The report shall be submitted not later than 90 days after the termination of the Foundation.

(f) TRANSFER AND ALLOCATION OF APPROPRIATIONS.—Except as otherwise provided in this section, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under subsection (g)(3)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions, terminated by subsection (c)(1) or transferred by subsection (d)(2) shall be transferred to the Director for purposes of carrying out the responsibilities described in subsection (d)(1).

(g) SAVINGS PROVISIONS.—

(1) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, con-

tracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the Foundation in the performance of functions that are terminated or transferred under this section; and

(B) that are in effect as of the date of the abolition of the Foundation, or were final before such date and are to become effective on or after such date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) NO EFFECT ON JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Except as otherwise provided in this section—

(A) the provisions of this section shall not affect suits commenced prior to the date of the abolition of the Foundation; and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(3) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Foundation shall abate by reason of the enactment of this section. No cause of action by or against the Foundation, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this section.

(4) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the date of the abolition of the Foundation, the Foundation, or officer thereof in the official capacity of such officer, is a party to a suit, then effective on such date such suit shall be continued with the Director substituted or added as a party.

(5) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Director in the exercise of functions terminated or transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the Foundation immediately preceding their termination or transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this section shall apply to the exercise of such function by the Director.

(h) CONFORMING AMENDMENTS.—

(1) AFRICAN DEVELOPMENT FOUNDATION.—Section 502 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 290h) is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking the semicolon at the end of paragraph (3) and inserting a period; and

(C) by striking paragraphs (4) and (5).

(2) SOCIAL PROGRESS TRUST FUND AGREEMENT.—Section 36 of the Foreign Assistance Act of 1973 is amended—

(A) in subsection (a)—

(i) by striking "provide for" and all that follows through "(2) utilization" and inserting "provide for the utilization"; and

(ii) by striking "member countries;" and all that follows through "paragraph (2)" and inserting "member countries.";

(B) in subsection (b), by striking "transfer or";

(C) by striking subsection (c);

(D) by redesignating subsection (d) as subsection (c); and

(E) in subsection (c) (as so redesignated), by striking "transfer or".

(3) FOREIGN ASSISTANCE ACT OF 1961.—Section 222A(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182a(d)) is repealed.

(i) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(j) EFFECTIVE DATES.—The repeal made by subsection (c)(2) and the amendments made by subsection (h) shall take effect upon the date of transmittal to Congress of the certification described in subsection (d)(4).

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000".

i. Miscellaneous Appropriations, 2000

H.R. 3425, enacted by reference in sec. 1000(a)(5) of Public Law 106–113, 113 Stat. 1501 at 1535, approved November 29, 1999

A BILL Making miscellaneous appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

* * * * * * *

TITLE V—INTERNATIONAL DEBT RELIEF

Sec. 501.[1] ACTIONS TO PROVIDE BILATERAL DEBT RELIEF.

(a) CANCELLATION OF DEBT.—Subject to the availability of amounts provided in advance in appropriations Acts, the President shall cancel all amounts owed to the United States (or any agency of the United States) by any country eligible for debt reduction under this section, as a result of loans made or credits extended prior to June 20, 1999, under any of the provisions of law specified in subsection (b).

(b) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are the following:

(1) Sections 221 and 222 of the Foreign Assistance Act.

(2) The Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) Section 5(f) of the Commodity Credit Corporation Charter Act, section 201 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621), or section 202 of such Act (7 U.S.C. 5622), or predecessor provisions under the Food for Peace Act of 1966.

(4) Title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(c) OTHER DEBT REDUCTION AUTHORITIES.—The authority provided in this section is in addition to any other debt relief authority and does not in any way limit such authority.

(d) ELIGIBLE COUNTRIES.—A country that is performing satisfactorily under an economic reform program shall be eligible for cancellation of debt under this section if—

(1) the country, as of December 31, 2000, is eligible to borrow from the International Development Association;

(2) the country, as of December 31, 2000, is not eligible to borrow from the International Bank for Reconstruction and Development; and

(3)(A) the country has outstanding public and publicly guaranteed debt, the net present value of which on December 31,

[1] 22 U.S.C. 2395a note.

1996, was at least 150 percent of the average annual value of the exports of the country for the period 1994 through 1996; or

(B)(i) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 150 percent of the annual value of the exports of the country; or

(ii) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 250 percent of the annual fiscal revenues of the country, and has minimum ratios of exports to Gross Domestic Product of 30 percent, and of fiscal revenues to Gross Domestic Product of 15 percent.

(e) PRIORITY.—In carrying out subsection (a), the President should seek to leverage scarce foreign assistance and give priority to heavily indebted poor countries with demonstrated need and the capacity to use such relief effectively.

(f) EXCEPTIONS.—A country shall not be eligible for cancellation of debt under this section if the government of the country—

(1) has an excessive level of military expenditures;

(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

(3) is failing to cooperate on international narcotics control matters; or

(4) (including its military or other security forces), engages in a consistent pattern of gross violations of internationally recognized human rights.

(g) ADDITIONAL REQUIREMENT.—A country which is otherwise eligible to receive cancellation of debt under this section may receive such cancellation only if the country has committed, in connection with a social and economic reform program—

(1) to enable, facilitate, or encourage the implementation of policy changes and institutional reforms under economic reform programs, in a manner that ensures that such policy changes and institutional reforms are designed and adopted through transparent and participatory processes;

(2) to adopt an integrated development strategy of the type described in section 1624(a) of the International Financial Institutions Act, to support poverty reduction through economic growth, that includes monitorable poverty reduction goals;

(3) to take steps so that the financial benefits of debt relief are applied to programs to combat poverty (in particular through concrete measures to improve economic infrastructure, basic services in education, nutrition, and health, particularly treatment and prevention of the leading causes of mortality) and to redress environmental degradation;

(4) to take steps to strengthen and expand the private sector, encourage increased trade and investment, support the devel-

opment of free markets, and promote broad-scale economic growth;

(5) to implement transparent policy making and budget procedures, good governance, and effective anticorruption measures;

(6) to broaden public participation and popular understanding of the principles and goals of poverty reduction, particularly through economic growth, and good governance; and

(7) to promote the participation of citizens and nongovernmental organizations in the economic policy choices of the government.

(h) CERTAIN PROHIBITIONS INAPPLICABLE.—Except as the President may otherwise determine for reasons of national security, a cancellation of debt under this section shall not be considered to be assistance for purposes of any provision of law limiting assistance to a country. The authority to provide for cancellation of debt under this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961, or any similar provision of law.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the cancellation of any debt under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2000 through 2004, which shall remain available until expended.

(j) ANNUAL REPORTS TO THE CONGRESS.—Not later than December 31 of each year, the President shall prepare and transmit to the Committees on Banking and Financial Services, Appropriations, and International Relations of the House of Representatives, and the Committees on Banking, Housing, and Urban Affairs, Foreign Relations, and Appropriations of the Senate a report, which shall be made available to the public, concerning the cancellation of debt under subsection (a), and a detailed description of debt relief provided by the United States as a member of the Paris Club of Official Creditors for the prior fiscal year.

SEC. 502. ACTIONS TO IMPROVE THE PROVISION OF MULTILATERAL DEBT RELIEF.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–5) is amended by adding at the end the following: * * *[2]

SEC. 503. ACTIONS TO FUND THE PROVISION OF MULTILATERAL DEBT RELIEF.

(a) CONTRIBUTIONS FOR DEBT REDUCTIONS FOR THE POOREST COUNTRIES.—The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following: * * *[5]

(b)[7] CERTIFICATION.—Within 15 days after the United States Executive Director casts the votes necessary to carry out the instruction described in section 62 of the Bretton Woods Agreements Act, the Secretary of the Treasury shall certify to the Congress that neither the profits nor the earnings on the investment of profits from

[2] Sec. 502 added new secs. 1623 and 1624 to the International Financial Institutions Act. For text, see *Legislation on Foreign Relations Through 2000*, vol. III.

[5] Sec. 503(a) added a new sec. 62 to the Bretton Woods Agreements Act. For text, see *Legislation on Foreign Relations Through 2000*, vol. III.

[7] 22 U.S.C. 286nn note.

the gold sales made pursuant to the instruction or of the funds attributable to United States participation in SCA–2 will be used to augment the resources of any reserve account of the International Monetary Fund for the purpose of making loans.

SEC. 504.[8] ADDITIONAL PROVISIONS.

(a) PUBLICATION OF IMF OPERATIONAL BUDGETS.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to publish the operational budgets of the International Monetary Fund, on a quarterly basis, not later than one year after the end of the period covered by the budget.

(b) REPORT TO THE CONGRESS SHOWING COSTS OF UNITED STATES PARTICIPATION IN THE INTERNATIONAL MONETARY FUND.—The Secretary of the Treasury shall prepare and transmit to the Committees on Banking and Financial Services, on Appropriations, and on International Relations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs, on Foreign Relations, and on Appropriations of the Senate a quarterly report, which shall be made readily available to the public, on the costs or benefits of United States participation in the International Monetary Fund and which shall detail the costs and benefits to the United States, as well as valuation gains or losses on the United States reserve position in the International Monetary Fund.

(c) CONTINUATION OF FORGOING OF REIMBURSEMENT OF IMF FOR EXPENSES OF ADMINISTERING ESAF.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to continue to forgo reimbursements of the expenses incurred by the International Monetary Fund in administering the Enhanced Structural Adjustment Facility, until the Heavily Indebted Poor Countries Initiative (as defined in section 1623 of the International Financial Institutions Act) is terminated.

(d) NO GOLD SALES BY INTERNATIONAL MONETARY FUND WITHOUT PRIOR AUTHORIZATION BY THE CONGRESS.—(1) The first sentence of section 5 of the Bretton Woods Agreements Act (22 U.S.C. 286c) is amended in clause (g) by striking "approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the Fund." and inserting "approve any disposition of Fund gold, unless the Secretary certifies to the Congress that such disposition is necessary for the Fund to restitute gold to its members, or for the Fund to provide liquidity that will enable the Fund to meet member country claims on the Fund or to meet threats to the systemic stability of the international financial system.".

(2) Not less than 30 days prior to the entrance by the United States into international negotiations for the purpose of reaching agreement on the disposition of Fund gold whereby resources of the

[8] 22 U.S.C. 262o–2 note.

Fund would be used for the special benefit of a single member, or of a particular segment of the membership of the Fund, the Secretary of the Treasury shall consult with the Committees on Banking and Financial Services, on Appropriations, and on International Relations of the House of Representatives and the Committees on Foreign Relations, on Appropriations, and on Banking, Housing and Urban Affairs of the Senate.

(e) ANNUAL REPORT BY GAO ON CONSISTENCY OF IMF PRACTICES WITH STATUTORY POLICIES.—The Comptroller General of the United States shall annually prepare and submit to the Congress of the United States a written report on the extent to which the practices of the International Monetary Fund are consistent with the policies of the United States, as expressly contained in Federal law applicable to the International Monetary Fund.

* * * * * * *

j. 1999 Emergency Supplemental Appropriations Act

Partial text of Public Law 106–31 [H.R. 1141], 113 Stat. 57, approved May 21, 1999; amended by Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of the Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; and by Public Law 106–554 [Legislative Branch Appropriations Act, 2001; H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of the Consolidated Appropriations Act for Fiscal Year 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000

AN ACT Making emergency supplemental appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, and for other purposes, namely:

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TITLE III—SUPPLEMENTAL APPROPRIATIONS

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CHAPTER 6

CONGRESSIONAL OPERATIONS

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ADMINISTRATIVE PROVISIONS—THIS CHAPTER

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SEC. 3011.[1] RUSSIAN LEADERSHIP PROGRAM.—(a) PURPOSE.—It is the purpose of this section to establish, in accordance with the provisions of this section—

(1) a pilot program within the Library of Congress for fiscal years 2000 and 2001;[2] and

[1] 22 U.S.C. 2452a note. See also sec. 313 of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106–554; 114 Stat. 2763), which establishes a Russian Leadership Program in the legislative branch. For text, see *Legislation on Foreign Relations Through 2002*, vol. II.

[2] Sec. 585(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "fiscal year 1999" and inserted in lieu thereof "fiscal years 1999 and 2000" in subsecs. (a)(1), (b)(4)(B), (d)(3), and (h)(1)(A). Sec. 310(1) of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106–554; 114 Stat. 2763), struck out "fiscal years 1999 and 2000" and inserted in lieu thereof "fiscal years 2000 and 2001" in the same subsections.

(2) a permanent program within the Executive agency designated by the President of the United States for fiscal years 2002[3] and thereafter,

to enable emerging political leaders of Russia at all levels of government to gain significant, firsthand exposure to the American free market economic system and the operation of American democratic institutions through visits to governments and communities at comparable levels in the United States.

(b) GRANTS.—

(1) IN GENERAL.—The head of the administering agency shall annually award grants to government or community organizations in the United States that seek to establish programs under which those organizations will host eligible Russians for the purpose described in subsection (a).

(2) DURATION.—The period of stay in the United States for any eligible Russian supported with grant funds under this section shall not exceed 30 days.

(3) LIMITATION.—The number of eligible Russians supported with grant funds under this section shall not exceed 3,000 in any fiscal year.

(4) ADMINISTRATION.—

(A) IN GENERAL.—Subject to the availability of appropriations, the head of the administering agency—

(i) may contract with nongovernmental organizations having expertise in carrying out the activities described in subsection (a) for the purpose of carrying out the administrative functions of the program (other than the awarding of grants); and

(ii) may, without regard to the civil service laws and regulations (or, in the case of the Librarian of Congress, any requirement for competition in hiring), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the administering agency to perform its duties under this section.

(B) WAIVER OF COMPETITIVE BIDDING.—The Librarian of Congress, after consultation with the Joint Committee on the Library of Congress, may enter into contracts under subparagraph (A)(i) to carry out the pilot program during fiscal years 2000 and 2001[2] without regard to section 3709 of the Revised Statutes or any other requirement for competitive contracting or the providing of notice of contracting opportunities.

(c) USE OF FUNDS.—Grants awarded under subsection (b) shall be used to pay—

(1) the costs and expenses incurred by each program participant in traveling between Russia and the United States and in traveling within the United States;

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[3] Sec. 585(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "2000" and inserted in lieu thereof "2001" in subsecs. (a)(2), (e)(1), and (h)(1)(B). Sec. 310(2) of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106–554; 114 Stat. 2763), struck out "2001" and inserted in lieu thereof "2002" in the same subsections.

(2) the costs of providing lodging in the United States to each program participant, whether in public accommodations or in private homes; and

(3) such additional administrative expenses incurred by organizations in carrying out the program as the head of the administering agency may prescribe.

(d) APPLICATION.—

(1) IN GENERAL.—Each organization in the United States desiring a grant under this section shall submit an application to the head of the administering agency at such time, in such manner, and accompanied by such information as such head may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought;

(B) include the number of program participants to be supported;

(C) describe the qualifications of the individuals who will be participating in the program; and

(D) provide such additional assurances as the head of the administering agency determines to be essential to ensure compliance with the requirements of this section.

(3) WAIVER.—The Librarian of Congress may waive the requirement of this subsection in carrying out the pilot program during fiscal years 2000 and 2001.[2]

(e) ADVISORY BOARD.—

(1) IN GENERAL.—There is established a Russian Leadership Program Advisory Board which shall advise the head of the administering agency as to the carrying out of the permanent program during fiscal years 2002[3] and thereafter.

(2) MEMBERSHIP.—The Advisory Board under paragraph (1) shall consist of—

(A) two members appointed by the Speaker of the House of Representatives, of whom one shall be designated by the Majority Leader of the House of Representatives and one shall be designated by the Minority Leader of the House of Representatives;

(B) two members appointed by the President pro tempore of the Senate, of whom one shall be designated by the Majority Leader of the Senate and one shall be designated by the Minority Leader of the Senate;

(C) the Librarian of Congress;

(D) a private individual with expertise in international exchange programs, designated by the Librarian of Congress; and

(E) an officer or employee of the administering agency, designated by the head of the administering agency.

(3) TERMS.—Each member appointed under paragraph (2) shall serve for a term of 3 years. Any vacancy shall be filled in the same manner as the original appointment and the individual so appointed shall serve for the remainder of the term.

(f) REPORTING.—The head of the administering agency shall, not later than 3 months following the close of each fiscal year for which

such agency administered the program, report to Congress with respect to the conduct of such program during such fiscal year. Such report shall include information with respect to the number of participants in the program and the cost of the program, and any recommendations on improvements necessary to enable the program to carry out the purposes of this section.

(g) FUNDING.—

(1) FISCAL YEAR 1999.—

(A) IN GENERAL.—Of funds made available under the heading "SENATE" under title I of the Legislative Appropriations Act, 1999 (Public Law 105–275; 112 Stat. 2430 et seq.), $10,000,000 shall be made available, subject to the approval of the Committee on Appropriations of the Senate, to the administering agency to carry out the program.

(B) USE OF FUNDS AT CLOSE OF FISCAL YEAR.—Funds made available under this paragraph which are unexpended and unobligated as of the close of fiscal year 1999 shall no longer be available for such purpose and shall be available for the purpose originally appropriated.

(2)[4] FISCAL YEAR 2000 AND SUBSEQUENT FISCAL YEARS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the administering agency for fiscal years 2000 and thereafter such sums as may be necessary to carry out the program.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(h) DEFINITIONS.—In this section:

(1) ADMINISTERING AGENCY.—The term "administering agency" means—

(A) for fiscal years 2000 and 2001,[2] the Library of Congress; and

(B) for fiscal year 2002,[3] and subsequent fiscal years, the Executive agency designated by the President of the United States under subsection (a)(2).

(2) ELIGIBLE RUSSIAN.—The term "eligible Russian" means a Russian national who is an emerging political leader at any level of government.

(3) PROGRAM.—The term "program" means the grant program established under this section.

(4) PROGRAM PARTICIPANT.—The term "program participant" means an eligible Russian selected for participation in the program.

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[4] Title II of the Legislative Branch Appropriations Act, 2001 ((H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106–554; 114 Stat. 2763), provided: "That of the total amount appropriated, $10,000,000 is to remain available until expended for salaries and expenses to carry out the Russian Leadership Program enacted on May 21, 1999 (113 Stat. 93 et seq.)".

Title II of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68; 115 Stat. 591), provided:

"PAYMENT TO THE RUSSIAN LEADERSHIP DEVELOPMENT CENTER TRUST FUND

"For a payment to the Russian Leadership Development Center Trust Fund for financing activities of the Center for Russian Leadership Development, $8,000,000.".

This Act may be cited as the "1999 Emergency Supplemental Appropriations Act".

k. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999

Section 101(d) of Division A of Public Law 105–277 [H.R. 4328], 112 Stat. 2681, approved October 21, 1998; amended by Public Law 106–200 [Trade and Development Act of 2000; H.R. 434], 114 Stat. 251, approved May 18, 2000; and by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes.

NOTE.—Fiscal year 1998 appropriations were continued into fiscal year 1999 in Public Law 105–240 (112 Stat. 1566; approved September 25, 1998), as amended, pending final passage of several annual appropriations bills including foreign assistance appropriations.

Several programs for which this law provides appropriations are funded for multiple years. For full text of the foreign assistance appropriations for fiscal year 1999, see *Legislation on Foreign Relations Through 1998*, vol. I–A.

(d) For programs, projects or activities in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes.

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TITLE V—GENERAL PROVISIONS

* * * * * * *

NATIONAL COMMISSION ON TERRORISM

SEC. 591.[1] (a) ESTABLISHMENT OF NATIONAL COMMISSION ON TERRORISM.—

[1] Sec. 306 of the Intelligence Authorization Act, Fiscal Year 2002 (Public Law 107–108; 115 Stat. 1399) provided the following:

Continued

(1) ESTABLISHMENT.—There is established a national commission on terrorism to review counter-terrorism policies regarding the prevention and punishment of international acts of terrorism directed at the United States. The commission shall be known as "The National Commission on Terrorism".

(2) COMPOSITION.—The commission shall be composed of 10 members appointed as follows:

(A) Three members shall be appointed by the Majority Leader of the Senate.

(B) Three members shall be appointed by the Speaker of the House of Representatives.

(C) Two members shall be appointed by the Minority Leader of the Senate.

(D) Two members shall be appointed by the Minority Leader of the House of Representatives.

(E) The appointments of the members of the commission should be made no later than 3 months after the date of the enactment of this Act.

(3) QUALIFICATIONS.—The members should have a knowledge and expertise in matters to be studied by the commission.

(4) CHAIR.—The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chair of the Commission.

(5) PERIOD OF APPOINTMENT: VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) SECURITY CLEARANCES.—All Members of the Commission should hold appropriate security clearances.

(b) DUTIES.—

(1) IN GENERAL.—The commission shall consider issues relating to international terrorism directed at the United States as follows:

(A) Review the laws, regulations, policies, directives, and practices relating to counterterrorism in the prevention

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"SEC. 306. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE NATIONAL COMMISSION ON TERRORISM AND OTHER ENTITIES.

"(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report concerning whether, and to what extent, the Intelligence Community has implemented recommendations relevant to the Intelligence Community as set forth in the following:

"(1) The report prepared by the National Commission on Terrorism established by section 591 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277).

"(2) The report prepared by the United States Commission on National Security for the 21st Century, Phase III, dated February 15, 2001.

"(3) The second annual report of the advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction established pursuant to section 1405 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 2301 note).

"(b) RECOMMENDATIONS DETERMINED NOT TO BE ADOPTED.—In a case in which the Director determines that a recommendation described in subsection (a) has not been implemented, the report under that subsection shall include a detailed explanation of the reasons for not implementing that recommendation.".

and punishment of international terrorism directed towards the United States.

(B) Assess the extent to which laws, regulations, policies, directives, and practices relating to counterterrorism have been effective in preventing or punishing international terrorism directed towards the United States. At a minimum, the assessment should include a review of the following:

(i) Evidence that terrorist organizations have established an infrastructure in the western hemisphere for the support and conduct of terrorist activities.

(ii) Executive branch efforts to coordinate counterterrorism activities among Federal, State, and local agencies and with other nations to determine the effectiveness of such coordination efforts.

(iii) Executive branch efforts to prevent the use of nuclear, biological, and chemical weapons by terrorists.

(C) Recommend changes to counterterrorism policy in preventing and punishing international terrorism directed toward the United States.

(2) REPORT.—Not later than 6 months after the date on which the Commission first meets, the Commission shall submit to the President and the Congress a final report of the findings and conclusions of the commission, together with any recommendations.

(c) ADMINISTRATIVE MATTERS.—

(1) MEETINGS.—

(A) The commission shall hold its first meeting on a date designated by the Speaker of the House which is not later than 30 days after the date on which all members have been appointed.

(B) After the first meeting, the commission shall meet upon the call of the chair.

(C) A majority of the members of the commission shall constitute a quorum, but a lesser number may hold meetings.

(2) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the commission may, if authorized by the commission, take any action which the commission is authorized to take under this section.

(3) POWERS.—

(A) The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out its duties.

(B) The commission may secure directly from any agency of the Federal Government such information as the commission considers necessary to carry out its duties. Upon the request of the chair of the commission, the head of a department or agency shall furnish the requested information expeditiously to the commission.

(C) The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) PAY AND EXPENSES OF COMMISSION MEMBERS.—

(A) Subject to appropriations, each member of the commission who is not an employee of the government shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the commission.

(B) Members and personnel for the commission may travel on aircraft, vehicles, or other conveyances of the Armed Forces of the United States when travel is necessary in the performance of a duty of the commission except when the cost of commercial transportation is less expensive.

(C) The members of the commission may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(D)(i) A member of the commission who is an annuitant otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the commission shall not be subject to the provisions of such section with respect to membership on the commission.

(ii) A member of the commission who is a member or former member of a uniformed service shall not be subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the commission.

(5) STAFF AND ADMINISTRATIVE SUPPORT.—

(A) The chairman of the commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to three additional staff members as necessary to enable the commission to perform its duties. The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53, of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the maximum rate of pay for GS–15 under the General Schedule.

(B) Upon the request of the chairman of the commission, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the commission to assist in carrying out its duties. The detail of an employee shall be without interruption or loss of civil service status or privilege.

(d) TERMINATION OF COMMISSION.—The commission shall terminate 30 days after the date on which the commission submits a final report.

(e) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

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TITLE VI—INTERNATIONAL FINANCIAL PROGRAMS AND REFORM

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ADVISORY COMMISSION

SEC. 603.[2] (a) IN GENERAL.—The Secretary of the Treasury shall establish an International Financial Institution Advisory Commission (in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 11 members, as follows:

(A) 3 members appointed by the Speaker of the House of Representatives.

(B) 3 members appointed by the Majority Leader of the Senate.

(C) 5 members appointed jointly by the Minority Leader of the House of Representatives and the Minority Leader of the Senate.

(2) TIMING OF APPOINTMENTS.—All appointments to the Commission shall be made not later than 45 days after the date of enactment of this Act.

(3) CHAIRMAN.—The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the House of Representatives and the Senate, shall designate 1 of the members of the Commission to serve as Chairman of the Commission.

(c) QUALIFICATIONS.—

(1) EXPERTISE.—Members of the Commission shall be appointed from among those with knowledge and expertise in the workings of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the World Trade Organization, and the Bank for International Settlements.

(2) FORMER AFFILIATION.—At least 4 members of the Commission shall be individuals who were officers or employees of the Executive Branch before January 20, 1992, and not more than half of such 4 members shall have served under Presidents from the same political party.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(e) DUTIES OF THE COMMISSION.—The Commission shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the

[2] 22 U.S.C. 262r note.

World Trade Organization, and the Bank for International Settlements. In carrying out such duties, the Commission shall meet with and advise the Secretary of the Treasury or the Deputy Secretary of the Treasury, and shall examine—

(1) the effect of globalization, increased trade, capital flows, and other relevant factors on such institutions;

(2) the adequacy, efficacy, and desirability of current policies and programs at such institutions as well as their suitability for respective beneficiaries of such institutions;

(3) cooperation or duplication of functions and responsibilities of such institutions; and

(4) other matters the Commission deems necessary to make recommendations pursuant to subsection (g).

(f) POWERS AND PROCEDURES OF THE COMMISSION.—

(1) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) INFORMATION.—The Commission may secure directly information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section.

(3) MEETINGS.—The Commission shall meet at the call of the Chairman.

(g) REPORT.—On the termination of the Commission, the Commission shall submit to the Secretary of the Treasury and the appropriate committees a report that contains recommendations regarding the following matters:

(1) Changes to policy goals set forth in the Bretton Woods Agreements Act and the International Financial Institutions Act.

(2) Changes to the charters, organizational structures, policies and programs of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act).

(3) Additional monitoring tools, global standards, or regulations for, among other things, global capital flows, bankruptcy standards, accounting standards, payment systems, and safety and soundness principles for financial institutions.

(4) Possible mergers or abolition of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), including changes to the manner in which such institutions coordinate their policy and program implementation and their roles and responsibilities.

(5) Any additional changes necessary to stabilize currencies, promote continued trade liberalization and to avoid future financial crises.

(h) TERMINATION.—The Commission shall terminate 6 months after the first meeting of the Commission, which shall be not later than 30 days after the appointment of all members of the Commission.

(i) REPORTS BY THE EXECUTIVE BRANCH.—

(1) Within three months after receiving the report of the Commission under subsection (g), the President of the United States through the Secretary of the Treasury shall report to the appropriate committees on the desirability and feasibility of implementing the recommendations contained in the report.

(2) Annually, for three years after the termination of the Commission, the President of the United States through the Secretary of the Treasury shall submit to the appropriate committees a report on the steps taken, if any, through relevant international institutions and international fora to implement such recommendations as are deemed feasible and desirable under paragraph (1).

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PROGRESS REPORTS TO CONGRESS ON UNITED STATES INITIATIVES TO UPDATE THE ARCHITECTURE OF THE INTERNATIONAL MONETARY SYSTEM

SEC. 606.[3] Not later than July 15, 1999, and July 15, 2000, the Secretary of the Treasury shall report to the Chairmen and Ranking Members of the appropriate committees on the progress of efforts to reform the architecture of the international monetary system. The reports shall include a discussion of the substance of the United States position in consultations with other governments and the degree of progress in achieving international acceptance and implementation of such position with respect to the following issues:

(1) Adapting the mission and capabilities of the International Monetary Fund to take better account of the increased importance of cross-border capital flows in the world economy and improving the coordination of its responsibilities and activities with those of the International Bank for Reconstruction and Development.

(2) Advancing measures to prevent, and improve the management of, international financial crises, including by—

(A) integrating aspects of national bankruptcy principles into the management of international financial crises where feasible; and

(B) changing investor expectations about official rescues, thereby reducing moral hazard and systemic risk in international financial markets,

in order to help minimize the adjustment costs that the resolution of financial crises may impose on the real economy, in the form of disrupted patterns of trade, employment, and progress in living standards, and reduce the frequency and magnitude of claims on United States taxpayer resources.

(3) Improving international economic policy cooperation, including among the Group of Seven countries, to take better account of the importance of cross-border capital flows in the determination of exchange rate relationships.

(4) Improving international cooperation in the supervision and regulation of financial institutions and markets.

[3] 22 U.S.C. 262r note.

(5) Strengthening the financial sector in emerging economies, including by improving the coordination of financial sector liberalization with the establishment of strong public and private institutions in the areas of prudential supervision, accounting and disclosure conventions, bankruptcy laws and administrative procedures, and the collection and dissemination of economic and financial statistics, including the maturity structure of foreign indebtedness.

(6) Advocating that implementation of European Economic and Monetary Union and the advent of the European Currency Unit, or euro, proceed in a manner that is consistent with strong global economic growth and stability in world financial markets.

DEFINITION

SEC. 607.[4] For purposes of sections 601 through 606 of this title, the term "appropriate committees" means the Committees on Appropriations, Foreign Relations, Finance,[5] and Banking, Housing, and Urban Affairs of the Senate and the Committees on Appropriations and, Ways and Means,[5] Banking and Financial Services of the House of Representatives.

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This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999".

[4] 22 U.S.C. 262r note.

[5] Sec. 404(a) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 291) inserted "Finance," after "Foreign Relations," and ", Ways and Means," before "and Banking and Financial Services".

l. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997

Partial text of Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; as amended by Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105–174 [1998 Supplemental Appropriations and Rescissions Act; H.R. 3579], 112 Stat. 58, approved May 1, 1998; and by Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B); H.R. 4328], 112 Stat. 2681, approved October 21, 1998

* * * * * * *

SEC. 101. * * *

(c) For programs, projects or activities in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes

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TITLE V—GENERAL PROVISIONS

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RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO

SEC. 540.[1] (a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160),[2] with respect to Serbia or Montenegro, may cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the rights of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova; and

[1] 50 U.S.C. 1701 note.

[2] For text, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

(c)[3] WAIVER AUTHORITY.—The President may waive the application in whole or in part, of subsection (a) if the President certifies to the Congress that the President has determined that the waiver is necessary to meet emergency humanitarian needs or to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties.

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POLICY TOWARD BURMA

SEC. 570.[4] (a) Until such time as the President determines and certifies to Congress that Burma has made measurable and substantial progress in improving human rights practices and implementing democratic government, the following sanctions shall be imposed on Burma:

(1) BILATERAL ASSISTANCE.—There shall be no United States assistance to the Government of Burma, other than:

(A) humanitarian assistance,

(B) subject to the regular notification procedures of the Committees on Appropriations, counter-narcotics assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, or crop substitution assistance, if the Secretary of State certifies to the appropriate congressional committees that—

(i) the Government of Burma is fully cooperating with United States counter-narcotics efforts, and

(ii) the programs are fully consistent with United States human rights concerns in Burma and serve the United States national interest, and

(C) assistance promoting human rights and democratic values.

(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of funds of the respective bank to or for Burma.

(3) VISAS.—Except as required by treaty obligations or to staff the Burmese mission to the United States, the United States should not grant entry visas to any Burmese government official.

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[3] On May 30, 1997, the President "determined that the waiver of the application of the prohibition in section 1511(b) of Public Law 103–160 and of the application of section 540(a) of the [Foreign Operations, Export Financing, and Related Programs Appropriations] Act is necessary to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties, to the extent that such provisions apply to the furnishing of assistance to facilitate destruction of military equipment. Therefore I hereby waive the application of these provisions with respect to such assistance." (Presidential Determination No. 97–26; 62 F.R. 32015).

See also sec. 1511 of Public Law 103–160, and notes, in *Legislation on Foreign Relations Through 2002*, vol. I–B.

[4] See related sanctions materials in *Legislation on Foreign Relations Through 2000*, vol. III.

(b)[5] CONDITIONAL SANCTIONS.—The President is hereby authorized to prohibit, and shall prohibit United States persons from new investment in Burma, if the President determines and certifies to Congress that, after the date of enactment of this Act, the Government of Burma has physically harmed, rearrested for political acts, or exiled Daw Aung San Suu Kyi or has committed large-scale repression of or violence against the Democratic opposition.

(c) MULTILATERAL STRATEGY.—The President shall seek to develop, in coordination with members of ASEAN and other countries having major trading and investment interests in Burma, a comprehensive, multilateral strategy to bring democracy to and improve human rights practices and the quality of life in Burma, including the development of a dialogue between the State Law and Order Restoration Council (SLORC) and democratic opposition groups within Burma.

(d)[6] PRESIDENTIAL REPORTS.—Every six months following the enactment of this Act, the President shall report to the Chairmen of the Committee on Foreign Relations, the Committee on International Relations and the House and Senate Appropriations Committees on the following:

(1) progress toward democratization in Burma;

(2) progress on improving the quality of life of the Burmese people, including progress on market reforms, living standards, labor standards, use of forced labor in the tourism industry, and environmental quality; and

(3) progress made in developing the strategy referred to in subsection (c).

(e) WAIVER AUTHORITY.—The President shall have the authority to waive, temporarily or permanently, any sanction referred to in subsection (a) or subsection (b) if he determines and certifies to Congress that the application of such sanction would be contrary to the national security interests of the United States.

(f) DEFINITIONS.—

(1) The term "international financial institutions" shall include the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment

[5] On May 20, 1997, the President issued Executive Order 13047 (62 F.R. 28301) in which he determined and certified that "the Government of Burma has committed large-scale repression of the democratic opposition in Burma after September 30, 1996, and...the actions and policies of the Government of Burma constitute an unusual and extraordinary threat to the national security and foreign policy of the United States". The President declared a national emergency to deal with that threat, and prohibited U.S. persons from engaging in certain transactions and investments in Burma. For text of Executive Order 13047, see *Legislation on Foreign Relations Through 2000*, vol. III.

Any national emergency declared pursuant to the President's authority stated in the International Emergency Economic Powers Act requires annual renewal to remain in force. Executive Order 13047 was renewed in the President's (unnumbered) Notice of May 18, 1998 (63 F.R. 27661); a Notice of May 18, 1999 (64 F.R. 27443); a Notice of May 18, 2000 (65 F.R. 32005); a notice of May 15, 2001 (66 F.R. 27443); a notice of May 16, 2002 (67 F.R. 35423); and a Notice of May 16, 2003 (68 F.R. 27425).

[6] The President filed a report pursuant to this section with Presidential Determination No. 97–29 of June 13, 1997 (62 F.R. 34157); Presidential Determination No. 98–6 of December 2, 1997 (62 F.R. 65005); Presidential Determination No. 98–30 of June 15, 1998 (63 F.R. 34255); an unnumbered memorandum for the Secretary of State of October 27, 1998 (63 F.R. 63123); a memorandum of October 27, 1999 (64 F.R. 60647); a memorandum of April 19, 2000 (65 F.R. 24851); a memorandum of October 31, 2000 (65 F.R. 66599); a memorandum of April 12, 2001 (66 F.R. 20725); a memorandum of February 1, 2002 (67 F.R. 5923); a memorandum of November 6, 2002 (67 F.R. 75799); Presidential Determination No. 03–07 of December 11, 2002 (67 F.R. 77645); and a memorandum of March 28, 2003 (68 F.R. 17529).

Guarantee Agency, the Asian Development Bank, and the International Monetary Fund.

(2) The term "new investment" shall mean any of the following activities if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma, on or after the date of the certification under subsection (b):

(A) the entry into a contract that includes the economical development of resources located in Burma, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract;

(B) the purchase of a share of ownership, including an equity interest, in that development;

(C) the entry into a contract providing for the participation in royalties, earnings, or profits in that development, without regard to the form of the participation:

Provided, That the term "new investment" does not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology.

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TRANSPARENCY OF BUDGETS

SEC. 576.[7] (a) LIMITATION.—Beginning three years after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

(1)[8] does not have in place a functioning system for reporting to civilian authorities audits of receipts and expenditures that fund activities of the armed forces and security forces;

(2)[9] has not provided to the institution information about the audit process requested by the institution.

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

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[7] 22 U.S.C. 262k–1.

[8] Sec. 572(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2430), amended and restated subsec. (a)(1). It formerly read as follows:

"(1) does not have in place a functioning system for a civilian audit of all receipts and expenditures that fund activities of the armed forces and security forces;".

[9] Sec. 572(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2430), amended and restated subsec. (a)(2). It formerly read as follows:

"(2) has not provided a summary of a current audit to the institution.".

FEMALE GENITAL MUTILATION

SEC. 579.[10] (a) LIMITATION.—Beginning 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

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

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

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

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REFUGEE STATUS FOR ADULT CHILDREN OF FORMER VIETNAMESE REEDUCATION CAMP INTERNEES RESETTLED UNDER THE ORDERLY DEPARTURE PROGRAM

SEC. 584. (a) ELIGIBILITY FOR ORDERLY DEPARTURE PROGRAM.—Notwithstanding any other provision of law, for purposes[11] of eligibility for the Orderly Departure Program for nationals of Vietnam, during fiscal years 1998 and 1999,[12] an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b)[13] ALIENS COVERED.—

[10] 22 U.S.C. 262k–2.

[11] Sec. 10005(1)(A) of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 99) struck out "For purposes" and inserted in lieu thereof "Notwithstanding any other provision of law, for purposes". Sec. 2244(1)(A) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) made the same amendment.

[12] Sec. 10005(1)(B) of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 99) struck out "fiscal year 1997" and inserted in lieu thereof "fiscal years 1998 and 1999". Sec. 2244(1)(B) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) would have made a similar amendment, striking out "fiscal year 1997" and inserting in lieu thereof "fiscal years 1997, 1998, and 1999". This second amendment is not executable, however, because "fiscal year 1997" is struck out.

[13] Sec. 10005(2) of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 99) amended and restated subsec. (b). Sec. 2244(2) of the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681) also amended and restated subsec. (b), and it is that amendment that is shown here. The amendment in Public Law 105–174 would have clause (b)(2)(B)(ii) read "on or after April 1, 1995, is accepted—". Subsec. (b) formerly read as follows:

"(b) ALIENS COVERED.—An alien described in this subsection is an alien who—

"(1) is the son or daughter of a national of Vietnam who—

"(A) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; and

"(B) has been accepted for resettlement as a refugee under the Orderly Departure Program on or after April 1, 1995;

"(2) is 21 years of age or older; and

Continued

(1) IN GENERAL.—An alien described in this subsection is an alien who—

(A) is the son or daughter of a qualified national;

(B) is 21 years of age or older; and

(C) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.

(2) QUALIFIED NATIONAL.—For purposes of paragraph (1), the term "qualified national" means a national of Vietnam who—

(A)(i) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(ii) is the widow or widower of an individual described in clause (i); and

(B)(i) qualified for refugee processing under the reeducation camp internees subprogram of the Orderly Departure Program; and

(ii) on or after April 1, 1995, is or has been accepted—

(I) for resettlement as a refugee; or

(II) for admission as an immigrant under the Orderly Departure Program.

(c) SUPERSEDES EXISTING LAW.—This section supersedes any other provision of law.

NORTH KOREA

SEC. 585.[14] Ninety days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State, in consultation with the Secretary of Defense, shall provide a report in a classified or unclassified form to the Committee on Appropriations including the following information:

(a) a best estimate on fuel used by the military forces of the Democratic People's Republic of Korea (DPRK);

(b) the deployment position and military training and activities of the DPRK forces and best estimate of the associated costs of these activities; and

(c) steps taken to reduce the DPRK level of forces.

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CIVIL LIABILITY FOR ACTS OF STATE SPONSORED TERRORISM

SEC. 589. (a) an[15] official, employee, or agent of a foreign state designated as a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 while acting within the scope of his or her office, employment, or agency shall be liable to a United States national or the national's legal representative for personal injury or death caused by acts of that official, em-

"(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.".

[14] Sec. 1308(g)(1)(D) and (2) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1441) struck out subsec. (d); inserted "and" at the end of subsec. (b); and replaced "; and" at the end of subsec. (c) with a period. Subsec. (d) formerly provided as follows: "(d) cooperation, training, or exchanges of information, technology or personnel between the DPRK and any other nation supporting the development or deployment of a ballistic missile capability.".

[15] As enrolled.

ployee, or agent for which the courts of the United States may maintain jurisdiction under section 1605(a)(7) of title 28, United States Code, for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in section 1605(a)(7).

(b) Provisions related to statute of limitations and limitations on discovery that would apply to an action brought under 28 U.S.C. 1605(f) and (g) shall also apply to actions brought under this section. No action shall be maintained under this action if an official, employee, or agent of the United States, while acting within the scope of his or her office, employment, or agency would not be liable for such acts if carried out within the United States.

Titles I through V of this Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997".[16]

[16] In sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208), see also title VI for the "NATO Enlargement Facilitation Act of 1996," in *Legislation on Foreign Relations Through 2002*, vol. II; and title VII for the "Bank for Economic Cooperation and Development in the Middle East Development and North Africa Act," in vol. III.

m. Mexican Debt Disclosure Act of 1995

Title IV of Public Law 104–6 [Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995; H.R. 889], 109 Stat. 73, approved April 10, 1995

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TITLE IV—MEXICAN DEBT DISCLOSURE ACT OF 1995

SEC. 401.[1] SHORT TITLE.

This title may be cited as the "Mexican Debt Disclosure Act of 1995".

SEC. 402. FINDINGS.

The Congress finds that—

(1) Mexico is an important neighbor and trading partner of the United States;

(2) on January 31, 1995, the President approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in the amount of $20,000,000,000, using the exchange stabilization fund;

(3) the program of assistance involves the participation of the Board of Governors of the Federal Reserve System, the International Monetary Fund, the Bank for International Settlements, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Bank of Canada, and several Latin American countries;

(4) the involvement of the exchange stabilization fund and the Board of Governors of the Federal Reserve System means that United States taxpayer funds will be used in the assistance effort to Mexico;

(5) assistance provided by the International Monetary Fund, the International Bank for Reconstruction and Development, and the Inter-American Development Bank may require additional United States contributions of taxpayer funds to those entities;

(6) the immediate use of taxpayer funds and the potential requirement for additional future United States contributions of taxpayer funds necessitates congressional oversight of the disbursement of funds; and

(7) the efficacy of the assistance to Mexico is contingent on the pursuit of sound economic policy by the Government of Mexico.

SEC. 403. PRESIDENTIAL REPORTS.

(a) REPORTING REQUIREMENT.—Not later than June 30, 1995, and every 6 months thereafter, the President shall transmit to the appropriate congressional committees a report concerning all guar-

[1] 31 U.S.C. 5302 note.

antees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall contain a description of the following actions taken, or economic situations existing, during the preceding 6-month period or, in the case of the initial report, during the period beginning on the date of enactment of this Act:

(1) Changes in wage, price, and credit controls in the Mexican economy.

(2) Changes in taxation policy of the Government of Mexico.

(3) Specific actions taken by the Government of Mexico to further privatize the economy of Mexico.

(4) Actions taken by the Government of Mexico in the development of regulatory policy that significantly affected the performance of the Mexican economy.

(5) Consultations concerning the program approved by the President, including advice on economic, monetary, and fiscal policy, held between the Government of Mexico and the Secretary of the Treasury (including any designee of the Secretary) and the conclusions resulting from any periodic reviews undertaken by the International Monetary Fund pursuant to the Fund's loan agreements with Mexico.

(6) All outstanding loans, credits, and guarantees provided to the Government of Mexico, by the United States Government, including the Board of Governors of the Federal Reserve System, set forth by category of financing.

(7) The progress the Government of Mexico has made in stabilizing the peso and establishing an independent central bank or currency board.

(c) SUMMARY OF TREASURY DEPARTMENT REPORTS.—In addition to the information required to be included under subsection (b), each report required under this section shall contain a summary of the information contained in all reports submitted under section 404 during the period covered by the report required under this section.

SEC. 404. REPORTS BY THE SECRETARY OF THE TREASURY.

(a) REPORTING REQUIREMENT.—Beginning on the last day of the first month which begins after the date of enactment of this Act, and on the last day of every month thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall include a description of the following actions taken, or economic situations existing, during the month in which the report is required to be submitted:

(1) The current condition of the Mexican economy.

(2) The reserve positions of the central bank of Mexico and data relating to the functioning of Mexican monetary policy.

(3) The amount of any funds disbursed from the exchange stabilization fund pursuant to the program of assistance to the Government of Mexico approved by the President on January 31, 1995.

(4) The amount of any funds disbursed by the Board of Governors of the Federal Reserve System pursuant to the program of assistance referred to in paragraph (3).

(5) Financial transactions, both inside and outside of Mexico, made during the reporting period involving funds disbursed to Mexico from the exchange stabilization fund or proceeds of Mexican Government securities guaranteed by the exchange stabilization fund.

(6) All outstanding guarantees issued to, and short-term and medium-term currency swaps with, the Government of Mexico by the Secretary of the Treasury, set forth by category of financing.

(7) All outstanding currency swaps with the central bank of Mexico by the Board of Governors of the Federal Reserve System and the rationale for, and any expected costs of, such transactions.

(8) The amount of payments made by customers of Mexican petroleum companies that have been deposited in the account at the Federal Reserve Bank of New York established to ensure repayment of any payment by the United States Government, including the Board of Governors of the Federal Reserve System, in connection with any guarantee issued to, or any swap with, the Government of Mexico.

(9) Any setoff by the Federal Reserve Bank of New York against funds in the account described in paragraph (8).

(10) To the extent such information is available, once there has been a setoff by the Federal Reserve Bank of New York, any interruption in deliveries of petroleum products to existing customers whose payments were setoff.

(11) The interest rates and fees charged to compensate the Secretary of the Treasury for the risk of providing financing.

SEC. 405. TERMINATION OF REPORTING REQUIREMENTS.

The requirements of sections 403 and 404 shall terminate on the date that the Government of Mexico has paid all obligations with respect to swap facilities and guarantees of securities made available under the program approved by the President on January 31, 1995.

SEC. 406. PRESIDENTIAL CERTIFICATION REGARDING SWAP OF CURRENCIES TO MEXICO THROUGH EXCHANGE STABILIZATION FUND OR FEDERAL RESERVE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no loan, credit, guarantee, or arrangement for a swap of currencies to Mexico through the exchange stabilization fund or by the Board of Governors of the Federal Reserve System may be extended or (if already extended) further utilized, unless and until the President submits to the appropriate congressional committees a certification that—

(1) there is no projected cost (as defined in the Credit Reform Act of 1990) to the United States from the proposed loan, credit, guarantee, or currency swap;

(2) all loans, credits, guarantees, and currency swaps are adequately backed to ensure that all United States funds are repaid;

(3) the Government of Mexico is making progress in ensuring an independent central bank or an independent currency control mechanism;

(4) Mexico has in effect a significant economic reform effort; and

(5) the President has provided the documents described in paragraphs (1) through (28) of House Resolution 80, adopted March 1, 1995.[2]

(b) TREATMENT OF CLASSIFIED OR PRIVILEGED MATERIAL.—For purposes of the certification required by subsection (a)(5), the President shall specify, in the case of any document that is classified or subject to applicable privileges, that, while such document may not have been produced to the House of Representatives, in lieu thereof it has been produced to specified Members of Congress or their designees by mutual agreement among the President, the Speaker of the House, and the chairmen and ranking members of the Committee on Banking and Financial Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House.

SEC. 407. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committees on International Relations and Banking and Financial Services of the House of Representatives, the Committees on Foreign Relations and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

(2) EXCHANGE STABILIZATION FUND.—The term "exchange stabilization fund" means the stabilization fund referred to in section 5302(a)(1) of title 31, United States Code.

This Act may be cited as the "Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995".

[2] For text of H.Res. 80 as adopted by the House on March 1, 1995, see *Congressional Record*, p. H2444–5.

n. Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994

Partial text of Public Law 103–306 [H.R. 4426], 108 Stat. 1608, approved August 23, 1994; amended by Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and for other purposes, namely:

* * * * * * *

TITLE VI—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, and for other purposes, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RELIEF FOR JORDAN

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—For fiscal year 1994 and thereafter, the President is authorized to reduce or cancel amounts owed to the United States or any agency of the United States by the Hashemite Kingdom of Jordan as a result of loans originally made or credits originally extended by the United States or any agency of the United States before January 1, 1994.

(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—The authority of this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961, as amended, section 321 of the International Development and Food Assistance Act of 1975, or similar provisions of law. In addition, a reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(b) APPROPRIATIONS.—

(1) APPROPRIATIONS.—For the cost of modifying direct loans, as defined in section 502 of the Congressional Budget Act of 1974, for Jordan, in accordance with the authority contained in this section, $99,000,000 is appropriated, to remain available until September 30, 1994.

(2) FISCAL YEAR 1994.—For fiscal year 1994—

(A) funds appropriated under this section may be used only for the cost of modifying direct loans entered into under programs administered by the Agency for International Development; and

(B) such funds may be used to reduce or cancel not to exceed $220,000,000 of the amounts owed pursuant to such loans.

* * * * * * *

This title may be cited as the "Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994".

o. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993

Partial text of Public Law 102–391 [H.R. 5368], 106 Stat. 1633, approved October 6, 1992; amended by Public Law 106–429 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429], 114 Stat. 1900, approved November 6, 2000

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, namely:

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TITLE V—GENERAL PROVISIONS

* * * * * * *

HUMAN RIGHTS

SEC. 511. (a) * * *

(b)[1] HUMAN RIGHTS REPORT.—The Secretary of State shall also transmit the report required by section 116(d) of the Foreign Assistance Act of 1961 to the Committees on Appropriations each year by the date specified in that section: *Provided,* That each such report submitted pursuant to such section shall (1) include a review of each country's commitment to children's rights and welfare as called for by the Declaration of the World Summit for Children; (2) * * * [Repealed—2000];[2] and (3) describe the extent to which indigenous people are able to participate in decisions affecting their lands, cultures, traditions and the allocation of natural resources, and assess the extent of protection of their civil and political rights.

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ENVIRONMENT

SEC. 532.[3] (a) * * *

(b) * * *

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[1] 22 U.S.C. 2151n note.

[2] Sec. 590 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106–429; 114 Stat. 1900A–59), repealed "paragraph (2)" *[sic]*, which had read as follows: "(2) a description of the military expenditures of each country receiving United States foreign assistance, and the efforts each country is making to reduce those expenditures;"

[3] 22 U.S.C. 262*l*.

(c)(1) In furtherance of the policies contained in section 533(a) of Public Law 101–513 and section 1308 of the International Development and Finance Act of 1989 (Public Law 101–240), and as a basis for measuring more effectively progress by the MDBs toward improved environmental performance, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDBs to encourage each MDB, at a minimum, to meet the benchmarks established in paragraph (2) in the areas of sustainable energy development, forest conservation, forced displacement of populations, and environmental impact assessment. On March 1, 1993 and March 1, 1994, the Secretary of the Treasury shall submit a report to the Congress describing in detail the progress being made by the MDBs in meeting these benchmarks.

(2) For the purposes of paragraph (1), benchmarks are as follows:

(A) In the area of sustainable energy development—

(i) all loans in the energy sector should be based on, or support development of, "least-cost" integrated resource plans. Such plans shall include analyses of possible end-use energy efficiency measures and nonconventional renewable energy options, and such plans shall reflect the quantifiable environmental costs of proposed energy developments;

(ii) a substantial portion of loans and grants in the energy, industry, and transportation sectors shall be devoted to end-use energy efficiency improvements and nonconventional renewable energy development; and

(iii) all organizational units within the MDBs should create staff positions in a management role in end-use efficiency and renewable energy, which positions shall be staffed by individuals with professional experience in program design and management and educational degrees in relevant technical disciplines.

(B) In the area of forest conservation—

(i) forestry loans should not support commercial logging in relatively undisturbed primary forests, nor should loans result in any significant loss of tropical forests;

(ii) forestry loans should not be disbursed until legal, economic, land tenure, and other policy conditions needed to ensure sustainability are in place;

(iii) loans should not support mineral, petroleum, or other industrial development in, or construction or upgrading of roads through, relatively undisturbed primary forests unless adequate safeguards and monitoring systems, developed in consultation with local populations, are already in place to prevent degradation of the surrounding forests;

(iv) loans should be consistent with and support the needs and rights of indigenous peoples and other long-term forest inhabitants and should not be made to countries which have shown an unwillingness to resolve fairly the territorial claims of such people; and

(v) support for protection of biological diversity, in close consultation with local communities, should be increased to account for a larger proportion of MDB lending.

(C) In the area of forced displacement of populations—

(i) the World Bank, Inter-American Development Bank, and Asian Development Bank should maintain a listing, available to the Secretary of the Treasury, of all ongoing projects involving forced displacement of populations, including the number of people displaced and a report on the status of the implementation of their resettlement policy guidelines for each such project, and obtain agreements with borrowers to ensure that all ongoing projects involving forced displacement will be in full compliance with their resettlement policy guidelines by mid-1993; and

(ii) the African Development Bank should adopt and implement policy guidelines on forced displacement similar to such guidelines of the other MDBs.

(D) In the area of procedures for environmental impact assessment (EIA)—

(i) each MDB should require that draft and final EIA reports be made available to the public in borrowing and donor countries and that the public be offered timely opportunities for comment on the EIA process, including initial scoping sessions, review of EIA categories assigned to individual projects, and opportunities to comment on draft and final EIA reports;

(ii) each MDB should apply EIA requirements to all sector loans and develop and apply the methodology for environmental assessment of structural adjustment loans;

(iii) each MDB should require that the EIA process include analyses of the potential impacts of proposed projects on the global environment; and

(iv) each MDB should require the head of the appropriate environmental unit, rather than project officers, determine the appropriate type of environmental analysis required under the bank's EIA procedures.

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NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 548.[4] The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements: *Provided further,* That the Secretary of State and the Secretary of the Treasury should in every feasible instance notify the Appropriations Committees of the Congress and such other Committees as appropriate not less than 15 days prior to any formal multilateral or bilateral negotiation for official debt restructur-

[4] 22 U.S.C. 2395a note. Similar language through the first proviso was first enacted as sec. 563 of the Foreign Assistance Appropriations, 1988. The second and third provisos were first enacted in sec. 550 of the Foreign Assistance Appropriations Act, 1991.

ing, rescheduling, or relief: *Provided further,* That the Secretary of State or the Secretary of the Treasury, as appropriate, shall report not later than February 1 of each year a consolidated statement of the budgetary implications of all debt-related agreements entered into force during the preceding fiscal year.

* * * * * * *

AID BUDGET SUBMISSION

SEC. 599E.[5] The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Agency for International Development.

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993".

[5] 22 U.S.C. 2381 note.

p. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991

Partial text of Public Law 101–513 [H.R. 5114], 104 Stat. 1979, approved November 5, 1990; amended by Public Law 102–27 [Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991; H.R. 1281], 105 Stat. 130, approved April 10, 1991; Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102–145 [Further Continuing Appropriations, 1992; H.J. Res. 360], 105 Stat. 968, approved October 28, 1991; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1993; Public Law 102–499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 103–87 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994; H.R. 2295], 107 Stat. 931, approved September 30, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–306 [[Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

ASSISTANCE FOR EL SALVADOR

SEC. 531[1] (a) STATEMENT OF POLICY.—United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights, and the rule of law; and (3) to advance political accommodation and national reconciliation.

(b) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—Of the funds available for United States military assistance for fiscal year 1991, not more than $85,000,000 shall be made available for El Salvador.

[1] 22 U.S.C. 2370 note.

(c) PROHIBITION OF MILITARY ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States military assistance may be furnished to the Government of El Salvador if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;

(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(C) the Government of El Salvador has rejected a plan for the settlement of the conflict which—

(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 15 days from its announcement, by the FMLN and is being complied with by the FMLN;

(D) the Government of El Salvador has failed to conduct a thorough and professional investigation into, and prosecution of those responsible for the eight murders at the University of Central America on November 16, 1989; or

(E) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces; or

(F) the Government of El Salvador has failed to actively seek and encourage a law enforcement service from outside El Salvador, such as Scotland Yard or INTERPOL, to accompany and monitor investigators of the Government of El Salvador in their investigation into the eight murders at the University of Central America on November 16, 1989.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(d) WITHHOLDING OF MILITARY ASSISTANCE.—(1) IN GENERAL.—Fifty per centum of the total United States military assistance allocated for El Salvador for fiscal year 1991 shall be withheld from obligation or expenditure (as the case may be) except as provided in paragraphs (2) and (3).

(2) RELEASE OF ASSISTANCE.—The United States military assistance withheld pursuant to paragraph (1) may be obligated and expended only if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—

(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or

(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(B) the FMLN has rejected a plan for the settlement of the conflict which—

(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 15 days from its announcement, by the Government of El Salvador and is being complied with by the Government of El Salvador;

(C) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;

(D) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the Congress; or

(E) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(3) EXCEPTION.—Notwithstanding any other provision of law, funds withheld pursuant to paragraph (1) of this subsection may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.

(e) CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States assistance may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(f) ESTABLISHMENT OF A FUND FOR CEASE-FIRE MONITORING, DEMOBILIZATION, AND TRANSITION TO PEACE.—(1) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the "Demobilization and Transition Fund" (hereafter in this section referred to as the "Fund"). Amounts in this Fund shall be available for obligation and expenditure only upon notification by the President to the Congress that the Government of El Salvador and representatives

of the FMLN have reached a permanent settlement of the conflict, including a final agreement on a cease-fire.

(2) TRANSFER OF CERTAIN MILITARY ASSISTANCE FUNDS.—Upon notification of the Congress of a permanent settlement of the conflict, including an agreement on a cease-fire, or on September 30, 1991, if no such notification has occurred prior to that date, the President shall transfer to the Fund any United States military assistance funds withheld pursuant to subsection (d) of this section.

(3) USE OF THE FUND.—Notwithstanding any other provision of law, amounts in the Fund shall be available for El Salvador solely to support costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in El Salvador, and of the monitoring of the permanent settlement and cease-fire.

(4) DURATION OF AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts transferred to the Fund shall remain available until expended.

(g) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically-elected civilian Government of El Salvador over the armed forces of that country, United States military assistance for any fiscal year may be delivered to the armed forces of El Salvador only with the prior approval of the duly elected President of El Salvador.

(h) SUPPORT FOR DEMOCRACY.—(1) ESTABLISHING A PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador.

(2) ELECTION MONITORING.—Of the amounts made available to carry out this subsection, up to $2,000,000 may be used for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) ASSISTANCE.—Up to $10,000,000 of funds appropriated under the heading "Economic Support Fund" for fiscal year 1991 may be used to carry out this subsection.

(i)[2] REPORTING REQUIREMENTS. * * * [Repealed—1994]

(j) DEFINITIONS.—For purposes of this section—

(1) the term "United States assistance" has the same meaning as is given to such term by section 481(i)(4) of the Foreign Assistance Act of 1961 and includes United States military assistance as defined in paragraph (2); and

(2) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international

[2] Sec. 139(22) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 399) repealed subsec. (i), which had required that the President report to Congress every 180 days on progress in the negotiations in El Salvador.

military education and training) of part II of the Foreign Assistance Act of 1961; and

(B) assistance to carry out section 23 of the Arms Export Control Act.

* * * * * * *

ENVIRONMENT AND GLOBAL WARMING

SEC. 533.[3] (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

(b) The Secretary of the Treasury shall, not later than March 1, 1991, submit an annual report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection

[3] 22 U.S.C. 262*l*. Similar language was first enacted as sec. 540 of the Foreign Assistance Appropriations Act, 1986.

(a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of CO_2 and the status of proposals for specific forestry and energy sector activities to reduce CO_2 emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1988, report on "Debt-for-Nature Swaps" by the World Bank.

(c)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative",[4] which will continue to emphasize the need to reduce emissions of greenhouse gases, especially CO_2 and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101–167.

(3) None of the funds appropriated in this Act shall be available for any program, project or activity which would—

(A) result in any significant loss of tropical forests; or

[4] See sec. 534 of the Foreign Assistance Appropriations Act, 1990, page 989.

(B) involve commercial[5] timber extraction in primary tropical forest areas unless an environmental assessment:[6]

(i) identifies potential impacts on biological diversity;

(ii) demonstrates that all timber extraction will be conducted according to an environmentally sound management system which maintains the ecological functions of the natural forest and minimizes impacts on biological diversity; and

(iii) demonstrates that the activity will contribute to reducing deforestation.

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(5) Funds appropriated by this Act to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 may be used for expenses (including related support costs) relating to the environment and energy sectors, of employees or individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

(d) * * *

(e) * * *

(f)[7] Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding the following new section: * * *

(g) * * *

* * * * * * *

GENERAL AUTHORIZATIONS

SEC. 562. GENERAL AUTHORIZATIONS.—

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(c)[8] REPORTS TO CONGRESS.—As part of the annual Congressional Presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961 in three countries in sub-Saharan Africa which represent differing economic situations and levels of progress. The description shall include—

(1) the nature and extent of consultation to ensure local perspectives, as described in subsections (e)(1) and (f) of section 496;

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[5] Sec. 308(1) of Public Law 102–27 (105 Stat. 152) struck out "industrial" and inserted in lieu thereof "commercial".

[6] Sec. 308(2) of Public Law 102–27 (105 Stat. 152) inserted "unless an environmental assessment" and three clauses under subpar. (B).

[7] Subsec. (f) added a new sec. 518 to the Foreign Assistance Act of 1961 (22 U.S.C. 2321*l.*), relating to natural resources and wildlife management.

[8] 22 U.S.C. 2293 note.

(2) the degree of involvement of local people in the implementation of projects having a local focus;

(3) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

(5) a description of the assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.

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INTERNATIONAL BANKING PROVISIONS

* * * * * * *

(c) EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.—* * *[9]

* * * * * * *

PROPERTY MANAGEMENT FUND

SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.

(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.

IRAQ SANCTIONS ACT OF 1990[10]

SEC. 586. SHORT TITLE.

Sections 586 through 586J of this Act may be cited as the "Iraq Sanctions Act of 1990".

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[9] For text, see *Legislation on Foreign Relations Through 2000*, vol. III.

[10] For this and other legislation relating to Iraq, see *Legislation on Foreign Relations Through 2002*, vol. I–B.

BENEFITS FOR UNITED STATES HOSTAGES IN IRAQ AND KUWAIT AND UNITED STATES HOSTAGES CAPTURED IN LEBANON

SEC. 599C.[11] (a) ELIGIBILITY.—United States hostages in Iraq and Kuwait, and United States hostages captured in Lebanon, shall, subject to the availability of funds under subsection (e), be entitled to the benefits described in this section. Except as otherwise provided in this section or other provision of law, no such individual or any family member shall receive any benefit under the provisions of title 5, United States Code during fiscal year 1991 and hereafter.[12]

(b) PAYMENTS FOR DURATION OF HOSTAGE STATUS, LIFE INSURANCE, AND HEALTH INSURANCE.—(1) Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management, after consultation with the Department of State, shall prescribe regulations, consistent with this section, for the application of the provisions of chapter 87 (relating to life insurance) and chapter 89 (relating to health insurance) of title 5, United States Code, to the United States hostages in Iraq or Kuwait, and United States hostages captured in Lebanon, and their family members for the period that such hostages remain in hostage status.

(2) United States hostages in Iraq or Kuwait, and United States hostages captured in Lebanon, shall, subject to the availability of funds under subsection (e), be paid at the rate of pay for a position at GS–9 of the General Schedule for the period in which such hostages remained in a hostage status without the hostages (or their family members on their behalf) receiving salaries or wages from their employers. For purposes of this paragraph, any United States hostage captured in Lebanon who was paid a salary or wage in Lebanese pounds in amounts that were not adjusted to compensate for any devaluation of the Lebanese pound that occurred during such hostage's period of captivity shall not be considered to have received a salary or wage from an employer.[13]

(3) Except as provided in paragraph (5), during[14] the period of an individual's hostage status and during the 12-month period after the hostage status of that individual ceases, such individual and his family members shall, subject to the availability of funds under subsection (e), be entitled to health benefits covered by paragraph (1) if such benefits were not provided by any other insurance coverage.

(4) Except as provided in paragraph (5), during[14] the period of an individual's hostage status and during the 12-month period after the hostage status of that individual ceases, that individual

[11] The Department of State established criteria for benefits for hostages in Iraq, Kuwait, or Lebanon in Public Notice 1308, November 30, 1990 (55 F.R. 52837–8, 52928; 22 CFR Part 193), and amended those criteria in Public Notice 1565, effective January 16, 1992 (57 F.R. 3282; January 29, 1992).

[12] Sec. 302(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 707), added "during fiscal year 1991 and hereafter", effective November 5, 1990.

[13] Sec. 5(a) of Public Law 102–499 (106 Stat. 3266) added the last sentence to par. (2). Sec. 5(b) of that Act further provided that "the amendment made by subsection (a) shall be deemed to have become effective as of the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.".

[14] Sec. 302(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 707), struck out "During" in pars. (3) and (4), and inserted in lieu thereof "Except as provided in paragraph (5), during", effective November 5, 1990.

shall, subject to the availability of funds under subsection (e), be entitled to life insurance benefits covered by paragraph (1) if such benefits were not provided by any other insurance coverage.

(5)[15] For purposes of the application of paragraphs (3) and (4) to United States hostages captured in Lebanon, the period of entitlement of benefits, subject to the availability of funds, shall be the period of an individual's hostage status, plus a 60-month period following the termination of the hostage status of that individual.

(c) ADMINISTRATION OF AUTHORITIES.—(1) For purposes of this section, the Secretary of State shall certify to such officer of the United States as may require such information the names of the United States hostages in Iraq and Kuwait, and United States hostages captured in Lebanon, and their family members.

(2) For purposes of the protection of the identity of any individual, the Secretary of State may submit any certification under this subsection in classified form.

(3) The Secretary of State may require of any individual such verification of hostage status as he may deem necessary.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "hostage status" means, with respect to United States hostages in Iraq and Kuwait, the status of being held in custody by governmental or military authorities of a country or taking refuge within that country in fear of being taken into such custody (including residing in any diplomatic mission or consular post in that country); and, with respect to United States hostages captured in Lebanon, the status of a person described in paragraph (4)(B);

(2) the term "family members" means spouses, dependents, and any individuals who are members of the households of United States hostages in Iraq and Kuwait or United States hostages captured in Lebanon;

(3) the term "United States economic sanctions against Iraq" means the exercise of authorities under the International Emergency Economic Powers Act by the President with respect to financial transactions with Iraq;

(4)(A) the term "United States hostages in Iraq and Kuwait" means United States nationals, or family members of United States nationals, who are in a hostage status in Iraq or Kuwait during the period beginning on August 2, 1990, and terminating on the date on which United States economic sanctions against Iraq are lifted; and

(B)[16] the term "United States hostages captured in Lebanon" means United States nationals, including lawful permanent residents of the United States, who have been forcibly detained, held hostage, or interned for any period of time after June 1, 1982, by any government (including the agents thereof)

[15] Sec. 302(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 708), added par. (5), effective November 5, 1990.

[16] Sec. 302(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 708), amended and restated subpar. (B), effective November 5, 1990. It formerly read as follows:

"(B) the term 'United States hostages captured in Lebanon' means United States nationals who have been forcibly detained, held hostage, or interned by an enemy government or its agents, or a hostile force, in Lebanon since January 1, 1990.".

or group in Lebanon for the purpose of coercing the United States Government or any other government.

(5) the term "United States national" means any individual who is a citizen of the United States or who, though not a citizen of the United States, owes permanent allegiance to the United States.

(e) ALLOCATION OF FUNDS.—(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", up to $10,000,000 shall be available to carry out this section.

(2)[17] Notwithstanding any other provision of law, funds allocated under paragraph (1) are authorized to remain available until expended.

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991".

[17] Sec. 302(a)(5) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 708), amended and restated par. (2), effective November 5, 1990. It formerly read as follows:

"(2) The authority to obligate funds under the authority provided by this section shall expire six months after the date of enactment of this Act.".

q. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990

Partial text of Public Law 101–167 [H.R. 3743], 103 Stat. 1195, approved November 21, 1989, as amended by Public Law 101–302 [Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101–649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; Public Law 102–27 [Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991; H.R. 1281], 105 Stat. 130, approved April 10, 1991; Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102–232 [Miscellaneous and Technical Immigration and Naturalization Amendments of 1991; H.R. 3049], 105 Stat. 1733, approved December 12, 1991; Public Law 102–391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; and Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 104–208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104–319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864, approved October 19, 1996; Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105–277 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f)); H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106–113 [Department of Health and Human Services Appropriations Act, 2000; title II of H.R. 3424, enacted by reference in sec. 1000(a)(4) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–554 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001; H.R. 5656, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of the Consolidated Appropriations Act for Fiscal Year 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000; and by Public Law 107–116 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002; H.R. 3061], 115 Stat. 2177, approved January 10, 2002

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and

related programs for the fiscal year ending September 30, 1990, and for other purposes, namely:

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

UNITED NATIONS VOTING RECORD

SEC. 527.[1] (a) IN GENERAL.—Not later than March 31 of each year, the Secretary of State shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete annual report which assesses for the prior calendar year, with respect to each foreign country member of the United Nations, the voting practices of the governments of such countries at the United Nations, and evaluates General Assembly and Security Council actions and the responsiveness of those governments to United States policy on issues of special importance to the United States.

(b) INFORMATION ON VOTING PRACTICES IN THE UNITED NATIONS.—Such report shall include, with respect to voting practices and plenary actions in the United Nations during the preceding year, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of—

(1) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which member countries supported United States policy objectives at the United Nations;

(2) an analysis and discussion, prepared in consultation with the Secretary of State, of actions taken by the United Nations by consensus;

(3) with respect to plenary votes of the United Nations General Assembly—

(A) a listing of all such votes on issues which directly affected important United States interests and on which the United States lobbied extensively and a brief description of the issues involved in each such vote;

(B) a listing of the votes described in subparagraph (A) which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(C) a country-by-country listing of votes described in subparagraph (A); and

(D) a listing of votes described in subparagraph (A) displayed in terms of United Nations regional caucus groups;

(4) a listing of all plenary votes cast by member countries of the United Nations in the General Assembly which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(5) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which other members supported United States policy objectives in the Security Coun-

[1] 22 U.S.C. 2414a.

cil and a separate listing of all Security Council votes of each member country in comparison with the United States; and

(6) a side-by-side comparison of agreement on important and overall votes for each member country and the United States.

(c) FORMAT.—Information required pursuant to subsection (b)(3) shall also be submitted, together with an explanation of the statistical methodology, in a format identical to that contained in chapter II of the March 14, 1988, Report to Congress on Voting Practices in the United Nations.

(d) STATEMENT BY THE SECRETARY OF STATE.—Each report under subsection (a) shall contain a statement by the Secretary of State discussing the measures which have been taken to inform United States diplomatic missions of United Nations General Assembly and Security Council activities.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—* * *

* * * * * * *

GLOBAL WARMING INITIATIVE

SEC. 534. (a) TROPICAL FORESTRY ASSISTANCE.—(1) In order to achieve the maximum impact from activities relating to tropical forestry, the Agency for International Development shall focus tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases related to global warming as a result of industrialization and the burning of fossil fuels, and destruction of tropical forests.

(2) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation makes a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(3) In providing assistance relating to tropical forests, the Administrator of that Agency shall, to the extent feasible and appropriate, assist countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry.

(b) ENERGY ASSISTANCE.—(1) In order to achieve the maximum impact from activities relating to energy, the Agency for International Development shall focus energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases. Such assistance shall be focused on improved energy efficiency, increased use of renewable energy resources and national energy plans (such as least-cost energy plans) which include investment in end-use efficiency and renewable energy resources.

(2) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting

energy programs aimed at reducing emissions of greenhouse gases related to global warming with regard to the key countries, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(3) It is the sense of the Congress that the Agency for International Development should increase its efforts in the fields of energy efficiency, renewable energy, and energy planning. Such increase should take place with respect to key countries and countries with large Economic Support Fund project assistance. Such efforts should include—

(A) an increase in the number of Agency for International Development staff with energy expertise, including staff with expertise in renewable energy technologies and end-use efficiency;

(B) assistance to develop analyses of energy-sector actions that could minimize emissions of greenhouse gases at least cost, while at the same time meeting basic economic and social development needs. Such assistance should include country-specific analyses which compare the economic and environmental costs of actions to promote energy efficiency and nonconventional renewable energy with the economic and environmental costs of investments to provide additional conventional energy supplies;

(C) assistance to develop energy-sector plans that employ end-use analysis and other techniques to identify the most cost-effective actions to minimize increased reliance on fossil fuels, ensuring to the maximum extent feasible that nongovernmental organizations and academic institutions are involved in this planning;

(D) insuring that AID energy assistance—including support for private-sector initiatives—is consistent with the analyses and plans described in subparagraphs (B) and (C) above, and that environmental impacts (including that on global warming) and alternatives have been fully analyzed;

(E) assistance to improve efficiency in the production, transmission, distribution, and use of energy. Such assistance should focus on the development of institutions to (i) promote energy efficiency in all sectors of energy production and use, (ii) provide training and technical assistance to help energy producers and users identify cost-effective actions to improve energy efficiency, (iii) finance specific investments in energy efficiency in all sectors of energy production and use, and (iv) improve local capabilities in the research, development, and sale of energy efficient technologies;

(F) assistance in exploiting nonconventional renewable energy resources, including wind, solar, small-hydro, geothermal, and advanced biomass systems. This assistance should also promote efficient use of traditional biomass fuels through improved fuelwood management and improved methods of charcoal production;

(G) expanding efforts to meet the energy needs of the rural poor through the methods described in subparagraphs (E) and (F). Specifically these efforts should promote improved efficiency in the use of biomass fuels for household energy, im-

proved systems of fuelwood management, and the development of the nonconventional renewable energy systems described in subparagraph (F);

(H) encouraging host countries to sponsor meetings with officials from the United States utility sector who are leaders in energy efficiency and other United States experts to discuss the application of least-cost planning techniques;

(I) developing a cadre of United States experts from industry, academia, nonprofit organizations, and government agencies capable of providing technical assistance to developing countries concerning energy policy and planning, energy efficiency and renewable energy resources;

(J) in cooperation with the Department of Energy, the Environmental Protection Agency, the World Bank, and the Development Assistance Committee of the OECD, supporting research concerning the ways developing nations can meet their energy needs while minimizing global warming and how to meet those needs; and

(K) strengthening the Agency for International Development's partnership with the Department of Energy in order to ensure that the Agency's energy efforts take full advantage of United States expertise and technology.

(c) REPORTS AND AUTHORITIES.—(1) The Agency for International Development, in consultation with the Environmental Protection Agency (EPA), the Department of State, and other appropriate agencies, shall submit to Congress no later than April 15, 1990, a report which (1) examines the potential contributions of developing countries to future global emissions of greenhouse gases under different economic growth scenarios, (2) estimates the relative contributions of those countries to global greenhouse gas emissions, and (3) identifies specific key countries which stand to contribute significantly to global greenhouse gas emissions, and in which actions to promote energy efficiency, reliance on renewable energy resources, and conservation of forest resources could significantly reduce emissions of greenhouse gases. This report should utilize existing data, including the models and methodologies already developed by the EPA for their report to Congress on policy options for stabilizing global climate.

(2) Of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, the Agency for International Development may use such amounts as may be necessary to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full costs of employees detailed or assigned to the Agency for International Development for the purpose of carrying out activities relating to forestry and energy programs aimed at reducing emissions of greenhouse gases related to global warming. Personnel who are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

(d)[2] EXPORT-IMPORT BANK.—(1) Of the financing provided by the Export-Import Bank that is utilized for the support of exports for the energy sector, the Bank shall seek to provide not less than 5 per centum of such financing for renewable energy projects.

(2) The Export-Import Bank shall take all appropriate steps to finance information exchanges and training whose purpose it is to help link United States producers in the renewable energy sector with assistance programs and potential foreign customers.

(3) Beginning on April 15, 1990, the Chairman of the Export-Import Bank shall submit an annual report to the Committees on Appropriations on the Bank's implementation of this subsection.

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NARCOTICS CONTROL PROGRAM

SEC. 569. * * *

(d)(1)[3] If any funds made available for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of any provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production of trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(A) Those funds may be transferred to and consolidated with the funds made available to carry out section 481 of the Foreign Assistance Act of 1961 in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funds for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610 of the Foreign Assistance Act.

(B) Any such funds not used under subparagraph (A) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures of the Committees on Appropriations) in order to provide additional security assistance for those countries.

(2) As used in this section, the term "security assistance" means economic support fund assistance, foreign military financing, and international military education and training.

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MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN COUNTRIES

SEC. 573.[4] (a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—

(1) NATO SOUTHERN FLANK COUNTRIES.—The President may transfer—

[2] 12 U.S.C. 635g note.
[3] 22 U.S.C. 2291 note.
[4] 22 U.S.C. 2321j note.

(A) to any NATO southern flank country which is eligible for United States security assistance and which is integrated into NATO's military structure; and

(B) to any major non-NATO ally on the southern and southeastern flank of NATO which is eligible for United States security assistance, such excess defense articles as may be necessary to help modernize the defense capabilities of such country.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Subject to subsection (f), the President may transfer to any country—

(A) which is a major illicit drug producing country,

(B) which has a democratic government, and

(C) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights, such excess defense articles as may be necessary to carry out subsection (f)(1).

(3) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

(1) they are drawn from existing stocks of the Department of Defense;

(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

(c) NOTIFICATION TO CONGRESS.—

(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until thirty days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

(A) a certification of the need for the transfer;

(B) an assessment of the impact of the transfer on the military readiness of the United States; and

(C) the value of the excess defense articles to be transferred.

(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) of the Foreign Assistance Act of 1961 does not apply with respect to transfers of excess defense articles under this section.

(e)[5] MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Cooperation Act of 1989, of maintaining the military balance in the Eastern Mediterranean.

(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the four-year period beginning on October 1, 1992,[6] the ratio of—

(A) the value of excess defense articles made available for Turkey under this section, to

(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(i) the amount of foreign military financing provided for Turkey, to

(ii) the amount of foreign military financing provided for Greece.

(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).

(f) MAJOR ILLICIT DRUG PRODUCING COUNTRIES IN LATIN AMERICA AND THE CARIBBEAN.—

(1) PURPOSE.—Excess defense articles shall be transferred under subsection (a)(2) for the purpose of encouraging the military forces of an eligible country in Latin America and the Caribbean to participate with local law enforcement agencies in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances.

(2) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a)(2) only if that country ensures that those excess defense articles will be used only in support of antinarcotics activities.

(3) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a)(2) and insure that any transfer is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

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[5] Sec. 578(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1685), provided that:

"(b) During fiscal year 1993, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, (as amended by subsection (a) of this section) shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.".

See paragraph (2) for subsec. (a) amendment.

[6] Sec. 578(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1685), struck out "three year [sic] period beginning on October 1, 1989" and inserted in lieu thereof "four-year period beginning on October 1, 1992".

(4) LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a)(2) in any fiscal year may not exceed $10,000,000.

(g) DEFINITIONS.—As used in this section—

(1) the term "excess defense article" has the meaning given that term by section 644(g);

(2) the term "made available" means that a good faith offer is made by the United States to furnish the excess defense articles to a country;

(3) the term "major non-NATO ally" includes Australia, Egypt, Israel, Japan, and New Zealand;

(4) the term "NATO" means the North Atlantic Treaty Organization; and

(5) the term "NATO southern flank countries" means Greece, Italy, Portugal, Spain, and Turkey.

* * * * * * *

STINGERS FOR BAHRAIN

SEC. 581. (a) PREVIOUSLY TRANSFERRED STINGERS.—Notwithstanding section 580,[7] section 573(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988,[8] and section 566(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989,[9] shall cease to apply with respect to Stingers made available to Bahrain under those sections if the President determines, and notifies the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, that—

(1) the Stingers are needed by Bahrain to counter an immediate air threat or to contribute to the protection of United states personnel, facilities, equipment, or operations;

(2) no other appropriate system is available from the United States;

(3) Bahrain has agreed, in writing, to such safeguards to protect against diversion of the Stingers as may be required by the United States; and

(4) Bahrain has agreed in writing to return to the possession and control of the United States all Stingers made available under those sections and subsection (b) of this section, other than Stingers which have been fired or otherwise destroyed, at any time the United States determines, subject to subsection (c).

(b) REPLACEMENT STINGERS.—Notwithstanding section 580, Stingers may be made available to Bahrain under the Arms Export Control Act of the Foreign Assistance Act of 1961 after September

[7] Sec. 580 provided that "Except as provided in section 581, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act of chapter 2 of part II of the Foreign Assistance Act of 1961.".

[8] Sec. 573(b)(4) provided:

"(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the enactment of this legislation.".

[9] Sec. 566(b)(4) provided the same intent as the previous note.

30, 1989, in order to replace, on a one-for-one basis, Stingers previously made available under this subsection, sec. 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, or section 566 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, that have been fired or otherwise destroyed, subject to the following conditions:

(1) DETERMINATIONS.—Replacement Stingers may be made available to Bahrain pursuant to this subsection only if the President makes the determinations specified in paragraphs (1) through (4) of subsection (a).

(2) NOTICE TO CONGRESS BEFORE STINGERS ARE TRANSFERRED.—At least 30 days before making any replacement Stingers available to Bahrain pursuant to this subsection, the President shall notify the committees designated in subsection (a) that he has made the determinations required by paragraph (1). Any such notification shall include the information required in a certification under section 36(b) of the Arms Export Control Act. This paragraph applies without regard to the value of the Stingers to be made available.

(c) RETURN OF STINGERS TO THE UNITED STATES.—All Stingers made available to Bahrain pursuant to subsections (a) and (b), other than those fired or otherwise destroyed, shall be returned to the possession and control of the United states not later than September 30, 1991, unless the President—

(1) determines that each of the conditions specified in subsection (a) continues to apply; and

(2) notifies the committees designated in subsection (a) not later than September 15, 1991, in accordance with the regular reprogramming procedures of such committees, that the United States intends to waive the requirement that the Stingers be returned to the United States by the date specified in the subsection.

* * * * * * *

ESTABLISHING CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS

SEC. 599D.[10] (a) IN GENERAL.—In the case of an alien who is within a category of aliens established under subsection (b), the alien may establish, for purposes of admission as a refugee under section 207 of the Immigration and Nationality Act, that the alien has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution.

(b) ESTABLISHMENT OF CATEGORIES.—

(1) For purposes of subsection (a), the Attorney General, in consultation with the Secretary of State and the Coordinator for Refugee Affairs, shall establish—

[10] 8 U.S.C. 1157 note. A subsec. (f) at the end of this section, relating to GAO Reports on Soviet Refugee Processing, was repealed by sec. 582(c) of Public Law 102–391 (106 Stat. 1686). Sec. 905(c) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

(A) one or more categories of aliens who are or were nationals and residents of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania[11] and who share common characteristics that identify them as targets of persecution in that state[12] on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(B) one or more categories of aliens who are or were nationals and residents of Vietnam, Laos, or Cambodia and who share common characteristics that identify them as targets of persecution in such respective foreign state on such an account.

(2)(A) Aliens who are (or were) nationals and residents of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania[11] and who are Jews or Evangelical Christians shall be deemed a category of alien established under paragraph (1)(A).

(B) Aliens who are (or were) nationals of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania[11] and who are current members of, and demonstrate public, active, and continuous participation (or attempted participation) in the religious activities of, the Ukrainian Catholic Church or the Ukrainian Orthodox Church, shall be deemed a category of alien established under paragraph (1)(A).

(C) Aliens who are (or were) nationals and residents of Vietnam, Laos, or Cambodia and who are members of categories of individuals determined, by the Attorney General in accordance with "Immigration and Naturalization Service Worldwide Guidelines for Overseas Refugee Processing" (issued by the Immigration and Naturalization Service in August 1983) shall be deemed a category of alien established under paragraph (1)(B).

(3) Within the number of admissions of refugees allocated for each of fiscal years 1990, 1991, and 1992[13] for refugees who are nationals of the Soviet Union under section 207(a)(3) of the Immigration and Nationality Act and within the number of such admissions allocated for each of fiscal years 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002[14] for refu-

[11] Sec. 582(b)(1)(A) of Public Law 102–391 (106 Stat. 1686) struck out "of the Soviet Union" each place it appeared in pars. (1)(A), (2)(A), and (2)(B), and inserted in lieu thereof "of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania". Sec. 905(b)(1)(A) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

[12] Sec. 582(b)(1)(B) of Public Law 102–391 (106 Stat. 1686) struck out "in the Soviet Union" and inserted in lieu thereof "in that state". Sec. 905(b)(1)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

[13] Sec. 598(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2063), struck out "fiscal year 1990" and inserted in lieu thereof "for each of fiscal years 1990, 1991, and 1992".

[14] Sec. 512(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 466) struck out "1993 and 1994" and inserted in lieu thereof "1993, 1994, 1995, and 1996". Sec. 575(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) further extended this to include 1997. Sec. 101(1)(A) of Public Law 104–319 (110 Stat. 3864) made the same amendment as Public Law 104–208. Sec. 574(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2432), struck out "and 1997" and inserted in lieu thereof "1997, and 1998". Sec. 705(1)(A) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f),

Continued

gees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section,[15] notwithstanding any other provision of law, the President shall allocate one thousand of such admissions for such fiscal year to refugees who are within the category of aliens described in paragraph (2)(B).

(c) WRITTEN REASONS FOR DENIALS OF REFUGEE STATUS.—Each decision to deny an application for refugee status of an alien who is within a category established under this section shall be in writing and shall state, to the maximum extent feasible, the reason for the denial.

(d) PERMITTING CERTAIN ALIENS WITHIN CATEGORIES TO REAPPLY FOR REFUGEE STATUS.—Each alien who is within a category established under this section and who (after August 14, 1988, and before the date of the enactment of this Act) was denied refugee status shall be permitted to reapply for such status. Such an application shall be determined taking into account the application of this section.

(e) PERIOD OF APPLICATION.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall only apply to applications for refugee status submitted before October 1, 2002.[16]

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of Public Law 105–277; 112 Stat. 2681) struck out "1997, and 1998" and inserted in lieu thereof "1997, 1998, and 1999". Sec. 214(1)(A) of the Department of Health and Human Services Appropriations Act, 2000 (title II of H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106–113; 113 Stat. 1535), struck out "1997, 1998, and 1999", and inserted in lieu thereof "1997, 1998, 1999, and 2000". Sec. 212(1)(A) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106–554; 114 Stat. 2763), struck out "1997, 1998, 1999, and 2000" and inserted in lieu thereof "1998, 1999, 1999, 2000, and 2001". Sec. 213(1)(A) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116; 115 Stat. 2200), struck out "1997, 1998, 1999, 2000, and 2001" and inserted in lieu thereof "1997, 1998, 1999, 1999, 2000, 2001, and 2002".

[15] Sec. 582(a)(1)(A) of Public Law 102–391 (106 Stat. 1686) inserted "and within the number of such admissions allocated for each of fiscal years 1993 and 1994 for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section" after "Act".

Sec. 905(a)(1) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

[16] Sec. 598(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2063), struck out "October 1, 1990" each place it appeared in subsec. (e), and inserted in lieu thereof "October 1, 1992".

Subsequently, sec. 582(a)(1)(B) of Public Law 102–391 (106 Stat. 1686) extended this date to October 1, 1994. Sec. 905(a)(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment. Sec. 512(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 466) further extended this date to October 1, 1996. Subsequent to that amendment, sec. 575(1)(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) extended the date to October 1, 1997. Sec. 101(1)(B) of Public Law 104–319 (110 Stat. 3864) made the same amendment as Public Law 104–208. Sec. 574(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2432), extended the date to October 1, 1998. Sec. 705(1)(B) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f), of Public Law 105–277; 112 Stat. 2681) extended the date to October 1, 1999. Sec. 214(1)(B) of the Department of Health and Human Services Appropriations Act, 2000 (H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106–113; 113 Stat. 1535), extended the date to October 1, 2000. Sec. 212(1)(B) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106–554; 114 Stat. 2763), extended the date to October 1, 2001. Sec. 213(1)(B) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116; 115 Stat. 2200), extended the date to October 1, 2002.

(2) Subsection (c) shall apply to decisions made after the date of the enactment of this Act and before October 1, 2002.[16]

(3) Subsection (d) shall take effect on the date of the enactment of this Act and shall only apply to reapplications for refugee status submitted before October 1, 2002.[16]

ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

SEC. 599E.[17] (a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,[18] Vietnam, Laos, or Cambodia, and

(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 2002,[19] after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A)[20] of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or sub-

[17] 8 U.S.C. 1255 note.

[18] Sec. 582(b)(2) of Public Law 102–391 (106 Stat. 1686) struck out "of the Soviet Union," and inserted in lieu thereof "of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,". Sec. 905(b)(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) made the same amendment.

[19] Sec. 598(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2063), struck out "September 30, 1990" at this point and inserted in lieu thereof "September 30, 1992". Subsequently, sec. 582(a)(2) of Public Law 102–391 (106 Stat. 1686) extended the date to September 30, 1994. Sec. 512(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 466) further extended this date to September 30, 1996. Sec. 575(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009) further extended the date to September 30, 1997. Sec. 101(2) of Public Law 104–319 (110 Stat. 3864) made the same amendment as Public Law 104–208. Sec. 574(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2432) extended the date to September 30, 1998. Sec. 705(2) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f), of Public Law 105–277; 112 Stat. 2681) extended this date to September 30, 1999. Sec. 214(2) of the Department of Health and Human Services Appropriations Act, 2000 (H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106–113; 113 Stat. 1535), extended this date to September 30, 2000. Sec. 212(2) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106–554; 114 Stat. 2763), extended the date to September 30, 2001. Sec. 213(2) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116; 115 Stat. 2200), extended the date to September 30, 2002.

[20] Sec. 603(a)(22) of Public Law 101–649 (104 Stat. 5084) struck out "(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)" and inserted in lieu thereof "(4), (5), and (7)(A)".

paragraph[21] (A), (B), (C), or (E) of paragraph (3))[22] with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

* * * * * * *

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990".

[21] Sec. 219(bb) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4319) struck out "and subparagraphs" and inserted in lieu thereof "or subparagraph".

[22] Sec. 307(l)(9) of Public Law 102–232 (105 Stat. 1757) struck out "(23)(B), (27), (29), or (33)" and inserted in lieu thereof "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

r. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988

Partial text of Public Law 100–202 [Sec. 101(e) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329–131, approved December 22, 1987, as amended by Public Law 100–461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 100–690 [International Narcotics Control Act of 1988, H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101–167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101–240 [International Development and Finance Act of 1989, H.R. 2494], 103 Stat. 2492, approved December 19, 1989; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101–649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; H.R. 2621 as passed by the House on June 19, 1991 [sections of which were enacted by reference by Public Law 102–145 [Further Continuing Appropriations, Fiscal Year 1992; H.J. Res. 360]], as amended, 105 Stat. 968, approved October 28, 1991; and Public Law 102–232 [Miscellaneous and Technical Immigration and Naturalization Amendments of 1991; H.R. 3049], 105 Stat. 1733, approved December 12, 1991

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * * * *

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1988, and for other purposes.

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TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

* * * * * * *

FOREIGN MILITARY SALES DEBT REFORM

(a) REFINANCING.—Notwithstanding any other provision of law, the President is authorized during fiscal years 1988 through 1991 to transfer existing United States guaranties of outstanding Foreign Military Sales (FMS) credit debt, or to issue new guaranties, either of which would be applied to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions (the private lender) to finance the prepayment at par of the principal amounts maturing after September

30, 1989 of existing FMS loans bearing interest rates of eight[1] percent or higher, and arrearages thereon. The loans, bonds, notes or other obligations are hereinafter referred to as the "private loan": *Provided,* That such guaranties which are transferred or are made pursuant to paragraph (a) shall cover no more and no less than ninety percent of the private loan or any portion or derivative thereof plus unpaid accrued interest and arrearages, if any, outstanding at the time of guaranty transfer or extension: *Provided further,* That the total amount of the guaranty of the private loan cannot exceed ninety percent of the outstanding principal, unpaid accrued interest and arrearages, if any, at any time: *Provided further,* That of the total amount of the private loan, the ninety percent guaranteed portion of the private loan cannot be separated from the private loan at any time: *Provided further,* That no sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989 of the loan (or advance), plus unpaid accrued interest thereon, and arrearages, if any, shall be charged by the private lender or the Federal Financing Bank as a result of such prepayment against the borrower, the guarantor, or the Guaranty Reserve Fund (GRF), except that the private lender may include, in the interest rate charged, a standard fee to cover costs, such fee which will be set at prevailing market rates, and no guaranty fee shall be charged on guarantees transferred or issued pursuant to this provision: *Provided further,* That the terms of guaranties transferred or issued under this paragraph shall be exactly the same as the existing loans or guarantees, except as modified by this paragraph and including but not limited to the final maturity and principal and interest payment structure of the existing loans which shall not be altered, except that the repayments of the private loan issued debt may be consolidated into two payments per year: *Provided further,* That the private loan or guarantees transferred or issued pursuant to this paragraph shall be fully and freely transferable, except that any guaranty transferred or extended shall cease to be effective if the private loan or any derivative thereof is to be used to provide significant support for any nonregistered obligation: *Provided further,* That for purposes of sections 23 and 24 of the Arms Export Control Act (AECA), the term "defense services" shall be deemed to include the refinancing of FMS debt outstanding at the date of the enactment of this Act: *Provided further,* That not later than ninety days after the enactment of this Act, the Secretary of the Treasury (Secretary) shall issue regulations to carry out the purposes of this heading and that in issuing such regulations, the Secretary shall (1) facilitate the prepayment of loans and loan advances hereunder, (2) provide for full processing of each application within thirty days of its submission to the Secretary, and (3) except as provided in section 24(a) of the AECA, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder: *Provided further,* That the Secretary of State shall transmit to the Committee on Foreign Affairs of the

[1] Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1214) amended subsections (a) and (b) by striking all reference to "ten" and inserting in lieu thereof "eight".

House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

(b)[2] * * * [Repealed—1992]

(c) ARREARAGES.—(1) None of the funds provided pursuant to the Arms Export Control Act (relating to Foreign Military Sales credits) or pursuant to chapter 2 of part II of the Foreign Assistance Act (relating to the Military Assistance program) shall be made available to any country for which one or more loans is refinanced pursuant to paragraph (a) of this heading and which is in default for a period in excess of ninety days in payment of principal or interest on (A) any loan made to such country guaranteed by the United States pursuant to paragraph (a) of this heading, and (B) any other loan issued pursuant to the Arms Export Control Act outstanding on the date of enactment of this provision.

(2) In conjunction with any interest rate reduction pursuant to the authority provided in paragraph (b) of this heading, the President shall require the country to commit in writing that within two years of the effective date of the interest rate reduction it will be no more than ninety days in arrears on the repayment of principal and interest on all loans for which the interest rate is thus reduced and will remain no more than ninety days in arrears for the remaining life of all such loans. None of the funds provided pursuant to the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act shall be made available to any country during any period in which it fails to comply with such commitment.

(d) PURPOSES AND REPORTS.—The authorities of paragraphs (a) and (b) of this heading may be utilized by the President in efforts to negotiate base rights and base access agreements, and for other bilateral foreign policy matters: *Provided further,* That the Secretaries of Defense, State, and Treasury shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate a joint report detailing the United States financial and foreign policy purposes served by implementation of this authority on a country

[2] The paragraph under "Foreign Military Sales Debt Reform" in H.R. 2621 as passed by the House on June 19, 1991, and enacted by reference in sec. 118 of the Further Continuing Appropriations (Public Law 102–145, as amended by Public Law 102–266) repealed subsec. (b), which had provided as follows:

"(b) INTEREST RATE REDUCTION.—Notwithstanding any other provision of law, there is hereby appropriated such sums as may be necessary, but not more than $270,000,000, to be made available after October 1, 1988 to the Secretary of Defense for the Defense Security Assistance Agency for deposit into a new account, to remain available until expended: *Provided,* That the funds shall be used solely for the purpose of lowering the interest rate on Foreign Military Sales (FMS) credits which were financed through the Federal Financing Bank (FFB) for countries which do not refinance one or more FFB loans pursuant to paragraph (a) of this heading, and which loans have interest rates exceeding eight percent, down to an interest rate of eight percent for the remaining life of such loans: *Provided further,* That these funds shall be available only subject to a Presidential budget request: *Provided further,* That it is the intent of the Congress that these funds shall be available to all countries having FMS credits from the FFB that carry interest rates in excess of eight percent.".

by country basis not later than March 1, 1989, and a second joint report not later than August 1, 1989.

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

AMERASIAN IMMIGRATION

SEC. 584. (a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam on or after March 22, 1988, and ending on September 30, 1990.[3]

(2) The provisions of paragraphs (4), (5), and (7)(A)[4] of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E)[5] of paragraph (3))[5] with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of one year.[6]

(b)(1) An alien described in this section is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the

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[3] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1211) struck out "during the 2-year period beginning 90 days after the date of the enactment of this Act" and restated this paragraph to read "they are issued an immigrant visa and depart from Vietnam during the period beginning on March 22, 1988, and ending on September 30, 1990.".

Subsequently, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1996), struck out "during the period beginning on March 22, 1988" following "Vietnam" and inserted in lieu thereof "on or after March 22, 1988".

[4] Sec. 603(a)(20)(A) of Public Law 101–649 (104 Stat. 5084) struck out "(14), (15), (20), (21), (25), and (32)" and inserted in lieu thereof "(4), (5), and (7)(A)".

[5] Sec. 603(a)(20)(B) of Public Law 101–649 (104 Stat. 5084) struck out "(other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics)" and inserted in lieu thereof "(other than paragraph (2)(C) or subparagraph (A), (B), (C), or (D) of paragraph (3))".

Subsequently, sec. 307(l)(8) of Public Law 102–232 (105 Stat. 1757) struck out "(D)" and inserted in lieu thereof "(E)" in par. (2).

[6] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1211) struck out "8 months" at this point and inserted in lieu thereof "one year".

United States (such an alien in this section referred to as a "principal alien");

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless[7] the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such parentage.

(3) For purposes of this section, the term "child" has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

* * * * * * *

[7] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1996), struck out "the principal alien involved is unmarried and" at this point.

s. Foreign Assistance and Related Programs Appropriations Act, 1984

Partial text of Public Law 98–151 [Further Continuing Appropriations for Fiscal Year 1984, H.J. Res. 413], 97 Stat. 964, approved November 14, 1983

A JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1984.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organization units of the government for the fiscal year 1984, and for other purposes, namely:

Sec. 101. (a) * * *

(b)(1) * * *

[1] None of the funds heretofore appropriated or otherwise made available for Syria for the purpose of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from

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[1] 22 U.S.C. 2346a note. See also sec. 1004 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1017), for provision concerning termination of assistance programs for Syria, *Legislation on Foreign Relations Through 2000*, vol. II.

Sec. 101(j) of the Continuing Appropriations Act, 1986 (Public Law 99–190) provided the following:

"RESCISSION

"Deobligation and rescission of funds: $11,200,000 of the funds remaining in the 'Syria Termination Account' created by Public Law 98–151 are deobligated and are rescinded: *Provided,* That the authority contained in sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, shall not be exercised to permit the use of funds remaining in the 'Syria Termination Account' created by Public Law 98–151 for any other purposes than those for which the account was created.".

the termination under this subsection of assistance programs for Syria authorized by such chapter: *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

t. Title 31, United States Code—Valid Obligations

§1108.[1] Preparation and submission of appropriations requests to the President

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the requests contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

[1] Sections 1108, 1501, and 1502 were originally enacted as sec. 1311 of the Supplemental Appropriations Act, 1955 (Public Law 84–663; 68 Stat. 800). Public Law 97–258 (96 Stat. 877) revised and codified certain general and permanent laws of the United States relating to money and finance, including sec. 1311 of Public Law 84–663.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or requests, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

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CHAPTER 15—APPROPRIATION ACCOUNTING

SUBCHAPTER I—GENERAL

§ 1501.[1] Documentary evidence requirement for Government obligations

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

(A) when necessary because of a public exigency;

(B) for perishable subsistence supplies; or

(C) within specific monetary limits;

(5) a grant or subsidy payable—

(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

(B) under an agreement authorized by law; or

(C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

§ 1502.[1] Balances available

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expense properly incurred during the period of availability or to compete contracts properly made with that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

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SUBCHAPTER IV—CLOSING ACCOUNTS[2]

§ 1551. Definitions; applicability of subchapter[3]

(a) In this subchapter—

(1) An obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

(2) An unobligated balance is the difference between the obligated balance and the total unexpended balance.

(3) A fixed appropriation account is an appropriation account available for obligation for a definite period.

(b) The limitations on the availability for expenditure prescribed in this subchapter apply to all appropriations unless specifically otherwise authorized by a law that specifically—

(1) identifies the appropriate account for which the availability for expenditure is to be extended;

(2) provides that such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to that account; and

(3) extends the availability for expenditure of the obligated balances.

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[2] Section 1405(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1675) amended and restated subchapter IV of chapter 15 of title 31, U.S.C., secs. 1551–1557. See also sec. 1405(b) of that Act, as amended, in *Legislation on Foreign Relations Through 2000*, vol. I–B.

[3] Sec. 1054(e)(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2503) restated the section catchline. It formerly read "Definitions and applications".

(c) This subchapter does not apply to—

(1) appropriations for the District of Columbia government; or

(2) appropriations to be disbursed by the Secretary of the Senate or the Chief Administrative Officer[4] of the House of Representatives.

§ 1552. Procedure for appropriation accounts available for definite periods

(a)[5] On September 30th of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

(b) Collections authorized or required to be credited to an appropriation account, but not received before closing of the account under subsection (a) or under section 1555 of this title shall be deposited in the Treasury as miscellaneous receipts.

§ 1553. Availability of appropriation accounts to pay obligations

(a) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or 1555 of this title, obligations and adjustments to obligations that would have been properly

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[4] Sec. 219(b)(1) of Public Law 104–186 (110 Stat. 1748) struck out "Clerk" and inserted in lieu thereof "Chief Administrative Officer".

[5] Sec. 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) required the following:

"Sec. 1406. Audit of Obligated Balances of Department of Defense

"(a) AUDIT REQUIREMENT.—The Secretary of Defense shall provide for an audit of each account of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act. The audit shall, with respect to each such account, identify—

"(1) the balance in the account;

"(2) the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts required for valid obligations (as supported by documentary evidence as required by section 1501 of title 31) and the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts for obligations that are considered no longer valid;

"(3) the sources of amounts in the account, shown by fiscal year and by amount for each fiscal year; and

"(4) such other matters as the Secretary considers appropriate.

"(b) DEOBLIGATION OF OBLIGATIONS NO LONGER VALID.—Any obligated amounts in accounts of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, that are determined pursuant to the audit under subsection (a) to represent amounts for obligations that are no longer valid shall be deobligated and canceled.

"(c) REPORT ON AUDIT.—Not later than December 31, 1991, the Secretary of Defense shall submit to Congress a report containing the results of the audit conducted pursuant to subsection (a). The report shall set forth—

"(1) the information required to be identified pursuant to subsection (a); and

"(2) for each appropriation account (A) the average length of time funds have been obligated, (B) the average size of the obligation, and (iii) the object classification of the obligations, all shown for total obligations and separately for valid obligations and obligations that are no longer valid.".

See also sec. 1003 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2481), in *Legislation on Foreign Relations Through 2000*, vol. I–B.

chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

(2) The total amount of charges to an account under paragraph (1) may not exceed an amount equal to 1 percent of the total appropriations for that account.

(c)(1) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount of obligations from that appropriation during a fiscal year for contract changes for that program, project, or activity to exceed $4,000,000, the obligation may only be made if the obligation is approved by the head of the agency (or an officer of the agency within the Office of the head of the agency to whom the head of the agency has delegated the authority to approve such an obligation).

(2) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount obligated from that appropriation during a fiscal year for that program, project, or activity to exceed $25,000,000, the obligation may not be made until—

(A) the head of the agency submits to the appropriate authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives a notice in writing of the intent to obligate such funds, together with a description of the legal basis for the proposed obligation and the policy reasons for the proposed obligation; and

(B) a period of 30 days has elapsed after the notice is submitted.

(3) In this subsection, the term 'contract change' means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under an escalation clause.

(d)(1) Obligations under this section may be paid without prior action of the Comptroller General.

(2) This subchapter does not—

(A) relieve the Comptroller General of the duty to make decisions requested under law; or

(B) affect the authority of the Comptroller General to settle claims and accounts.

§ 1554. Audit, control, and reporting

(a) Any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability for obligation of that account.

(b)(1) After the close of each fiscal year, the head of each agency shall submit to the President and the Secretary of the Treasury a report regarding the unliquidated obligations, unobligated balances, canceled balances, and adjustments made to appropriation

accounts of that agency during the completed fiscal year. The report shall be submitted no later than 15 days after the date on which the President's budget for the next fiscal year is submitted to Congress under section 1105 of this title.

(2) Each report required by this subsection shall—

(A) provide a description, with reference to the fiscal year of appropriations, of the amount in each account, its source, and an itemization of the appropriations accounts;

(B) describe all current and expired appropriations accounts;

(C) describe any payments made under section 1553 of this title;

(D) describe any adjustment of obligations during that fiscal year pursuant to section 1553 of this title;

(E) contain a certification by the head of the agency that the obligated balances in each appropriation account of the agency reflect proper existing obligations and that expenditures from the account since the preceding review were supported by a proper obligation of funds and otherwise were proper;

(F) describe all balances canceled under sections 1552 and 1555 of this title.

(3) The head of each Federal agency shall provide a copy of each such report to the Speaker of the House of Representatives and the Committee on Appropriations, the Committee on Governmental Affairs, and other appropriate oversight and authorizing committees of the Senate.

(c)[6] * * * [Repealed—1991]

(c)[6] The head of each agency shall establish internal controls to assure that an adequate review of obligated balances is performed to support the certification required by section 1108(c) of this title.

§ 1555. Closing of appropriation accounts available for indefinite periods

An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if—

(1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and

(2) no disbursement has been made against the appropriation for two consecutive fiscal years.

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[6] Sec. 1004(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1457) (1) struck out subsec. (c), and (2) redesignated subsec. (d) as subsec. (c).

The former subsec. (c) had required the Director of the Congressional Budget Office to estimate the effect on the Federal deficit of payments and adjustments made with respect to sections 1552 and 1553 of this title for each agency and annually report on the same.

Sec. 1004(a) of Public Law 102–190 further required the following:

"(a) TEMPORARY REQUIREMENT FOR OMB REPORT.—At the same time that the President submits to Congress the budget for each of fiscal years 1993, 1994, 1995, and 1996 under section 1105 of title 31, United States Codes, the Director of the Office of Management and Budget shall submit to Congress a report regarding the effect on the Federal Deficit of payments and adjustments made with respect to sections 1552 and 1553 of such title for the fiscal year in which such budget is submitted, the fiscal year preceding that fiscal year, and the fiscal year covered by that budget. The report shall include separate estimates for the accounts of each agency.".

§ 1556. Comptroller General: reports on appropriation accounts

(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

(1) the head of the agency concerned;

(2) the Secretary of the Treasury; and

(3) the President.

(b) A report under this section shall include an appraisal of unpaid obligations under fixed appropriation accounts for which the period of availability for obligation has ended.

§ 1557. Authority for exemptions in appropriation laws

A provision of an appropriation law may exempt an appropriation from the provisions of this subchapter and fix the period for which the appropriation remains available for expenditure.

§ 1558. Availability of funds following resolution of a protest [7]

(a) Notwithstanding section 1552 of this title or any other provision of law, funds available to an agency for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such an appeal or request, whichever is later.

(b) Subsection (a) applies with respect to any protest filed under subchapter V of chapter 35 of this title or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).

[7] Added by sec. 813(a) of Public Law 101–189 (103 Stat. 1494).

Appendix I

NOTE.—Appendix I lists Public Laws included in *Legislation on Foreign Relations Through 2002*, either as free-standing law or in amendments, arranged by Public Law number with corresponding short title or popular name.

Public Law No.	Short Title
108–31	Microenterprise Report to Congress
108–28	Taiwan's Participation in the World Health Organization
108–25	United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003
108–19	Clean Diamond Trade Act
108–11	Emergency Wartime Supplemental Appropriations Act, 2003
108–7	Consolidated Appropriations, 2003
108–7	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003 (division A)
108–7	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003 (division B)
108–7	Department of State and Related Agency Appropriations Act, 2003 (division B, title IV)
108–7	Foreign Operations, Export Financing, and Related Prograqms Appropriations Act, 2003 (division E)
108–7	Department of the Interior and Related Agencies Appropriations Act, 2003 (division F)
108–7	Miscellaneous Appropriations Act, 2003 (division N)
107–365	Caribbean National Forest Wild and Scenic Rivers Act of 2002
107–327	Afghanistan Freedom Support Act of 2002
107–314	Bob Stump National Defense Authorization Act for Fiscal Year 2003
107–258	Persian Gulf POW/MIA Accountability Act of 2002
107–248	Department of Defense Appropriations Act, 2003
107–246	Russian Democracy Act of 2002
107–245	Sudan Peace Act

107–243	Authorization for Use of Military Force Against Iraq Resolution of 2002
107–229	Continuing Appropriations Resolution, Fiscal Year 2003
107–228	Foreign Relations Authorization Act, Fiscal Year 2003
107–228	Department of State Authorization Act, Fiscal Year 2003 (division A)
107–228	Security Assistance Act of 2002 (division B)
107–228	Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A)
107–228	Tibetan Policy Act of 2002 (division A, title VI, subtitle B)
107–228	East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C)
107–228	Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D)
107–228	Freedom Investment Act of 2002 (division A, title VI, subtitle E)
107–228	Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B)
107–228	Nonproliferation Assistance Coordination Act of 2002 (division B, title XIII, subtitle C)
107–228	Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D)
107–210	Trade Act of 2002
107–197	Terrorist Bombings Convention Implementation Act of 2002
107–189	Export-Import Bank Reauthorization Act of 2002
107–187	Gerald B.H. Solomon Freedom Consolidation Act of 2002
107–173	Ehanced Border Security and Visa Entry Reform Act of 2002
107–148	Radio Free Afghanistan Act
107–141	Asian Elephant Conservation Reauthorization Act of 2002
107–117	Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002
107–115	Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002
107–112	Rhinoceros and Tiger Conservation Reauthorization Act of 2001
107–111	African Elephant Conservation Reauthorization Act of 2001
107–107	National Defense Authorization Act for Fiscal Year 2002
107–99	Zimbabwe Democracy and Economic Recovery Act of 2001
107–81	Afghan Women and Children Relief Act of 2001
107–77	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002

107–77	Department of State and Related Agenciy Appropriations Act, 2002 (title IV)
107–76	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002
107–63	Department of the Interior and Related Agencies Appropriations Act, 2002
107–56	Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001
107–56	International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III)
107–44	Continuing Appropriations, 2002
107–43	United States-Jordan Free Trade Area Implementation Act
107–40	Authorization for Use of Military Force [international terrorism]
107–39	Condemnation of Terrorist Attacks
107–24	ILSA [Iran and Libya Sanctions Act] Extension Act of 2001
106–570	Assistance for International Malaria Control Act
106–570	International Malaria Control Act (title I)
106–570	United States-Macau Policy Act of 2000 (title II)
106–570	Pacific Charter Commission Act of 2000 (title IV)
106–570	Paul D. Coverdell World Wise Schools Act of 2000 (title VI)
106–567	Intelligence Authorization Act for Fiscal Year 2001
106–567	Japanese Imperial Government Disclosure Act of 2000 (title VIII)
106–557	Shark Finning Prohibition Act
106–555	Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000
106–554	Consolidated Appropriations Act, 2001
106–554	Vietnam Education Foundation Act of 2000 (title II)
106–553	Department of State and Related Agency Appropriations Act, 2001
106–531	Reports Consolidation Act of 2000
106–484	Bring Them Home Alive Act of 2000
106–476	Tariff Suspension and Trade Act of 2000
106–450	Yukon River Salmon Act of 2000
106–429	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001
106–411	Great Ape Conservation Act of 2000
106–398	Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001
106–387	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001
106–387	Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX)
106–386	Victims of Trafficking and Violence Protection Act of 2000
106–386	Trafficking Victims Protection Act of 2000 (division A)

106–373	Famine Prevention and Freedom From Hunger Improvement Act of 2000
106–346	National Terrorist Asset Trading Center
106–309	Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000
106–309	Microenterprise for Self-Reliance Act of 2000 (title I)
106–309	International Anti-Corrpution and Good Governance Act of 2000 (title II)
106–309	International Academic Opportunities Act of 2000 (title III)
106–309	Support for Overseas Cooperative Development Act (sec. 401)
106–309	Paul D. Coverdell Fellows Program Act of 2000 (sec. 408)
106–286	U.S.-China Relations Act of 2000
106–280	Security Assistance Act of 2000
106–279	Intercountry Adoption Act of 2000
106–264	Global AIDS and Tuberculosis Relief Act of 2000
106–264	Global AIDS Research and Relief Act of 2000 (title I)
106–264	International Tuberculosis Control Act of 2000 (title II)
106–256	Oceans Act of 2000
106–247	Neotropical Migratory Bird Conservation Act
106–212	American Institute in Taiwan Facilities Enhancement Act
106–200	Trade and Development Act of 2000
106–200	African Growth and Opportunity Act (title I)
106–200	U.S.-Caribbean Basin Trade Partnership Act (title II)
106–178	Iran Nonproliferation Act of 2000
106–158	Export Enhancement Act of 1999
106–120	Intelligence Authorization Act for Fiscal Year 2000
106–120	Foreign Narcotics Kingpin Designation Act (title VIII)
106–113	Consolidated Appropriations, Fiscal Year 2000
106–113	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (H.R. 3421, enacted by reference)
106–113	Department of State and Related Agency Appropriations Act, 2000 (title IV, H.R. 3421, enacted by reference)
106–113	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference)
106–113	Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference)
106–113	Miscellaneous Appropriations, 2000 (H.R. 3425, enacted by reference)
106–113	Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)
106–113	Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference)

106–113	North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference)
106–113	United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference)
106–113	Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference)
106–113	Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference)
106–113	National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference)
106–113	Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference)
106–113	Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference)
106–113	Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference)
106–113	International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference)
106–108	Arctic Tundra Habitat Emergency Conservation Act
106–87	Torture Victims Relief Reauthorization Act of 1999
106–79	Department of Defense Appropriations Act, 2000
106–65	National Defense Authorization Act for Fiscal Year 2000
106–65	Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV)
106–38	National Missile Defense Act of 1999
106–36	Miscellaneous Trade and Technical Corrections Act of 1999
106–35	Western Hemisphere Drug Elimination Technical Corrections Act
106–31	1999 Emergency Supplemental Appropriations Act
106–30	Peace Corps Reauthorization
105–385	Africa: Seeds of Hope Act of 1998
105–384	Governing International Fisheries Agreement with Poland
105–382	Department of State Special Agents Retirement Act of 1998
105–366	International Anti-Bribery and Fair Competition Act of 1998
105–362	Federal Reports Elimination Act of 1998
105–338	Iraq Liberation Act of 1998
105–323	Extradition Treaties Interpretation Act of 1998
105–319	Irish Peace Process Cultural and Training Program Act of 1998
105–312	Rhinoceros and Tiger Conservation Act of 1998
105–303	Commercial Space Act of 1998
105–292	International Religious Freedom Act of 1998

105–277	Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999
105–277	Department of State and Related Agencies Appropriations Act, 1999 (sec. 101(b))
105–277	Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX)
105–277	Trade Deficit Review Commission Act (division A, sec. 127)
105–277	Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII)
105–277	Western Hemisphere Drug Elimination Act (division C, title VIII)
105–277	Foreign Affairs Reform and Restructuring Act of 1998 (division G)
105–277	Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A)
105–277	Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B)
105–277	United Nations Reform Act of 1998 (division G, subdivision C)
105–277	European Security Act of 1998 (division G, title XXVII)
105–277	Chemical Weapons Convention Implementation Act of 1998 (division I)
105–262	Department of Defense Appropriations Act, 1999
105–261	Strom Thurmond National Defense Authorization Act for Fiscal Year 1999
105–261	Defense Against Weapons of Mass Destruction Act of 1998 (title XIV)
105–261	Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV)
105–261	Radio Free Asia Act of 1998 (title XXXIX)
105–246	Nazi War Crimes Disclosure Act
105–235	Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations
105–217	African Elephant Conservation Reauthorization Act of 1998
105–194	Agriculture Export Relief Act of 1998
105–186	U.S. Holocaust Assets Commission Act of 1998
105–174	1998 Supplemental Appropriations and Rescissions Act
105–173	International Parental Kidnapping Crime Act
105–158	Holocaust Victims Redress Act
105–119	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998
105–119	Department of State Appropriations Act, 1998
105–107	Intelligence Authorization Act for Fiscal Year 1998
105–100	Nicaraguan Adjustment and Central American Relief Act (title II)
105–96	Asian Elephant Conservation Act of 1997
105–85	National Defense Authorization Act for Fiscal Year 1998
105–42	International Dolphin Conservation Program Act

104–319	Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996
104–309	Records Relating to Nazi War Crimes
104–297	Sustainable Fisheries Act
104–293	Intelligence Authorization Act for Fiscal Year 1997
104–293	Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII)
104–269	Release of USIA Materials: VOA, Radio Marti Recordings
104–264	Federal Aviation Reauthorization Act of 1996
104–227	Antarctic Science, Tourism, and Conservation Act of 1996
104–208	Omnibus Consolidated Appropriations for Fiscal Year 1997
104–208	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c))
104–203	Most-Favored-Nation Treatment for Cambodia
104–201	National Defense Authorization Act for Fiscal Year 1997
104–201	Defense Against Weapons of Mass Destruction Act of 1996 (title XIV)
104–201	Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV, subtitle A)
104–201	Panama Canal Act Amendments of 1996 (title XXXV, subtitle B)
104–172	Iran and Libya Sanctions Act of 1996
104–171	Most-Favored-Nation Treatment for Romania
104–164	Miscellaneous Amendments and Authorization—FYs 1996 and 1997
104–162	Most-Favored-Nation Treatment for People's Republic of Bulgaria
104–161	Release of USIA Materials: "Fragile Ring of Life"
104–132	Antiterrorism and Effective Death Penalty Act of 1996
104–127	Federal Agriculture Improvement and Reform Act of 1996
104–114	Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996
104–106	National Defense Authorization Act for Fiscal Year 1996
104–106	Ballistic Missile Defense Act of 1995 (title II, subtitle C)
104–93	Intelligence Authorization Act for Fiscal Year 1996
104–72	Au Pair Extension
104–66	Federal Reports Elimination and Sunset Act of 1995
104–45	Jerusalem Embassy Act of 1995
104–43	Fisheries Act of 1995
104–43	High Seas Fishing Compliance Act of 1995 (title I)
104–43	Northwest Atlantic Fisheries Convention Act of 1995 (title II)
104–43	Atlantic Tunas Convention Act of 1995 (title III)
104–43	Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V)

104–43	High Seas Driftnet Fishing Moratorium Protection Act (title VI)
104–43	Yukon River Salmon Act of 1995 (title VII) Act for Fiscal Year 1997
104–6	Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995
104–6	Mexican Debt Disclosure Act of 1995 (title IV)
103–465	Uruguay Rounds Agreements Act
103–465	Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a))
103–447	International Narcotics Control Corrections Act of 1994
103–447	NATO Participation Act of 1994 (title II)
103–423	United States Policy Toward Haiti
103–416	Visa for Officials of Taiwan
103–392	Jobs Through Trade Expansion Act of 1994
103–391	Rhinoceros and Tiger Conservation Act of 1994
103–381	African Conflict Resolution Act
103–372	To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974
103–337	National Defense Authorization Act for Fiscal Year 1995
103–306	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995
103–294	Helsinki Human Rights Day
103–236	Foreign Relations Authorization Act, Fiscal Years 1994 and 1995
103–236	Mike Mansfield Fellowship Act (title II, part C)
103–236	United States International Broadcasting Act of 1994 (title III)
103–236	Spoils of War Act of 1994 (title V, part B)
103–236	Anti-Economic Discrimination Act of 1994 (title V, part C)
103–236	Cambodian Genocide Justice Act (title V, part D)
103–236	Middle East Peace Facilitation Act of 1994 (title V, part E)
103–236	Arms Control and Nonproliferation Act of 1994 (title VII, part A)
103–236	Nuclear Proliferation Prevention Act of 1994 (title VIII)
103–236	Protection and Reduction of Government Secrecy Act (title IX)
103–206	Coast Guard Authorization Act of 1993
103–199	Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)
103–182	North American Free Trade Agreement Implementation Act
103–160	National Defense Authorization Act for Fiscal Year 1994
103–160	Cooperative Threat Reduction Act of 1993 (title XII)

103–160	Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII)
103–160	National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D)
103–160	Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV)
103–158	Act to Honor the Victims of the Bombing of Panam Flight 103
103–149	South African Democratic Transition Support Act of 1993
103–133	Nondiscriminatory Treatment Toward Products of Romania
103–125	Middle East Peace Facilitation Act of 1993
102–588	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993
102–587	Oceans Act of 1992
102–587	North Pacific Anadromous Stocks Convention Act of 1992 (title VIII)
102–582	High Seas Driftnet Fisheries Enforcement Act
102–582	Central Bering Sea Fisheries Enforcement Act of 1992 (title III)
102–567	North Pacific Anadromous Stocks Act of 1992 (title VIII)
102–565	Peace Corps Authorization for Fiscal Year 1993
102–549	Jobs Through Exports Act of 1992
102–549	Aid, Trade, and Competitiveness Act of 1992 (title III)
102–549	Enterprise for the Americas Act of 1992 (title VI)
102–532	Enterprise for the Americas Initiative Act of 1992
102–523	International Dolphin Conservation Act of 1992
102–511	Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act)
102–509	Soviet Scientists Immigration Act of 1992
102–486	Energy Policy Act of 1992
102–484	National Defense Authorization Act for Fiscal Year 1993
102–484	Former Soviet Union Demilitarization Act of 1992 (title XIV)
102–484	Weapons of Mass Destruction Control Act of 1992 (title XV)
102–484	Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI)
102–484	Cuban Democracy Act of 1992 (title XVII)
102–484	Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV)
102–454	Distribution of USIA Materials
102–450	Asian/Pacific American Heritage Month—Designation
102–429	Export Enhancement Act of 1992
102–420	Withdrawal of MFN From Serbia and Montenegro
102–404	Chinese Student Protection Act of 1992
102–396	Department of Defense Appropriations Act, 1993
102–391	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993
102–383	United States-Hong Kong Policy Act of 1992

102–372	Tourism Policy and Export Promotion Act of 1992
102–363	Nondiscriminatory Treatment Toward Products of Albania
102–311	International Peacekeeping Act of 1992
102–274	Horn of Africa Recovery and Food Security Act
102–270	Peace Process in Liberia
102–256	Torture Victim Protection Act of 1991
102–247	Omnibus Insular Areas Act of 1992
102–237	Food, Agriculture, Conservation, and Trade Act Amendments of 1991
102–228	Conventional Forces in Europe Treaty Implementation Act of 1991
102–228	Soviet Nuclear Threat Reduction Act of 1991 (title II)
102–197	Most-Favored Nation Treatment for the Union of Soviet Socialist Republics
102–195	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992
102–190	National Defense Authorization Act for Fiscal Years 1992 and 1993
102–190	Missile Defense Act of 1991 (title II, part C)
102–190	Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV)
102–183	David L. Boren National Security Education Act of 1991 (title VIII)
102–182	Termination of Trade Restrictions to Czechoslovakia and Hungary
102–182	Andean Trade Preference Act (title II)
102–182	Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III)
102–158	Most-Favored Nation Treatment for People's Republic of Bulgaria
102–157	Most-Favored Nation Treatment for Mongolian People's Republic
102–138	Foreign Relations Authorization Act, Fiscal Years 1992 and 1993
102–138	Dante B. Fascell North-South Center Act of 1991 (sec. 208)
102–21	Emergency Supplemental Assistance for Israel Act of 1991
102–20	Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991
102–1	Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678
101–649	Immigration Act of 1990
101–647	Crime Control Act of 1990
101–646	Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990
101–627	Fishery Conservation Amendments of 1990
101–627	Dolphin Protection Consumer Information Act (title IX)
101–624	Food, Agriculture, Conservation, and Trade Act of 1990
101–624	Agricultural Development and Trade Act of 1990 (title XV)

101–624	Global Climate Change Prevention Act of 1990 (title XXIV)
101–623	International Narcotics Control Act of 1990
101–620	Protection of Antarctica
101–611	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991
101–610	National and Community Service Act of 1990
101–606	Global Change Research Act of 1990
101–606	International Cooperation in Global Change Research Act of 1990 (title II)
101–604	Aviation Security Improvement Act of 1990
101–594	Antarctic Protection Act of 1990
101–549	Clean Air Act Amendments
101–541	Most-Favored-Nation Treatment for Czechoslovakia
101–533	Foreign Direct Investment and International Financial Date Improvements Act of 1990
101–513	Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991
101–513	European Bank for Reconstruction and Development Act (sec. 562(c))
101–513	Iraq Sanctions Act of 1990 (secs. 586–586J)
101–513	International Forestry Cooperation Act of 1990 (title VI)
101–511	Department of Defense Appropriations Act, 1991
101–510	National Defense Authorization Act for Fiscal Year 1991
101–510	Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV)
101–508	Omnibus Budget Reconciliation Act of 1990
101–508	Budget Enforcement Act of 1990 (title XIII)
101–454	Eisenhower Exchange Fellowship Act of 1990
101–454	Fascell Fellowship Amendments Act of 1990 (sec. 9)
101–438	Rio Grande American Canal Extension Act of 1990
101–382	Customs and Trade Act of 1990
101–382	Caribbean Basin Economic Recovery Expansion Act of 1990 (title II)
101–382	Forest Resources Conservation and Shortage Relief Act of 1990 (title IV)
101–380	Oil Pollution Act of 1990
101–328	National Space Council Authorization Act of 1990
101–298	Biological Weapons Anti-Terrorism Act of 1989
101–246	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991
101–246	PLO Commitments Compliance Act of 1989 (title VIII)
101–243	Urgent Assistance for Democracy in Panama Act of 1990
101–240	International Development and Finance Act of 1989
101–240	Foreign Debt Reserving Act of 1989 (title IV)
101–240	Global Environmental Protection Assistance Act of 1989 (title VII)
101–231	International Narcotics Control Act of 1989
101–219	Implementation of Compact of Free Association With Palau

101–216	Arms Control and Disarmament Amendments Act of 1989
101–215	Survival Assistance for Victims of Civil Strife in Central America
101–189	National Defense Authorization Act for Fiscal Years 1990 and 1991
101–179	Support for East European Democracy (SEED) Act of 1989
101–167	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990
101–162	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990
101–62	Implementing Agreement for Vienna Convention on Diplomatic Relations
100–690	International Narcotics Control Act of 1988 (title IV)
100–685	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989
100–629	U.S.-U.S.S.R. Fishing Agreement
100–576	Bangladesh Disaster Assistance Act of 1988
100–530	International Cooperation to Protect Biological Diversity
100–478	African Elephant Conservation Act (title II)
100–465	Rio Grande Pollution Correction Act of 1987
100–463	Department of Defense Appropriations Act, 1989
100–461	Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference)
100–461	Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference)
100–456	National Defense Authorization Act, Fiscal Year 1989
100–449	United States-Canada Free Trade Agreement Implementation Act of 1988
100–418	Omnibus Trade and Competitiveness Act of 1988
100–418	Telecommunications Trade Act of 1988 (title I, subtitle C, part 4)
100–418	Export Enhancement Act 1988 (title II)
100–418	Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II)
100–418	American Aid to Poland Act of 1988 (title II, subtitle B, part II)
100–418	Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II)
100–418	Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A)
100–418	International Debt Management Act of 1988 (title III, subtitle B)
100–418	Multilateral Development Banks Procurement Act (title III, subtitle C)
100–418	Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D)
100–418	Primary Dealers Act of 1988 (title III, subtitle F)
100–418	Financial Reports Act of 1988 (title III, subtitle G)
100–418	Agricultural Competitiveness and Trade Act of 1988 (title IV)

100–418	Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G)
100–418	Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I)
100–418	Competitiveness Policy Council Act (title V, part I, subtitle C)
100–418	Small Business International Trade and Competitiveness Act (title VII)
100–418	Foreign Shipping Practices Act of 1988 (title X)
100–393	Dire Emergency Supplemental Appropriations Act, 1988
100–373	International Energy Emergency Authorities: Extension
100–350	German Democratic Republic Fishery Agreement
100–330	South Pacific Tuna Act of 1988
100–300	International Child Abduction Remedies Act
100–276	Central American Peace Assistance
100–220	United States-Japan Fishery Agreement Approval Act of 1987
100–220	Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV)
100–213	Arms Control and Disarmament Amendments Act of 1987
100–204	Foreign Relations Authorization Act, Fiscal Years 1988 and 1989
100–204	United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II)
100–204	Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)
100–204	Anti-Terrorism Act of 1987 (title X)
100–204	Global Climate Protection Act of 1987 (title XI)
100–202	Continuing Appropriations, Fiscal Year 1988
100–202	Department of State Appropriations Act, 1988 (sec. 101(a), title III)
100–202	Cuban Political Prisoners and Immigrants (sec. 101(a), title VII)
100–202	Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII)
100–202	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e))
100–202	Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV)
100–180	National Defense Authorization Act for Fiscal Years 1988 and 1989
100–147	National Aeronautics and Space Administration Authorization Act of 1988
100–113	Federal Triangle Development Act
100–66	United States-Korea Fishery Agreement
99–661	National Defense Authorization Act, Fiscal Year 1987
99–661	Department of Defense Authorization Act, 1987 (Division A)
99–658	Approval of the Compact of Free Association With the Government of Palau
99–630	Humpback Whales Wildlife Sanctuary (West Indies)

99–603	Immigration Reform and Control Act of 1986
99–570	International Narcotics Control Act of 1986 (title II)
99–529	Special Foreign Assistance Act of 1986
99–513	R.M.S. Titanic Maritime Memorial Act of 1986
99–498	Higher Education Amendments of 1986
99–475	Release of USIA Materials to Museums
99–472	Export-Import Bank Act Amendments of 1986
99–415	Anglo-Irish Agreement Support Act of 1986
99–399	Omnibus Diplomatic Security and Antiterrorism Act of 1986
99–399	Diplomatic Security Act (titles I–IV)
99–399	Victims of Terrorism Compensation Act (title VIII)
99–399	International Maritime and Port Security Act (title IX)
99–399	Fascell Fellowship Act (title X)
99–239	Compact of Free Association Act of 1985
99–198	Food Security Act of 1985
99–198	Food for Progress Act of 1985 (sec. 1110)
99–190	Further Continuing Appropriations, 1985
99–190	Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference)
99–180	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986
99–177	Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]
99–162	Sales of Arms to Jordan
99–145	Department of Defense Authorization Act, 1986
99–93	Foreign Relations Authorization Act, Fiscal Years 1986 and 1987
99–93	United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II)
99–93	Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)
99–93	Iran Claims Settlement (title V)
99–93	United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI)
99–93	Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)
99–88	Supplemental Appropriations Act, 1985
99–88	Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV)
99–85	Authorization for an Improved U.S./Soviet Direct Communications Link
99–83	International Security and Development Cooperation Act of 1985
99–83	International Narcotics Control Act of 1985 (title VI)
99–83	Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI)
99–64	Export Administration Amendments Act of 1985
99–47	United States-Israel Free Trade Area Implementation Act of 1985
99–8	African Famine Relief and Recovery Act of 1985

99–5	Pacific Salmon Treaty Act of 1985
98–623	Governing International Fishery Agreements With Iceland and the European Economic Community (title I)
98–623	Antarctic Marine Living Resources Convention Act of 1984 (title III)
98–618	Intelligence Authorization Act for Fiscal Year 1985
98–573	Trade and Tariff Act of 1984
98–573	International Trade and Investment Act (title III)
98–573	Generalized System of Preferences Renewal Act of 1984 (title V)
98–573	Steel Import Stabilization Act (title VIII)
98–573	Wine Equity and Export Expansion Act of 1984 (title IX)
98–562	Cooperative East-West Ventures in Space
98–533	1984 Act to Combat International Terrorism
98–525	Department of Defense Authorization Act, 1985
98–525	United States Institute for Peace Act (title XVII)
98–473	Continuing Appropriations, 1985
98–473	Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference)
98–473	President's Emergency Food Assistance Act of 1984 (title III)
98–447	United States Government Opposition to the Practice of Torture
98–445	Eastern Pacific Tuna Licensing Act of 1984
98–373	Arctic Research and Policy Act of 1984 (title I)
98–373	National Critical Materials Act of 1984 (title II)
98–266	Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland
98–258	Agricultural Programs Adjustment Act of 1984
98–258	Agricultural Exports (title V)
98–198	Child Health Revolution
98–181	Supplemental Appropriations Act, 1984
98–181	Trade and Development Enhancement Act of 1983 (title VI, part C)
98–181	International Lending Supervision Act of 1983 (title IX)
98–181	Multilateral Development Banks: Sense of Congress (title X)
98–164	Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X)
98–164	United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II)
98–164	Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)
98–164	Asia Foundation Act (title IV)
98–164	National Endowment for Democracy Act (title V)
98–164	Foreign Missions Amendments Act (title VI)
98–164	International Environmental Protection Act of 1983 (title VII)
98–164	Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII)

98–164	United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX)
98–151	Continuing Resolution, 1984
98–151	Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1))
98–151	International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2))
98–119	Multinational Force in Lebanon Resolution
98–111	Radio Broadcasting to Cuba Act
98–94	Department of Defense Authorization Act, 1984
98–67	Caribbean Basin Economic Recovery Act (title II)
98–43	Lebanon Emergency Assistance Act of 1983
97–446	Convention on Cultural Property Implementation Act (title III)
97–425	Nuclear Waste Policy Act of 1982
97–418	Protection of Foreign Missions
97–389	Fisheries Amendments of 1982
97–389	Atlantic Salmon Convention Act of 1982 (title III)
97–389	Governing International Fishery Agreements with Japan and Spain (title IV)
97–325	International Carriage of Perishable Foodstuffs Act
97–290	Export Trading Company Act of 1982 (title I)
97–290	Bank Export Services Act (title II)
97–252	Department of Defense Authorization Act, 1983
97–241	Department of State Authorization Act, Fiscal Years 1982 and 1983
97–241	Foreign Missions Act (title II)
97–241	United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III)
97–241	Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)
97–229	Energy Emergency Preparedness Act of 1982
97–145	Export Administration Amendments Act of 1981
97–132	Multinational Force and Observers Participation Resolution
97–127	Czechoslovakian Claims Settlement Act of 1981
97–113	International Security and Development Cooperation Act of 1981
97–98	Agriculture and Food Act of 1981
97–98	Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)
97–35	African Development Bank Act (title XIII, subtitle B, part 3)
96–599	International Coffee Agreement Act of 1980
96–561	American Fisheries Promotion Act (title II)
96–533	International Security and Development Cooperation Act of 1980
96–533	African Development Foundation Act (title V)
96–494	Agriculture Act of 1980
96–494	Agricultural Trade Suspension Adjustment Act of 1980 (title II)
96–494	Bill Emerson Humanitarian Trust Act (title III)
96–487	Alaska National Interests Lands Conservation Act
96–478	Act to Prevent Pollution from Ships

96–465	Foreign Service Act of 1980
96–449	Hostage Relief Act of 1980
96–422	Refugee Education Assistance Act of 1980
96–389	Bretton Woods Agreements Act Amendments, 1980
96–339	Atlantic Tunas Convention Act of 1975, Appropriation Authorization
96–323	North Atlantic Treaty Organization Mutual Support Act of 1979
96–283	Deep Seabed Hard Mineral Resources Act
96–283	Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV)
96–280	Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation
96–271	International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981
96–259	Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund
96–236	International Sugar Agreement, 1977, Implementation
96–212	Refugee Act of 1980
96–175	Strategic and Critical Materials Transaction Authorization Act of 1979
96–133	Energy Policy and Conservation Act Amendments
96–92	International Security Assistance Act of 1979
96–72	Export Administration Act of 1979
96–70	Panama Canal Act of 1979
96–60	Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I)
96–60	International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II)
96–53	International Development Cooperation Act of 1979
96–39	Trade Agreements Act of 1979
96–35	Special International Security Assistance Act of 1979
96–9	Reaffirming North Atlantic Alliance—United States Commitment
96–8	Taiwan Relations Act
95–630	Financial Institutions Regulatory and Interest Rate Control Act of 1978
95–630	Export-Import Bank Act Amendments of 1978 (title XIX)
95–561	Education Amendments of 1978
95–561	National Academy of Peace and Conflict Resolution (title XV, part B)
95–511	Foreign Intelligence Surveillance Act of 1978
95–501	Agricultural Trade Act of 1978
95–485	Department of Defense Appropriation Authorization Act, 1979
95–452	Inspector General Act of 1978
95–435	Bretton Woods Agreements Act Amendments, 1978
95–426	Foreign Relations Authorization Act, Fiscal Year 1979
95–426	International Communication Agency Authorization for Fiscal Year 1979 (title II)

95–424	International Development and Food Assistance Act of 1978
95–393	Diplomatic Relations Act
95–384	International Security Assistance Act of 1978
95–287	Reaffirming the Unity of the North Atlantic Alliance Commitment
95–242	Nuclear Non-Proliferation Act of 1978
95–238	Department of Energy Act of 1978
95–223	International Emergency Economic Powers Act (title II)
95–213	Foreign Corrupt Practices Act of 1977 (title I)
95–118	International Financial Institutions Act
95–113	Food and Agriculture Act of 1977
95–105	Foreign Relations Authorization Act, Fiscal Year 1978
95–105	United States Information Agency Authorization for Fiscal Year 1978 (title II)
95–92	International Security Assistance Act of 1977
95–88	International Development and Food Assistance Act of 1977
95–6	Fishery Conservation Zone Transition Act
94–583	Foreign Sovereign Immunities Act of 1976
94–472	International Investment and Trade in Services Survey Act
94–412	National Emergencies Act
94–350	Foreign Relations Authorization Act, Fiscal Year 1977
94–350	United States Information Agency Authorization for Fiscal Year 1977 (title II)
94–350	Foreign Service Retirement Amendments of 1976 (title V)
94–329	International Security Assistance and Arms Export Control Act of 1976
94–304	Establishing a Commission on Security and Cooperation in Europe
94–302	African Development Fund Act (title II)
94–265	Magnuson-Stevens Fishery Conservation and Management Act of 1976
94–265	Driftnet Act Amendments of 1990 (sec. 206)
94–163	Energy Policy and Conservation Act
94–161	International Development and Food Assistance Act of 1975
94–141	Foreign Relations Authorization Act, Fiscal Year 1976
94–118	Japan-United States Friendship Act
94–110	Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai
94–70	Atlantic Tunas Convention Act of 1975
94–39	National Aeronautics and Space Administration Authorization Act, 1976
93–627	Deepwater Port Act of 1974
93–618	Trade Act of 1974
93–618	Narcotics Control Trade Act (title VIII)
93–559	Foreign Assistance Act of 1974
93–479	Foreign Investment Study Act of 1974
93–475	State Department/USIA Authorization Act, Fiscal Year 1975

93–366	Antihijacking Act of 1974
93–365	Department of Defense Appropriation Authorization Act, 1975
93–248	Intervention on the High Seas Act
93–205	Endangered Species Act of 1973
93–199	Emergency Security Assistance Act of 1973
93–189	Foreign Assistance Act of 1973
93–188	United Nations Environment Program Participation Act of 1973
93–153	Trans-Alaska Pipeline Authorization Act
93–148	War Powers Resolution
93–129	Board for International Broadcasting Act of 1973
93–126	Department of State Appropriations Authorization Act of 1973
93–110	Par Value Modification Act—Foreign Currency Reports (title II)
92–544	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973
92–522	Marine Mammal Protection Act of 1972
92–499	Act to Extend Diplomatic Privileges to the Commission of the European Communities
92–403	Case Act—Transmittal of International Agreements
92–352	Foreign Relations Authorization Act of 1972
92–268	Par Value Modification Act
92–257	Trust Territory of the Pacific Islands Act
92–226	Foreign Assistance Act of 1971
92–39	Micronesian Claims Act of 1971
91–672	Foreign Military Sales Act Amendments, 1971
91–652	Special Foreign Assistance Act of 1971
91–441	Armed Forces Appropriation Authorization, 1971
91–269	United States Recognition and Participation in International Expositions
91–175	Foreign Assistance Act of 1969, as amended
90–629	Arms Export Control Act
90–554	Foreign Assistance Act of 1968
90–553	International Center Act
90–390	Export Loans—Assistance
90–349	Special Drawing Rights Act
90–137	Foreign Assistance Act of 1967
89–732	Cuban Refugee Adjustment Act
89–673	Foreign Gifts and Decorations Act of 1966
89–583	Foreign Assistance Act of 1966
89–532	Convention on the Settlement of Investment Disputes Act of 1966
89–486	Foreign Agents Registration Act Amendments
89–369	Asian Development Bank Act
89–296	Ryukyu Islands Claims Settlement Act
89–259	Cultural Objects—Importation for Temporary Display
89–171	Foreign Assistance Act of 1965
89–134	Peace Corps Act Amendments
88–633	Foreign Assistance Act of 1964
88–408	Tonkin Gulf Resolution
88–205	Foreign Assistance Act of 1963

87–826	Collection and Publication of Foreign Commerce and Trade Statistics
87–794	Trade Expansion Act of 1962
87–733	Cuban Resolution
87–565	Foreign Assistance Act of 1962
87–510	Migration and Refugee Assistance Act of 1962
87–297	Arms Control and Disarmament Act
87–293	Peace Corps Act
87–256	Mutual Educational and Cultural Exchange Act of 1961
87–195	Foreign Assistance Act of 1961
87–195	Tropical Forest Conservation Act of 1998 (part V)
87–125	General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962
86–735	Latin American Development Act
86–628	Legislative Branch Appropriation Act, 1961
86–565	International Development Association Act
86–472	Mutual Security Act of 1960
86–472	Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII)
86–420	Mexico-United States Interparliamentary Group
86–147	Inter-American Development Bank Act
86–108	Mutual Security Act of 1959
86–42	Canada-United States Interparliamentary Group
85–931	Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment
85–846	EURATOM Cooperation Act of 1958
85–568	National Aeronautics and Space Act of 1958
85–474	Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959
85–177	International Atomic Energy Agency Participation Act of 1957
85–7	Resolution To Promote Peace and Stability in the Middle East
84–885	State Department Basic Authorities Act of 1956
84–689	United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution
84–350	International Finance Corporation Act
83–703	Atomic Energy Act of 1954
83–680	Fisherman's Protective Act of 1967
83–665	Mutual Security Act of 1954
83–480	Agricultural Trade Development and Assistance Act of 1954
83–451	Civil Government for the Trust Territory of the Pacific Islands
82–486	Extending Certain Privileges to Representatives of Organization of American States
82–414	Immigration and Nationality Act
81–764	Tuna Conventions Act of 1950
81–676	Whaling Convention Act of 1949
81–507	National Science Foundation Act of 1950
81–455	International Claims Settlement Act of 1949

81–439	Agricultural Act of 1949
80–772	Act of June 25, 1948
80–772	Logan Act—Private Correspondence With Foreign Governments
80–772	Johnson Act—Financial Transactions With Foreign Governments
80–402	United States Information and Educational Exchange Act of 1948
80–357	United Nations Headquarters Agreement Act
80–253	National Security Council
79–547	Act of July 25, 1946
79–291	International Organizations Immunities Act
79–264	United Nations Participation Act of 1945
79–173	Export-Import Bank Act of 1945
79–171	Bretton Woods Agreements Act
76–54	Neutrality Act of 1939
75–583	Foreign Agents Registration Act of 1938
75–543	Act of May 25, 1938
71–361	Tariff Act of 1930
69–186	Foreign Service Buildings Act, 1926
65–91	Trading With the Enemy Act

Appendix II

NOTE.—Appendix II lists Public Laws included in *Legislation on Foreign Relations Through 2002*, either as free-standing law or in amendments, arranged alphabetically by short title or popular name with corresponding Public Law number.

Short Title	Public Law No.
1984 Act to Combat International Terrorism	98–533
1998 Supplemental Appropriations and Rescissions Act	105–174
1999 Emergency Supplemental Appropriations Act	106–31
Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)	103–199
Act of May 25, 1938	75–543
Act of July 25, 1946	79–547
Act of June 25, 1948	80–772
Act to Extend Diplomatic Privileges to the Commission of the European Communities	92–499
Act to Honor the Victims of the Bombing of Panam Flight	103–158
Act to Prevent Pollution from Ships	96–478
Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)	106–113
Afghan Women and Children Relief Act of 2001	107–81
Afghanistan Freedom Support Act of 2002	107–327
Africa: Seeds of Hope Act of 1998	105–385
African Conflict Resolution Act	103–381
African Development Bank Act (title XIII, subtitle B, part 3)	97–35
African Development Foundation Act (title V)	96–533
African Development Fund Act (title II)	94–302
African Elephant Conservation Act (title II)	100–478
African Elephant Conservation Reauthorization Act of 1998	105–217

African Elephant Conservation Reauthorization Act of 2001 107–111
African Famine Relief and Recovery Act of 1985 99–8
African Growth and Opportunity Act (title I) 106–200
Agricultural Act of 1949 81–439
Agricultural Competitiveness and Trade Act of 1988 (title IV) 100–418
Agricultural Development and Trade Act of 1990 (title XV) 101–624
Agricultural Exports (title V) 98–258
Agricultural Programs Adjustment Act of 1984 98–258
Agricultural Trade Act of 1978 95–501
Agricultural Trade Development and Assistance Act of 1954 83–480
Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment 85–931
Agricultural Trade Suspension Adjustment Act of 1980 (title II) 96–494
Agriculture and Food Act of 1981 97–98
Agriculture Export Relief Act 105–194
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003 (division A) 108–7
Agriculture Trade and Export Policy Commission Act (title XII, subtitle C) 97–98
Aid, Trade, and Competitiveness Act of 1992 (title III) 102–549
Alaska National Interests Lands Conservation Act 96–487
American Aid to Poland Act of 1988 (title II, subtitle B, part II) 100–418
American Fisheries Promotion Act (title II) 96–561
American Institute in Taiwan Facilities Enhancement Act 106–212
Andean Trade Preference Act (title II) 102–182
Anglo-Irish Agreement Support Act of 1986 99–415
Antarctic Marine Living Resources Convention Act of 1984 (title III) 98–623
Antarctic Protection Act of 1990 101–594
Antarctic Science, Tourism, and Conservation Act of 1996 104–227
Anti-Economic Discrimination Act of 1994 (title V, part C) 103–236
Anti-Terrorism Act of 1987 (title X) 100–204
Antiterrorism and Effective Death Penalty Act of 1996 104–132
Antihijacking Act of 1974 93–366
Approval of the Compact of Free Association With the Government of Palau 99–658
Arctic Research and Policy Act of 1984 (title I) 98–373
Arctic Tundra Habitat Emergency Conservation Act ... 106–108
Armed Forces Appropriation Authorization, 1971 91–441
Arms Control and Disarmament Act 87–297
Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII) 99–93
Arms Control and Disarmament Amendments Act of 1987 100–213

Arms Control and Disarmament Amendments Act of 1989 101–216
Arms Control and Nonproliferation Act of 1994 (title VII, part A) 103–236
Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference) 106–113
Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference) 106–113
Arms Export Control Act 90–629
Asia Foundation Act (title IV) 98–164
Asian Development Bank Act 89–369
Asian Elephant Conservation Act of 1997 105–96
Asian Elephant Conservation Reauthorization Act of 2002 107–141
Asian/Pacific American Heritage Month—Designation 102–450
Assistance for International Malaria Control Act 106–570
Atlantic Salmon Convention Act of 1982 (title III) 97–389
Atlantic Tunas Convention Act of 1975 94–70
Atlantic Tunas Convention Act of 1975, Appropriation Authorization 96–339
Atlantic Tunas Convention Act of 1995 (title III) 104–43
Atlantic Tunas Convention Authorization Act of 1995 (title III) 104–43
Atomic Energy Act of 1954 83–703
Au Pair Extension 104–72
Authorization for an Improved U.S./Soviet Direct Communications Link 99–85
Authorization for Use of Military Force [international terrorism] 107–40
Authorization for Use of Military Force Against Iraq Resolution of 2002 107–243
Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678 102–1
Aviation Security Improvement Act of 1990 101–604
Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act] 99–177
Ballistic Missile Defense Act of 1995 (title II, subtitle C) 104–106
Bangladesh Disaster Assistance Act of 1988 100–576
Bank Export Services Act (title II) 97–290
Bill Emerson Humanitarian Trust Act (title III) 96–494
Biological Weapons Anti-Terrorism Act of 1989 101–298
Board for International Broadcasting Act of 1973 93–129
Board for International Broadcasting Appropriations, 1988 (sec. 101(a), title V) 100–202
Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV) 97–241
Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III) 98–164
Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III) 99–93
Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V) 100–204

Bob Stump National Defense Authorization Act for Fiscal Year 2003 107–314
Bretton Woods Agreements Act 79–171
Bretton Woods Agreements Act Amendments, 1978 95–435
Bretton Woods Agreements Act Amendments, 1980 96–389
Bring Them Home Alive Act of 2000 106–484
Budget Enforcement Act of 1990 (title XIII) 101–508
Cambodian Genocide Justice Act (title V, part D) 103–236
Canada-United States Interparliamentary Group 86–42
Caribbean Basin Economic Recovery Act (title II) 98–67
Caribbean Basin Economic Recovery Expansion Act of 1990 (title II) 101–382
Caribbean National Forest Wild and Scenic Rivers Act of 2002 107–365
Case Act—Transmittal of International Agreements 92–403
Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII) 86–472
Central American Peace Assistance 100–276
Central Bering Sea Fisheries Enforcement Act of 1992 (title III) 102–582
Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III) 102–182
Chemical Weapons Convention Implementation Act of 1998 (division I) 105–277
Child Health Revolution 98–198
Chinese Student Protection Act of 1992 102–404
Civil Government for the Trust Territory of the Pacific Islands 83–451
Clean Air Act Amendments 101–549
Clean Diamond Trade Act 108–19
Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D) 107–228
Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland 98–266
Coast Guard Authorization Act of 1993 103–206
Collection and Publication of Foreign Commerce and Trade Statistics 87–826
Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII) 104–293
Commercial Space Act of 1998 105–303
Compact of Free Association Act of 1985 99–239
Competitiveness Policy Council Act (title V, part I, subtitle C) 100–418
Consolidated Appropriations, 2003 108–7
Consolidated Appropriations Act, 2001 106–554
Consolidated Appropriations, Fiscal Year 2000 106–113
Continuing Appropriations, 1985 98–473
Continuing Appropriations, Fiscal Year 1988 100–202
Continuing Appropriations, 2002 107–44
Continuing Appropriations, 2003 107–229
Continuing Resolution, 1984 98–151
Convention on Cultural Property Implementation Act (title III) 97–446

Convention on the Settlement of Investment Disputes Act of 1966 89–532
Conventional Forces in Europe Treaty Implementation Act of 1991 102–228
Cooperative East-West Ventures in Space 98–562
Cooperative Threat Reduction Act of 1993 (title XII) ... 103–160
Crime Control Act of 1990 101–647
Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 104–114
Cuban Political Prisoners and Immigrants (sec. 101(a), title VII) 100–202
Cuban Refugee Adjustment Act 89–732
Cuban Resolution 87–733
Cuban Democracy Act of 1992 (title XVII) 102–484
Cultural Objects—Importation for Temporary Display 89–259
Customs and Trade Act of 1990 101–382
Czechoslovakian Claims Settlement Act of 1981 97–127
Dante B. Fascell North-South Center Act of 1991 (sec. 208) 102–138
David L. Boren National Security Education Act of 1991 102–183
Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV) 96–283
Deep Seabed Hard Mineral Resources Act 96–283
Deepwater Port Act of 1974 93–627
Defense Against Weapons of Mass Destruction Act of 1996 (title XIV) 104–201
Defense Against Weapons of Mass Destruction Act of 1998 (title XIV) 105–261
Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII) 103–160
Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference) 106–113
Demilitarization of the Former Soviet Union Act of 1992 (title XIV) 102–484
Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002 107–117
Department of Defense Appropriation Act, 1976 94–212
Department of Defense Appropriation Authorization Act, 1975 93–365
Department of Defense Appropriation Authorization Act, 1979 95–485
Department of Defense Appropriations Act, 2003 107–248
Department of Defense Authorization Act, 1983 97–252
Department of Defense Authorization Act, 1984 98–94
Department of Defense Authorization Act, 1985 98–525
Department of Defense Authorization Act, 1986 99–145
Department of Defense Authorization Act, 1987 (Division A) 99–661
Department of Energy Act of 1978 95–238
Department of State and Related Agencies Appropriations Act, 1999 (sec. 101(b)) 105–277

Department of State and Related Agency Appropriations Act, 2001 106–553
Department of State and Related Agenciy Appropriations Act, 2002 (title IV) 107–77
Department of State and Related Agenciy Appropriations Act, 2003 (division B, title IV) 108–7
Department of State Appropriations Act, 1988 (sec. 101(a), title III) 100–202
Department of State Appropriations Authorization Act of 1973 93–126
Department of State Authorization Act, Fiscal Year 2003 (division A) 107–228
Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I) 96–60
Department of State Authorization Act, Fiscal Years 1982 and 1983 97–241
Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X) 98–164
Department of State Special Agents Retirement Act of 1998 105–382
Department of the Interior and Related Agencies Appropriations Act, 2003 (division F) 108–7
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986 99–180
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 101–162
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 105–119
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (H.R. 3421, enacted by reference) 106–113
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 107–77
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003 (division B) 108–7
Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959 85–474
Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973 92–544
Diplomatic Relations Act 95–393
Diplomatic Security Act (titles I–IV) 99–399
Dire Emergency Supplemental Appropriations Act, 1988 100–393
Distribution of USIA Materials 102–454
Dolphin Protection Consumer Information Act (title IX) 101–627
Driftnet Act Amendments of 1990 (sec. 206) 94–265

Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV) 100–220
East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C) 107–228
Eastern Pacific Tuna Licensing Act of 1984 98–445
Education Amendments of 1978 95–561
Eisenhower Exchange Fellowship Act of 1990 101–454
Emergency Security Assistance Act of 1973 93–199
Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 104–6
Emergency Supplemental Assistance for Israel Act of 1991 102–21
Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 102–45
Endangered Species Act of 1973 93–205
Energy Emergency Preparedness Act of 1982 97–229
Energy Policy Act of 1992 102–486
Energy Policy and Conservation Act 94–163
Energy Policy and Conservation Act Amendments 96–133
Enhanced Border Security and Visa Entry Reform Act of 2002 107–173
Enterprise for the Americas Act of 1992 (title VI) 102–549
Enterprise for the Americas Initiative Act of 1992 102–532
Establishing a Commission on Security and Cooperation in Europe 94–304
EURATOM Cooperation Act of 1958 85–846
European Bank for Reconstruction and Development Act (sec. 562(c)) 101–513
European Security Act of 1998 (division G, title XXVII) 105–277
Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A) 100–418
Export Administration Act of 1979 96–72
Export Administration Amendments Act of 1981 97–145
Export Administration Amendments Act of 1985 99–64
Export Enhancement Act of 1988 (title II) 100–418
Export Enhancement Act of 1992 102–429
Export Enhancement Act of 1999 106–158
Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a)) 103–465
Export-Import Bank Act Amendments of 1978 (title XIX) 95–630
Export-Import Bank Act Amendments of 1986 99–472
Export-Import Bank Act of 1945 79–173
Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D) 100–418
Export-Import Bank Reauthorization Act of 2002 107–189
Export Loans—Assistance 90–390
Export Trading Company Act of 1982 (title I) 97–290
Extending Certain Privileges to Representatives of Organization of American States 82–486
Extradition Treaties Implementation Act of 1998 105–323

Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II) 100–418
Famine Prevention and Freedom From Hunger Improvement Act of 2000 106–373
Fascell Fellowship Act (title X) 99–399
Fascell Fellowship Amendments Act of 1990 (sec. 9) ... 101–454
Federal Agriculture Improvement and Reform Act of 1996 104–127
Federal Aviation Reauthorization Act of 1996 104–264
Federal Reports Elimination Act of 1998 105–362
Federal Reports Elimination and Sunset Act of 1995 .. 104–66
Federal Triangle Development Act 100–113
Financial Institutions Regulatory and Interest Rate Control Act of 1978 95–630
Financial Reports Act of 1988 (title III, subtitle G) 100–418
Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations 105–235
Fisheries Act of 1995 104–43
Fisheries Amendments of 1982 97–389
Fisherman's Protective Act of 1967 83–680
Fishery Conservation Amendments of 1990 101–627
Fishery Conservation Zone Transition Act 95–6
Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 106–398
Food, Agriculture, Conservation, and Trade Act of 1990 101–624
Food, Agriculture, Conservation, and Trade Act Amendments of 1991 102–237
Food and Agriculture Act of 1977 95–113
Food for Progress Act of 1985 (sec. 1110) 99–198
Food Security Act of 1985 99–198
Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A) 105–277
Foreign Affairs Reform and Restructuring Act of 1998 (division G) 105–277
Foreign Agents Registration Act Amendments 89–486
Foreign Agents Registration Act of 1938 75–583
Foreign Assistance Act of 1961 87–195
Foreign Assistance Act of 1962 87–565
Foreign Assistance Act of 1963 88–205
Foreign Assistance Act of 1964 88–633
Foreign Assistance Act of 1965 89–171
Foreign Assistance Act of 1966 89–583
Foreign Assistance Act of 1967 90–137
Foreign Assistance Act of 1968 90–554
Foreign Assistance Act of 1969, as amended 91–175
Foreign Assistance Act of 1971 92–226
Foreign Assistance Act of 1973 93–189
Foreign Assistance Act of 1974 93–559
Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1)) 98–151
Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I) 100–418
Foreign Corrupt Practices Act of 1977 (title I) 95–213

Foreign Debt Reserving Act of 1989 (title IV) 101–240
Foreign Direct Investment and International Financial Date Improvements Act of 1990 101–533
Foreign Gifts and Decorations Act of 1966 89–673
Foreign Intelligence Surveillance Act of 1978 95–511
Foreign Investment Study Act of 1974 93–479
Foreign Military Sales Act Amendments, 1971 91–672
Foreign Missions Act (title II) 97–241
Foreign Missions Amendments Act (title VI) 98–164
Foreign Narcotics Kingpin Designation Act (title VIII) 106–120
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e)) 100–202
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 101–167
Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991 101–513
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 102–391
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 103–306
Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1997 (title I, sec. 101(c)) 104–208
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference) 106–113
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 106–429
[Kenneth M. Ludden] Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 107–115
Foreign Operations, Export Financing and Related Programs Appropriations Act, 2003 (division E) 108–7
Foreign Relations Authorization Act, Fiscal Year 1976 94–141
Foreign Relations Authorization Act, Fiscal Year 1977 94–350
Foreign Relations Authorization Act, Fiscal Year 1978 95–105
Foreign Relations Authorization Act, Fiscal Year 1979 95–426
Foreign Relations Authorization Act, Fiscal Year 2003 107–228
Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 99–93
Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 100–204
Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 101–246
Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 102–138
Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 103–236
Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B) 105–277
Foreign Relations Authorization Act of 1972 92–352
Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 .. 102–20
Foreign Service Act of 1980 96–465

Foreign Service Buildings Act, 1926 69–186
Foreign Service Retirement Amendments of 1976 (title V) 94–350
Foreign Shipping Practices Act of 1988 (title X) 100–418
Foreign Sovereign Immunities Act of 1976 94–583
Forest Resources Conservation and Shortage Relief Act of 1990 (title IV) 101–382
Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act) 102–511
Freedom Investment Act of 2002 (division A, title VI, subtitle E) 107–228
FRIENDSHIP Act 103–199
Further Continuing Appropriations, 1985 99–190
General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962 87–125
Generalized System of Preferences Renewal Act of 1984 (title V) 98–573
Gerald B.H. Solomon Freedom Consolidation Act of 2002 107–187
German-American Day 103–100
German Democratic Republic Fishery Agreement 100–350
Global AIDS and Tuberculosis Relief Act of 2000 106–264
Global AIDS Research and Relief Act of 2000 (title I) .. 106–264
Global Change Research Act of 1990 101–606
Global Climate Change Prevention Act of 1990 (title XXIV) 101–624
Global Climate Protection Act of 1987 (title XI) 100–204
Global Environmental Protection Assistance Act of 1989 (title VII) 101–240
Governing International Fishery Agreement With Poland 105–384
Governing International Fishery Agreements With Iceland and the European Economic Community (title I) 98–623
Governing International Fishery Agreements With Japan and Spain (title IV) 97–389
Great Ape Conservation Act of 2000 106–411
Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX) 105–277
Helsinki Human Rights Day 103–294
High Seas Driftnet Fisheries Enforcement Act 102–582
High Seas Driftnet Fishing Moratorium Protection Act (title VI) 104–43
High Seas Fishing Compliance Act of 1995 (title I) 104–43
Higher Education Amendments of 1986 99–498
Holocaust Victims Redress Act 105–158
Horn of Africa Recovery and Food Security Act 102–274
Hostage Relief Act of 1980 96–449
Human Rights, Refugees, and Other Foreign Relations Provisions Act of 1996 104–319
Humpback Whales Wildlife Sanctuary (West Indies) ... 99–630

ILSA [Iran and Libya Sanctions Act] Extension Act of 2001 107–24
Immigration Act of 1990 101–649
Immigration and Nationality Act 82–414
Immigration Reform and Control Act of 1986 99–603
Implementation of Compact of Free Association With Palau 101–219
Implementing Agreement for Vienna Convention on Diplomatic Relations 101–62
Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII) 100–202
Inspector General Act of 1978 95–452
Intelligence Authorization Act for Fiscal Year 1985 98–618
Intelligence Authorization Act for Fiscal Year 1996 104–93
Intelligence Authorization Act for Fiscal Year 1997 104–293
Intelligence Authorization Act for Fiscal Year 1998 105–107
Intelligence Authorization Act for Fiscal Year 2000 106–120
Inter-American Development Bank Act 86–147
Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference) 98–473
Intercountry Adoption Act of 2000 106–279
International Academic Opportunities Act of 2000 (title III) 106–309
International Anti-Bribery and Fair Competition Act of 1998 105–366
International Anti-Corrpution and Good Governance Act of 2000 (title II) 106–309
International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference) 106–113
International Atomic Energy Agency Participation Act of 1957 85–177
International Carriage of Perishable Foodstuffs Act 97–325
International Center Act 90–553
International Child Abduction Remedies Act 100–300
International Claims Settlement Act of 1949 81–455
International Coffee Agreement Act of 1980 96–599
International Communication Agency Authorization for Fiscal Year 1979 (title II) 95–426
International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II) 96–60
International Cooperation in Global Change Research Act of 1990 (title II) 101–606
International Cooperation to Protect Biological Diversity 100–530
International Debt Management Act of 1988 (title III, subtitle B) 100–418
International Development and Finance Act of 1989 ... 101–240
International Development and Food Assistance Act of 1975 94–161
International Development and Food Assistance Act of 1977 95–88
International Development and Food Assistance Act of 1978 95–424

International Development Association Act 86–565
International Development Cooperation Act of 1979 96–53
International Dolphin Conservation Act of 1992 102–523
International Dolphin Conservation Program Act 105–42
International Emergency Economic Powers Act (title II) 95–223
International Energy Emergency Authorities: Extension 100–373
International Environmental Protection Act of 1983 (title VII) 98–164
International Finance Corporation Act 84–350
International Financial Institutions Act 95–118
International Forestry Cooperation Act of 1990 (title VI) 101–513
International Investment and Trade in Services Survey Act 94–472
International Lending Supervision Act of 1983 (title IX) 98–181
International Malaria Control Act (title I) 106–570
International Maritime and Port Security Act (title IX) 99–399
International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III) 107–56
International Narcotics Control Act of 1985 (title VI) .. 99–83
International Narcotics Control Act of 1986 (title II) ... 99–570
International Narcotics Control Act of 1988 (title IV) .. 100–690
International Narcotics Control Act of 1989 101–231
International Narcotics Control Act of 1990 101–623
International Narcotics Control Corrections Act of 1994 103–447
International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981 96–271
International Organizations Immunities Act 79–291
International Parental Kidnapping Crime Act 105–173
International Peacekeeping Act of 1992 102–311
International Religious Freedom Act of 1998 105–292
International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2)) 98–151
International Security and Development Cooperation Act of 1980 96–533
International Security and Development Cooperation Act of 1981 97–113
International Security and Development Cooperation Act of 1985 99–83
International Security Assistance Act of 1977 95–92
International Security Assistance Act of 1978 95–384
International Security Assistance Act of 1979 96–92
International Security Assistance and Arms Export Control Act of 1976 94–329
International Sugar Agreement, 1977, Implementation 96–236
International Trade and Investment Act (title III) 98–573
International Tuberculosis Control Act of 2000 (title II) 106–264
Intervention on the High Seas Act 93–248

Iran and Libya Sanctions Act of 1996 104–172
Iran Claims Settlement (title V) 99–93
Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI) 102–484
Iran Nonproliferation Act of 2000 106–178
Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D) 107–228
Iraq Liberation Act of 1998 105–338
Iraq Sanctions Act of 1990 (secs. 586–586J) 101–513
Irish Peace Process Cultural and Training Program Act of 1998 105–319
Japan-United States Friendship Act 94–118
Japanese Imperial Government Disclosure Act of 2000 (title VIII) 106–567
Jerusalem Embassy Act of 1995 104–45
Jobs Through Exports Act of 1992 102–549
Jobs Through Trade Expansion Act of 1994 103–392
Johnson Act—Financial Transactions With Foreign Governments 80–772
Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai 94–110
Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV) 99–88
Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 107–115
Latin American Development Act 86–735
Lebanon Emergency Assistance Act of 1983 98–43
Legislative Branch Appropriation Act, 1961 86–628
Logan Act—Private Correspondence With Foreign Governments 80–772
Magnuson-Stevens Fishery Conservation and Management Act of 1976 94–265
Marine Mammal Protection Act of 1972 92–522
Mexican Debt Disclosure Act of 1995 (title IV) 104–6
Mexico-United States Interparliamentary Group 86–420
Microenterprise for Self-Reliance Act of 2000 (title I) .. 106–309
Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 106–309
Microenterprise Report to Congress 108–31
Micronesian Claims Act of 1971 92–39
Middle East Peace Facilitation Act of 1993 103–125
Middle East Peace Facilitation Act of 1994 (title V, part E) 103–236
Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A) 107–228
Migration and Refugee Assistance Act of 1962 87–510
Mike Mansfield Fellowship Act (title II, part C) 103–236
Miscellaneous Amendments and Authorization—FYs 1996 and 1997 104–164
Miscellaneous Appropriations, 2000 (H.R. 3425, enacted by reference) 106–113
Miscellaneous Appropriations Act, 2003 (division N) ... 108–7

Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference) 100–461
Miscellaneous Trade and Technical Corrections Act of 1999 106–36
Missile Defense Act of 1991 (title II, part C) 102–190
Most-Favored-Nation Treatment for Cambodia 104–203
Most-Favored-Nation Treatment for People's Republic of Bulgaria 102–158
Most-Favored-Nation Treatment for People's Republic of Bulgaria 104–162
Most-Favored-Nation Treatment for Czechoslovakia 101–541
Most-Favored Nation Treatment for Mongolian People's Republic 102–157
Most-Favored-Nation Treatment for Romania 104–171
Most-Favored Nation Treatment for the Union of Soviet Socialist Republics 102–197
Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference) 99–190
Multilateral Development Banks Procurement Act (title III, subtitle C) 100–418
Multilateral Development Banks: Sense of Congress (title X) 98–181
Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II) 100–418
Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV) 100–202
Multinational Force and Observers Participation Resolution 97–132
Multinational Force in Lebanon Resolution 98–119
Mutual Educational and Cultural Exchange Act of 1961 87–256
Mutual Security Act of 1954 83–665
Mutual Security Act of 1959 86–108
Mutual Security Act of 1960 86–472
National Academy of Peace and Conflict Resolution (title XV, part B) 95–561
National Aeronautics and Space Act of 1958 85–568
National Aeronautics and Space Administration Authorization Act, 1976 94–39
National Aeronautics and Space Administration Authorization Act of 1988 100–147
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 100–685
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 101–611
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992 102–195
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 102–588
National and Community Service Act of 1990 101–610
National Critical Materials Act of 1984 (title II) 98–373
National Defense Authorization Act, Fiscal Year 1987 99–661
National Defense Authorization Act, Fiscal Year 1989 100–456

National Defense Authorization Act for Fiscal Years 1988 and 1989 100–180
National Defense Authorization Act for Fiscal Years 1990 and 1991 101–189
National Defense Authorization Act for Fiscal Year 1991 101–510
National Defense Authorization Act for Fiscal Years 1992 and 1993 102–190
National Defense Authorization Act for Fiscal Year 1993 102–484
National Defense Authorization Act for Fiscal Year 1994 103–160
National Defense Authorization Act for Fiscal Year 1995 103–337
National Defense Authorization Act for Fiscal Year 1996 104–106
National Defense Authorization Act for Fiscal Year 1997 104–201
National Defense Authorization Act for Fiscal Year 1998 105–85
National Defense Authorization Act for Fiscal Year 1999 105–262
National Defense Authorization Act for Fiscal Year 2000 106–65
[Floyd D. Spence] National Defense Authorization Act for Fiscal Year 2001 106–398
National Defense Authorization Act for Fiscal Year 2002 107–107
[Bob Stump' National Defense Authorization Act for Fiscal Year 2003 107–314
National Emergencies Act 94–412
National Endowment for Democracy Act (title V) 98–164
National Former Prisoners of War Recognition Day 103–60
National Missile Defense Act of 1999 106–38
National Science Foundation Act of 1950 81–507
National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference) 106–113
National Security Council 80–253
National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D) 103–160
National Space Council Authorization Act of 1990 101–328
National Terrorist Asset Trading Center 106–346
NATO Participation Act of 1994 (title II) 103–447
Nazi War Crimes Disclosure Act 105–246
Neotropical Migratory Bird Conservation Act 106–247
Neutrality Act of 1939 76–54
Nicaraguan Adjustment and Central American Relief Act (title II) 105–100
Nondiscriminatory Treatment Toward Products of Albania 102–363
Nondiscriminatory Treatment Toward Products of Romania 103–133

Nonproliferation Assistance Coordinationa Act of 2002 107–228
Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 101–646
North American Free Trade Agreement Implementation Act 103–182
North Atlantic Treaty Organization Mutual Support Act of 1979 96–323
North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference) 106–113
North Pacific Anadromous Stocks Act of 1992 (title VIII) 102–567
North Pacific Anadromous Stocks Convention Act of 1992 (title VIII) 102–587
Northwest Atlantic Fisheries Convention Act of 1995 (title II) 104–43
Nuclear Non-Proliferation Act of 1978 95–242
Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation 96–280
Nuclear Proliferation Prevention Act of 1994 (title VIII) 103–236
Nuclear Waste Policy Act of 1982 97–425
Oceans Act of 1992 102–587
Oceans Act of 2000 106–256
Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII) 105–277
Oil Pollution Act of 1990 101–380
Omnibus Budget Reconciliation Act of 1990 101–508
Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 105–277
Omnibus Consolidated Appropriations for Fiscal Year 1997 104–208
Omnibus Diplomatic Security and Antiterrorism Act of 1986 99–399
Omnibus Insular Areas Act of 1992 102–247
Omnibus Trade and Competitiveness Act of 1988 100–418
Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 102–28
Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference) 100–461
Pacific Charter Commission Act of 2000 (title IV) 106–570
Pacific Salmon Treaty Act of 1985 99–5
Paul D. Coverdell Fellows Program Act of 2000 (sec. 408) 106–309
Paul D. Coverdell World Wise Schools Act of 2000 (title VI) 106–570
Panama Canal Act of 1979 96–70
Panama Canal Act Amendments of 1996 104–201
Panama Canal Commission Authorization Act for Fiscal Year 1990 (title XXXV) 101–189
Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV) 101–510
Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV) 102–190

Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV) 102–484
Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV) 103–160
Panama Canal Commission Authorization Act for Fiscal Year 1995 (title XXXVI) 103–337
Panama Canal Commission Authorization Act for Fiscal Year 1996 (title XXXV) 104–106
Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV) 104–201
Panama Canal Commission Authorization Act for Fiscal Year 1998 (title XXXV) 105–85
Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV) 105–261
Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV) 106–65
Par Value Modification Act 92–268
Par Value Modification Act—Foreign Currency Reports (title II) 93–110
Peace Corps Act 87–293
Peace Corps Act Amendments 89–134
Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI) 99–83
Peace Corps Authorization for Fiscal Year 1993 102–565
Peace Corps Reauthorization 106–30
Peace Process in Liberia 102–270
Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 102–25
Persian Gulf POW/MIA Accountability Act of 2002 107–258
Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G) 100–418
PLO Commitments Compliance Act of 1989 (title VIII) 101–246
President's Emergency Food Assistance Act of 1984 (title III) 98–473
Primary Dealers Act of 1988 (title III, subtitle F) 100–418
Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference) 106–113
Protection and Reduction of Government Secrecy Act (title IX) 103–236
Protection of Antarctica 101–620
Protection of Foreign Missions 97–418
Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund 96–259
Quincentenary of Voyage of Christopher Columbus 102–472
R.M.S. Titanic Maritime Memorial Act of 1986 99–513
Radio Broadcasting to Cuba Act 98–111
Radio Free Afghanistan 107–148
Radio Free Asia Act of 1998 (title XXXIX) 105–261
Reaffirming North Atlantic Alliance—United States Commitment 96–9
Reaffirming the Unity of the North Atlantic Alliance Commitment 95–287

Records Relating to Nazi Warm Crimes 104–309
Refugee Act of 1980 96–212
Refugee Education Assistance Act of 1980 96–422
Release of USIA Materials to Museums 99–475
Release of USIA Materials: "Fragile Ring of Life" 104–161
Release of USIA Materials: VOA, Radio Marti Recordings 104–269
Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII) 98–164
Resolution To Promote Peace and Stability in the Middle East 85–7
Rhinoceros and Tiger Conservation Act of 1994 103–391
Rhinoceros and Tiger Conservation Act of 1998 105–312
Rhinoceros and Tiger Conservation Reauthorization Act of 2001 107–112
Rio Grande American Canal Extension Act of 1990 101–438
Rio Grande Pollution Correction Act of 1987 100–465
Russian Democracy Act of 2002 107–246
Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B) 107–228
Ryukyu Islands Claims Settlement Act 89–296
Sales of Arms to Jordan 99–162
Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V) 104–43
Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference) 106–113
Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference) 106–113
Security Assistance Act of 2000 106–280
Security Assistance Act of 2002 (division B) 107–228
Shark Finning Prohibition Act 106–557
Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference) 106–113
Small Business International Trade and Competitiveness Act (title VII) 100–418
South African Democratic Transition Support Act of 1993 103–149
South Pacific Tuna Act of 1988 100–330
Soviet Nuclear Threat Reduction Act of 1991 (title II) 102–228
Soviet Scientists Immigration Act of 1992 102–509
Special Drawing Rights Act 90–349
Special Foreign Assistance Act of 1971 91–652
Special Foreign Assistance Act of 1986 99–529
Special International Security Assistance Act of 1979 96–35
Spoils of War Act of 1994 (title V, part B) 103–236
State Department Basic Authorities Act of 1956 84–885
State Department/USIA Authorization Act, Fiscal Year 1975 93–475
Steel Import Stabilization Act (title VIII) 98–573
Strategic and Critical Materials Transaction Authorization Act of 1979 96–175

Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000 106–555
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 105–261
Sudan Peace Act 107–245
Supplemental Appropriations Act of 1993 103–50
Supplemental Appropriations Act, 1984 98–181
Supplemental Appropriations Act, 1985 99–88
Support for East European Democracy (SEED) Act of 1989 101–179
Support for Overseas Cooperative Development Act (sec. 401) 106–309
Survival Assistance for Victims of Civil Strife in Central America 101–215
Sustainable Fisheries Act 104–297
Taiwan's Particpation in the World Health Organization 108–28
Taiwan Relations Act 96–8
Tariff Act of 1930 71–361
Tariff Suspension and Trade Act of 2000 106–476
Telecommunications Trade Act of 1988 (title I, subtitle C, part 4) 100–418
Termination of Trade Restrictions to Czechoslovakia and Hungary 102–182
Terrorist Bombings Covnention Implementation Act of 2002 107–197
Tibetan Policy Act 2002 (division A, title VI, subtitle B) 107–228
To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974 103–372
Tonkin Gulf Resolution 88–408
Torture Victim Protection Act of 1991 102–256
Torture Victims Relief Reauthorization Act of 1999 106–87
Tourism Policy and Export Promotion Act of 1992 102–372
Trade Act of 1974 93–618
Trade Act of 2002 107–210
Trade Agreements Act of 1979 96–39
Trade and Development Act of 2000 106–200
Trade and Development Enhancement Act of 1983 (title VI, part C) 98–181
Trade and Tariff Act of 1984 98–573
Trade Deficit Review Commission Act (division A, sec. 127) 105–277
Trade Expansion Act of 1962 87–794
Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX) 106–387
Trading With the Enemy Act 65–91
Trafficking Victims Protection Act of 2000 (division A) 106–386
Trans-Alaska Pipeline Authorization Act 93–153
Tropical Forest Conservation Act of 1998 (part V) 87–195
Trust Territory of the Pacific Islands Act 92–257
Tuna Conventions Act of 1950 81–764
U.S.-China Relations Act of 2000 106–286

U.S. Holocaust Assets Commission Act of 1998 105–186
U.S.-U.S.S.R. Fishing Agreement 100–629
United Nations Environment Program Participation Act of 1973 93–188
United Nations Headquarters Agreement Act 80–357
United Nations Participation Act of 1945 79–264
United Nations Reform Act of 1998 (division F, subdivision C) 105–277
United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference) 106–113
United States-Canada Free Trade Agreement Implementation Act of 1988 100–449
United States Government Opposition to the Practice of Torture 98–447
United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution ... 84–689
United States-Hong Kong Policy Act of 1992 102–383
United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX) 98–164
United States Information Agency Authorization for Fiscal Year 1977 (title II) 94–350
United States Information Agency Authorization for Fiscal Year 1978 (title II) 95–105
United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III) 97–241
United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II) 98–164
United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II) 99–93
United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II) 100–204
United States Information and Educational Exchange Act of 1948 80–402
United States Institute for Peace Act (title XVII) 98–525
United States International Broadcasting Act of 1994 (title III) 103–236
United States-Israel Free Trade Area Implementation Act of 1985 99–47
United States-Japan Fishery Agreement Approval Act of 1987 100–220
United States-Jordan Free Trade Area Implementation Act 107–43
United States-Korea Fishery Agreement 100–66
United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 108–25
United States-Macau Policy Act of 2000 (title II) 106–570
United States Policy Toward Haiti 103–423
United States Recognition and Participation in International Expositions 91–269
United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI) 99–93

Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 107–56
Urgent Assistance for Democracy in Panama Act of 1990 101–243
Uruguay Rounds Agreements Act 103–465
Victims of Terrorism Compensation Act (title VIII) 99–399
Victims of Trafficking and Violence Protection Act of 2000 106–386
Vietnam Education Foundation Act of 2000 (title II) ... 106–554
Visa for Officials of Taiwan 103–416
War Powers Resolution 93–148
Weapons of Mass Destruction Control Act of 1992 (title XV) 102–484
Western Hemisphere Drug Elimination Act (division C, title VIII) 105–277
Western Hemisphere Drug Elimination Technical Corrections Act 106–35
Whaling Convention Act of 1949 81–676
Wild Bird Conservation Act of 1992 102–440
Wine Equity and Export Expansion Act of 1984 (title IX) 98–573
Withdrawal of MFN From Serbia and Montenegro 102–420
World Food Day 103–108
Yukon River Salmon Act of 1995 (title VII) 104–43
Yukon River Salmon Act of 2000 106–450
Zimbabwe Democracy and Economic Recovery Act of 2001 107–99

USE OF THE INDEX

The index is organized by subject matter only. Each subject entry also includes the legal citation indicating the document to which it refers. These legal citations were not chosen on the basis of standard legal citation form, but rather for the amount of information they provided and for convenience in producing a computer-printed index.

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

INDEX

A

Abkhazia-U.S. relations
Confidence building measures
Appropriations, 2003 ..... PL 108–7 Title II 823
Abortions
Foreign aid funding prohibition ..... PL 87–195 Sec 104(f) 40
PL 108–7 Title II 814
PL 108–7 Sec 518 843
Lobbying for
Foreign aid funding prohibition ..... PL 108–7 Sec 518 843
Peace Corps
Foreign aid funding prohibition ..... PL 108–7 Title II 825
Acquired Immune Deficiency Syndrome (AIDS)
(see HIV/AIDS)
Act of state doctrine
Courts to decline
Recognition of ..... PL 87–195 Sec 620(e)(2) 301
Afghanistan Freedom Support Act of 2002 ... PL 107–327 536
Drawdown support
Supplemental appropriations, 2003 PL 108–11 Sec 1307 891
Afghanistan-U.S. relations
Assistance prohibition ..... PL 87–195 Sec 620D 313
Economic Support Fund ..... PL 99–83 Sec 904 693
Foreign aid ..... PL 108–11 Ch 5 888
Enterprise fund
Appropriations authorization ..... PL 107–327 Sec 103(c) 544
Foreign aid
Assistance authorization ..... PL 107–327 Sec 103 537
Assistance coordination ..... PL 107–327 Sec 104 544
Assistance determination ..... PL 107–327 Sec 103(b)(1) 543
Assistance waiver ..... PL 107–327 Sec 103(b)(2) 543
Counternarcotics efforts ..... PL 107–327 Sec 103(a)(3) 539
Donor contributions ..... PL 107–327 Sec 303 552
Establishing a market economy ..... PL 107–327 Sec 103(a)(6) 542
Purposes of ..... PL 107–327 Sec 102 536
Rebuilding infrastructure ..... PL 107–327 Sec 103(a)(4) 540
Rebuilding viable government ..... PL 107–327 Sec 103(a)(5) 541
Refugee repatriation and resettlement. PL 107–327 Sec 103(a)(2) 539
U.S. policies ..... PL 107–327 Sec 101 536
Women and girls assistance ..... PL 107–327 Sec 103(a)(7) 542
PL 108–7 Sec 523 845
Humanitarian aid
Appropriations, 2003 ..... PL 108–7 Sec 523 845
PL 108–7 Title II 816
International security assistance force
Expansion of ..... PL 107–327 Sec 206(d) 550
Findings of Congress ..... PL 107–327 Sec 206 548
Light weapons destruction
Supplemental appropriations, 2002 PL 107–206 Title I 908
Military aid
Assistance authorization ..... PL 107–327 Sec 202 546

Afghanistan-U.S. relations—Continued
Military aid—Continued
Security during transition ..... PL 107–327 Sec 201 546
Opium producing areas
U.S. opposition to assistance ..... PL 107–327 Sec 105 544
Promoting security
Findings of Congress ..... PL 107–327 Sec 206 548
Report to Congress ..... PL 107–327 Sec 206(c) 549
Protection of its President
Sense of Congress ..... PL 107–327 Sec 302 551
Security needs strategy
Report to Congress ..... PL 107–206 Sec 603 912
Women
Programs supporting ..... PL 108–7 Sec 523 845
Africa-U.S. relations
Economic Support Fund
Commodity import programs ..... PL 99–83 Sec 801 685
Foreign aid ..... PL 87–195 Sec 206 94
Famine relief assistance ..... PL 87–195 Sec 495K 202
Locust plagues ..... PL 95–424 Sec 120 751
Refugees ..... PL 87–195 Sec 495F 199
Trade
United States Commercial Centers PL 102–549 Sec 401 629
Africa, sub-Saharan-U.S. relations
Arms sales
Limited ..... PL 90–629 Sec 33 430
Debt-for-nature exchanges ..... PL 87–195 Ch 7 172
Developmental activities
Women ..... PL 87–195 Sec 496(g) 205
Developmental aid
Agriculture and natural resources ... PL 87–195 Sec 496(i) 206
Critical sectors ..... PL 87–195 Sec 496(j) 207
Findings of Congress ..... PL 87–195 Sec 496 203
Private and voluntary organizations PL 87–195 Sec 496(e) 205
SADCC projects ..... PL 87–195 Sec 496(o) 208
Human rights
Promoting adherence to ..... PL 87–195 Sec 116(e) 60
African Development Bank
Appropriations, 2003 ..... PL 108–7 Title IV 834
Foreign aid ..... PL 87–195 Sec 206 94
African Development Foundation ..... PL 95–424 Sec 122 751
Activities
Authorities for ..... PL 108–7 Sec 532 851
Appropriations authorization ..... PL 96–533 Sec 510 731
Appropriations authorization, 1984 ..... PL 98–151 Sec 101(b)(2) 701
Appropriations, 2003 ..... PL 108–7 Title II 825
Established ..... PL 96–533 Sec 503 728
Functions ..... PL 96–533 Sec 505 728
Management of ..... PL 96–533 Sec 507 730
Powers ..... PL 96–533 Sec 506 729
Purposes ..... PL 96–533 Sec 504 728
African Development Foundation Act ..... PL 96–533 Sec 501 727
African Development Fund
Appropriations, 2003 ..... PL 108–7 Title IV 834
Agency for International Development
Abortions
Foreign aid funding prohibition ..... PL 108–7 Title II 814
Budget submission
Report to Congress ..... PL 102–391 Sec 599E 975
Capital investments
Appropriations, 2003 ..... PL 108–7 Title II 818
Capital projects
Credit guarantees ..... PL 102–549 Sec 307 629
Report to Congress ..... PL 102–549 Sec 302(c) 627
Capital projects office
Established ..... PL 102–549 Sec 302 627
Child survival and health programs
Appropriations, 2003 ..... PL 108–7 Title II 812

Agency for International Development—Continued		
Developing countries		
Biological diversity	PL 87–195 Sec 119(g)	70
Tropical forests	PL 87–195 Sec 118(e)	69
Development assistance		
Appropriations, 2003	PL 108–7 Title II	814
Employees		
Volunteer separation incentives	PL 106–113 Sec 579	934
Family planning/reproductive health	PL 108–7 Title II	813
Foreign aid		
Using nongovernmental organizations.	PL 99–83 Sec 311	653
Global Fund to Fight AIDS, Tuberculosis and Malaria.	PL 108–7 Title II	813
	PL 107–206 Title I	905
HIV/AIDS		
Appropriations, 2003	PL 108–7 Title II	813
Global fund to combat	PL 108–7 Title II	813
Information technology procurement		
Appropriations, 2003	PL 108–7 Title II	818
Inspector General		
Overseas Private Investment Corporation.	PL 87–195 Sec 239(e)	136
International Mother and Child HIV Prevention Initiative.	PL 108–7 Title II	813
Office of Inspector General		
Appropriations, 2003	PL 108–7 Title II	818
Operating expenses		
Appropriations, 2003	PL 108–7 Title II	818
Supplemental appropriations, 2002	PL 107–206 Title I	906
Supplemental appropriations, 2003	PL 108–11 Ch 5	886
Overseas construction		
Appropriations, 2003	PL 108–7 Title II	818
Overseas Private Investment Corporation management.	PL 87–195 Sec 233(b)	117
Personnel		
Unified system	PL 95–424 Sec 401	752
Private Investment Advisory Council on Foreign Aid.	PL 87–195 Sec 601(c)	281
Program for intellectual property protection.	PL 103–392 Sec 501	624
Property Management Fund		
Use of	PL 101–513 Sec 585	983
Report to Congress		
Democracy transition initiatives	PL 108–7 Title II	816
Microenterprise Act, 2000	PL 108–31 Sec 4	503
Social and economic programs		
Appropriations, 2003	PL 108–7 Title II	827
Supporting childhood immunization	PL 99–529 Sec 102	638
UNICEF		
Appropriations, 2003	PL 108–7 Title II	813
Vaccine Fund, The		
Appropriations, 2003	PL 108–7 Title II	813
Voluntary family planning projects		
Funding availability	PL 108–7 Title II	814
Aging		
United Nations		
World Assembly on	PL 95–424 Sec 117(e)	751
Agricultural commodities		
(see also Agricultural commodity sales)		
Of U.S. origin		
Purchasing	PL 99–83 Sec 205	652
Tied aid credits program	PL 99–83 Sec 206	652
Agricultural commodity sales		
(see also Food aid)		
Appropriations authorization	PL 92–226 Sec 2	787

Agricultural commodity sales—Continued
Foreign currencies
Release prohibited ..... PL 87–195 Sec 612 292
Agriculture
Food production
Research ..... PL 87–195 Sec 296 143
International Fertilizer Development Center
U.S. participation ..... PL 87–195 Sec 301(f) 156
Less-developed countries
Foreign aid ..... PL 87–195 Sec 222A 700
Plant biotechnology research and development
Appropriations, 2003 ..... PL 108–7 Title II 815
Research ..... PL 87–195 Sec 103A 32
International cooperation ..... PL 87–195 Sec 297 148
Agriculture, Secretary of
(see Agricultural commodity sales)
Aid, Trade, and Competitiveness Act of 1992 PL 102–549 Sec 301 627
Aircraft
AWACS
Foreign military sales ..... PL 99–83 Sec 131 647
Airports (foreign)
Airport security ..... PL 99–83 Sec 551 657
Explosive detection techniques ..... PL 99–83 Sec 557 658
Albert Schweitzer Hospital
U.S. grants to ..... PL 93–189 Sec 33 782
Algeria-U.S. relations
International military education and training
Restrictions on ..... PL 108–7 Title III 830
Alien employees
Foreign aid program ..... PL 87–195 Sec 635(f) 338
Aliens
Status
Adjustment by Attorney General ..... PL 101–167 Sec 599E 999
Amerasians
Vietnamese
Admission to United States ..... PL 100–202 Sec 584 1004
American National Red Cross
Assisting in development and relief
Foreign aid funds ..... PL 87–195 Sec 123(b) 74
American Schools and Hospitals Abroad
Appropriations, 2003 ..... PL 108–7 Title II 815
Andean Counterdrug Initiative
Appropriations, 2003 ..... PL 108–7 Title II 826
Department of State
Appropriations for administrative expenses. PL 108–7 Title II 828
Supplemental appropriations, 2003 PL 108–11 Ch 5 828
Andean region-U.S. relations
Drug control
Social and economic programs ..... PL 108–7 Title II 827
Andrei Sakharov Archives and Human Rights Center
Grant
Appropriations authorization ..... PL 107–246 Sec 7 557
Anti-terrorism assistance programs
Appropriations authorization ..... PL 87–195 Sec 574 275
Apartheid
U.S. policy toward ..... PL 99–83 Sec 803 687
Appropriations
Obligations (U.S.)
Availability and closing ..... 31 USC 1552–1555 1010
Availability following resolution of protest. 31 USC 1558 1014

Appropriations—Continued
Remaining balances
Availability ..... 31 USC 1502 1010
Requests for
Submission to President ..... 31 USC 1108 1008
Appropriations, fiscal year 1984
Foreign aid programs ..... PL 98–151 701
Appropriations, fiscal year 1988
Foreign aid programs ..... PL 100–202 1001
Appropriations, fiscal year 1990
Foreign aid programs ..... PL 101–167 987
Appropriations, fiscal year 1991
Foreign aid programs ..... PL 101–513 976
Appropriations, fiscal year 1993
Foreign aid programs ..... PL 102–391 972
Appropriations, fiscal year 1994
Foreign aid programs ..... PL 103–306 970
Appropriations, fiscal year 1997
Foreign aid programs ..... PL 104–208 959
Appropriations, fiscal year 1999
Emergency supplemental ..... PL 106–31 946
Foreign aid programs ..... PL 105–277 951
Appropriations, fiscal year 2000
Foreign aid programs ..... PL 106–113 932
Rescissions ..... PL 106–113 Note 932
Appropriations, fiscal year 2001
Foreign aid programs ..... PL 106–429 916
Appropriations, fiscal year 2002
Foreign aid programs ..... PL 107–115 914
Supplemental ..... PL 107–206 900
General provisions ..... PL 107–206 Ch 14 912
Appropriations, fiscal year 2003
Continuing ..... PL 107–229 895
Emergency Wartime Supplemental ..... PL 108–11 879
Foreign aid programs ..... PL 108–7 809
PL 108–11 879
Arab League-U.S. relations
Boycott of Israel
Sense of Congress ..... PL 108–7 Sec 535 854
Arab-Israeli conflict
(see Middle East)
Arbitration
Nationalizations
Foreign aid cut-off ..... PL 87–195 Sec 620(e)(1) 300
Armed Forces
(see Military)
Armenia-U.S. relations
Foreign aid, 2003 ..... PL 108–7 Title II 823
Arms control
Conventional arms transfers
Negotiations to limit ..... PL 99–83 Sec 129 641
Report to Congress ..... PL 99–83 Sec 129 641
Conventional weapons
Developing nations ..... PL 93–559 Sec 51 778
Foreign military budgets
Foreign aid considerations ..... PL 87–195 Sec 620(s) 305
Former Soviet Union
Foreign aid eligibility waiver ..... PL 107–206 Sec 302 912
International strategy
Report to Congress ..... PL 107–228 Sec 1309 576
Key Verification Assets Fund
Appropriations authorization ..... PL 107–228 Sec 1102 566
Less-developed countries
Limiting conventional arms ..... PL 99–83 Sec 129 641
Lethal products
Review of ..... PL 95–92 Sec 27 764
Military aid considerations ..... PL 87–195 Sec 511 246

Arms control—Continued
South Asia
Findings of Congress ..... PL 87–195 Sec 620F 318
Sense of Congress ..... PL 87–195 Sec 620F 318
U.S. foreign policy goals ..... PL 90–629 Sec 1 389
Verification and compliance
Appropriations authorization ..... PL 107–228 Sec 1101 565
Arms Export Control Act ..... PL 90–629 385
Foreign aid ..... PL 87–195 Sec 636(g) 334
Arms sales
Foreign persons
Economic sanctions against ..... PL 90–629 Sec 81 488
International controls on ..... PL 90–629 Sec 1 389
Training and related support
Exchange of ..... PL 90–629 Sec 30A 426
Report to Congress ..... PL 90–629 Sec 30A(d) 427
Arms sales (U.S.)
Administration of
Expenses ..... PL 90–629 Sec 43 470
Appropriations authorization ..... PL 90–629 Sec 31 427
Cash sales ..... PL 90–629 Sec 22 411
Civilian contract personnel
Use of ..... PL 90–629 Sec 42(f) 470
Commercial exports
Agent fees ..... PL 90–629 Sec 39 456
Illegal payments ..... PL 94–329 Sec 607 771
Items manufactured by U.S. Government. PL 90–629 Sec 30 425
Presidential certification ..... PL 90–629 Sec 36(c) 440
Suspension ..... PL 90–629 Sec 42(e) 469
Coproduction outside United States ..... PL 90–629 Sec 42(b) 468
Countries not supporting U.S. anti-terrorism efforts
Prohibited transactions ..... PL 90–629 Sec 40A 466
Countries supporting international terrorism
Prohibited transactions ..... PL 90–629 Sec 40 459
Country exemptions
Bilateral agreements ..... PL 90–629 Sec 38(j) 454
Credit sales ..... PL 90–629 Sec 23 413
Appropriations authorization, 2003 PL 107–228 Sec 1201 566
Audits on private firms ..... PL 90–629 Sec 23(f) 416
Available for countries other than Israel and Egypt. PL 90–629 Sec 23(h) 417
Interest rates ..... PL 90–629 Sec 23(c) 416
Report to Congress ..... PL 90–629 Sec 23(g) 416
Credits
Repayment ..... PL 96–92 Sec 17(b) 736
Defense Trade Application System
Automation of ..... PL 107–228 Sec 1403 588
Egypt ..... PL 99–83 Sec 101(d) 644
Eligibility of foreign countries ..... PL 90–629 Sec 3 392
End-use monitoring ..... PL 90–629 Sec 40A 466
Foreign governments
Authorized uses of ..... PL 90–629 Sec 4 400
Foreign intimidation and harassment ..... PL 90–629 Sec 6 402
Grants
Appropriations, 2003 ..... PL 108–7 Title III 831
Supplemental appropriations, 2003 PL 108–11 Ch 5 831
Greece ..... PL 99–83 Sec 101(e) 644
Guarantees to U.S. entities ..... PL 90–629 Sec 24 417
Haiti
Eligibility for ..... PL 108–7 Sec 551 860
Implementation of ..... PL 91–672 791
Incentive payments
Prohibition on ..... PL 90–629 Sec 39A 457
Israel ..... PL 99–83 Sec 101(c) 644

Arms sales (U.S.)—Continued
Israel—Continued
PL 91–672 Sec 5 791
Policy on ..... PL 95–92 Sec 26 764
Javits reports ..... PL 90–629 Sec 25 418
Jordan ..... PL 99–83 Sec 130 646
Presidential certification ..... PL 99–83 Sec 130(c) 647
Leasing
Authority ..... PL 90–629 Sec 61 475
Congressional review ..... PL 90–629 Sec 63 478
Less-developed countries ..... PL 90–629 Sec 1 389
Licensed production outside United States. PL 90–629 Sec 42(b) 468
Licensing requirements
Country exemptions ..... PL 90–629 Sec 38(j) 454
Military construction services ..... PL 90–629 Sec 29 425
Missiles and missile technology
Export controls ..... PL 90–629 Sec 71 480
Transfer of ..... PL 90–629 Sec 71 480
NATO/CFE countries
Definitions ..... PL 90–629 Sec 95 494
Report to Congress ..... PL 90–629 Sec 94 493
Transfers ..... PL 90–629 Sec 93 492
North Atlantic Treaty Organization
Cooperative projects ..... PL 90–629 Sec 27 421
Presidential certification ..... PL 90–629 Sec 36(b) 431
Published in *Federal Register* ..... PL 90–629 Sec 36(f) 444
Presidential waiver ..... PL 90–629 Sec 40(g) 464
Procurement contracts
Competitive pricing ..... PL 90–629 Sec 22(d) 412
Procurement outside United States ..... PL 90–629 Sec 42(c) 469
Presidential determination ..... PL 90–629 Sec 42(c) 469
Prohibited countries ..... PL 90–629 Sec 40(d) 461
Regulations ..... PL 90–629 Sec 38 445
Reimbursements ..... PL 87–195 Sec 524 256
Report to Congress ..... PL 90–629 Sec 25 418
PL 90–629 Sec 36 431
PL 90–629 Sec 36(b) 434
PL 99–83 Sec 106 645
Sales from stocks ..... PL 90–629 Sec 21 402
Saudi Arabia ..... PL 99–83 Sec 131 647
Secretary of State's authority ..... PL 90–629 Sec 2 391
Security assistance surveys ..... PL 90–629 Sec 26 421
Sophisticated weapons
Presidential determination ..... PL 90–629 Sec 4 400
Restrictions on ..... PL 90–629 Sec 4 400
Special Defense Acquisition
Established ..... PL 90–629 Sec 51 473
Taiwan
Non-NATO ally designation ..... PL 107–228 Sec 1206 567
Transfers
Presidential certification ..... PL 90–629 Sec 3(d) 395
Report to Congress ..... PL 90–629 Sec 3(d)(3) 397
Turkey ..... PL 99–83 Sec 101(f) 645
U.S. persons
Prohibited activities ..... PL 90–629 Sec 72 480
Prohibited transactions ..... PL 90–629 Sec 40(b) 460
Unauthorized use of ..... PL 90–629 Sec 3(c) 392
United Nations obligations ..... PL 90–629 Sec 4 400
United States Munitions List
Exports and imports ..... PL 90–629 Sec 38 445
Waivers
Report to Congress ..... PL 90–629 Sec 40(g)(2) 464
Worldwide ..... PL 91–672 Sec 6 791
Asia-U.S. relations
Amerasian children
Report to Congress ..... PL 99–83 Sec 903(b) 692

Asia-U.S. relations—Continued
Foreign aid
Disadvantaged children ..... PL 87–195 Sec 241 142
Trade
United States Commercial Centers PL 102–549 Sec 401 629
Asian Development Bank
Appropriations authorization ..... PL 93–189 Sec 28 781
Program review, evaluation, and audit .. PL 87–195 Sec 301(e)(2) 156
Asian Development Fund
Appropriations, 2003 ..... PL 108–7 Title IV 834
Australia-U.S. relations
Standardization agreements ..... PL 90–629 Sec 21(g) 407
AWACS
Saudi Arabia
Presidential certification ..... PL 99–83 Sec 131 647

B

Bahrain-U.S. relations
Establishing categories for refugee determinations. PL 101–167 Sec 581 995
Stinger missiles
Restrictions on ..... PL 101–167 Sec 581 995
Balance of payments
Foreign aid
Procurement abroad ..... PL 87–195 Sec 604 283
Baltic States-U.S. relations
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 821
Banks (foreign)
Developing countries
U.S. technical assistance ..... PL 87–195 Sec 129 79
Banks (international)
(see individual institutions)
(see International financial institutions)
(see Multilateral development banks (MDBs))
(see World Bank)
Berlin
(see Germany-U.S. relations)
Bill Emerson Humanitarian Trust
Administration of
Supplemental appropriations, 2003 PL 108–11 Title I 893
Biological diversity
Agency for International Development
Country analysis requirements ..... PL 87–195 Sec 119(d) 70
Protection of
Agency for International Development. PL 87–195 Sec 119(g) 70
Foreign aid ..... PL 87–195 Sec 119 69
Private and voluntary organizations PL 87–195 Sec 119(f) 70
Blue Lantern Program
Export and import controls ..... PL 90–629 Sec 38(g)(7) 453
Bolivia-U.S. relations
Drug control
Supplemental appropriations, 2000 PL 106–246 Title III 923
Foreign aid
Conditions for ..... PL 99–83 Sec 611 659
Bosnia and Herzegovina-U.S. relations
Economic revitalization
Foreign aid restrictions ..... PL 108–7 Title II 822
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 822
Restrictions on foreign aid ..... PL 108–7 Title II 822

Bosnia and Herzegovina-U.S. relations—Continued
Loan guarantees
Foreign aid, 2003 ..... PL 108–7 Title II 822
Broadcasting capital improvements
Supplemental appropriations, 2002 ..... PL 107–206 Title I 902
Broadcasting, international
Middle East
Supplemental appropriations, 2003 PL 108–11 Title I 880
Middle East Television Network
Supplemental appropriations, 2003 PL 108–11 Title I 880
Supplemental appropriations, 2002 ..... PL 107–206 Title I 901
Brooke-Alexander Amendment
Foreign aid restrictions
Exceptions ..... PL 108–7 Sec 512 839
Bulgaria-U.S. relations
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 822
Burma-U.S. relations
Democratization
Report to Congress ..... PL 104–208 Sec 570(d) 961
Foreign aid programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Foreign aid restrictions ..... PL 104–208 Sec 570 960
Supporting democracy
Economic Support Fund appropriations. PL 108–7 Sec 558 863

C

Cambodia-U.S. relations
(see also Indochina War)
Aid prohibition ..... PL 95–424 Sec 602 753
Aliens in the United States
Status of ..... PL 106–429 Sec 586 916
Defense commitment of United States ... PL 91–652 Sec 7 790
Disaster assistance ..... PL 87–195 Sec 495H 200
Foreign aid ..... PL 99–83 Sec 905 693
Prohibited ..... PL 96–533 Sec 717 734
Khmer Rouge
Foreign aid prohibition ..... PL 99–83 Sec 906 693
Opposing loans to ..... PL 108–7 Sec 560 864
Canada-U.S. relations
Airports ..... PL 94–329 Sec 608 772
Livestock imports ..... PL 99–83 Sec 721 675
Timber imports ..... PL 99–83 Sec 721 675
Capital
Social Progress Trust Fund
Transfers from ..... PL 93–189 Sec 36 783
Capital projects
Agency for International Development
Credit guarantees ..... PL 102–549 Sec 307 629
Developing countries
Report to Congress ..... PL 102–549 Sec 305 628
Financing of ..... PL 102–549 Sec 306 629
Capital stock
African Development Bank
U.S. subscription limitation ..... PL 108–7 Title IV 834
European Bank for Reconstruction and Development
U.S. subscription limitation ..... PL 108–7 Title IV 834
Increase in
Enterprise for the Americas Multilateral Investment Fund. PL 108–7 Title IV 833
Inter-American Investment Corporation. PL 108–7 Title IV 833

Capital stock—Continued
Increase in—Continued
Multilateral Investment Guarantee Agency. PL 108–7 Title IV 833
Caribbean (eastern)-U.S. relations
Foreign aid
Report to Congress ..... PL 96–533 Sec 313 725
Caribbean area
International Advisory Commission for the Caribbean Region. PL 99–83 Sec 714 672
Rural electrification program
Sense of Congress ..... PL 99–83 Sec 716 672
Caribbean Basin-U.S. relations
Foreign aid
Appropriations, 2003 ..... PL 108–7 Sec 551 860
Caribbean Development Bank ..... PL 96–533 Sec 315 725
Puerto Rican membership ..... PL 93–559 Sec 52 778
Caribbean-U.S. relations
Drug control
Supplemental appropriations, 2000 PL 106–246 Title III 923
Hurricane relief assistance ..... PL 87–195 Sec 495G 200
Central America Democracy, Peace, and Development Initiative.
Appropriations authorization ..... PL 87–195 Sec 465 169
Peace in Central America ..... PL 87–195 Sec 463 167
Policy statement ..... PL 87–195 Sec 461 166
Central America-U.S. relations
Countries
Defined ..... PL 87–195 Sec 466 169
Foreign aid
Central American Development Organization. PL 87–195 Sec 464 167
Conditions for ..... PL 87–195 Sec 462 167
Coordination of ..... PL 87–195 Sec 464 167
Peace process
Requests for additional aid ..... PL 99–83 Sec 722(k) 682
Refugee assistance ..... PL 87–195 Sec 495I 201
Trade Credit Insurance Program ..... PL 87–195 Sec 224 105
Central American Development Organization
Establishment of ..... PL 87–195 Sec 464 167
Central Asia-U.S. relations
Foreign aid
Report to Congress ..... PL 108–7 Sec 574 871
Chemical or biological weapons
Export controls ..... PL 90–629 Sec 81 488
Proliferation control ..... PL 87–195 Sec 581 277
Chemical warfare
Condemnation of ..... PL 97–113 Sec 716 711
Chemical Weapons Convention
United States National Authority
Securing OPCW designation ..... PL 107–228 Sec 1605(b) 593
U.S. compliance with
Findings of Congress ..... PL 107–228 Sec 1605 593
OPCW designated laboratories ..... PL 107–228 Sec 1605 593
Chiefs of diplomatic missions
Authority ..... PL 90–629 Sec 2 391
Foreign aid ..... PL 87–195 Sec 622 323
PL 87–195 Sec 631 330
Child survival activities
Agency for International Development
Reimbursement of expenses ..... PL 108–7 Sec 522 844
Child Survival and Health Programs Fund
Appropriations, 2003 ..... PL 108–7 Title II 812
Supplemental appropriations, 2002 ..... PL 107–206 Title I 905
Supplemental appropriations, 2003 ..... PL 108–11 Ch 5 885
Children
Asia
Foreign aid ..... PL 87–195 Sec 241 142

Children—Continued
Health care
Promoting immunization and oral rehydration. PL 99–529 Sec 101 637
HIV/AIDS assistance
Findings of Congress ..... PL 108–25 Sec 311 526
Trafficking victims
Findings of Congress ..... PL 106–386 Sec 102(b) 600
Children's Medical Relief International
Foreign aid ..... PL 87–195 Sec 214(d) 96
Chile-U.S. relations
Foreign aid
Restrictions on ..... PL 94–161 Sec 320 773
Human rights ..... PL 93–189 Sec 35 783
U.S. aid and sales
Conditions on ..... PL 97–113 Sec 726 716
China (Republic of)
(see Taiwan)
China-U.S. relations
Nongovernmental organizations
Promoting democracy in ..... PL 108–7 Sec 526 846
Overseas Private Investment Corporation
Presidential determination ..... PL 87–195 Sec 239(f) 137
Workers rights ..... PL 87–195 Sec 231A(4) 116
Promoting democracy, human rights, and the rule of law in. PL 108–7 Sec 526 846
United Nations Population Fund
Funding prohibition ..... PL 108–7 Sec 572 870
Claims
(see also Foreign claims)
Foreign aid
Fraudulent ..... PL 87–195 Sec 640A 346
Investment disputes ..... PL 87–195 Sec 635(i) 339
Claims (against United States)
Patents
Foreign aid ..... PL 87–195 Sec 606 286
Coal
Federal Coal Export Commission ..... PL 99–83 Sec 1304 699
Collective security
(see Mutual defense)
Colombia-U.S. relations
Andean Counterdrug Initiative
Appropriations, 2003 ..... PL 108–7 Title III 831
Supplemental appropriations, 2003 PL 108–11 Ch 5 891
Armed Forces
Certification to Congress ..... PL 106–246 Sec 3201 924
Determination and certification for foreign aid. PL 108–7 Sec 564 866
Report to Congress ..... PL 108–7 Sec 564(a)(3) 866
Assisting refugees
Supplemental appropriations, 2003 PL 108–11 Ch 5 828
Cano Limon pipeline protection
Supplemental appropriations, 2002 PL 107–206 Title I 907
Child soldiers demobilization
Supplemental appropriations, 2000 PL 106–246 Title III 924
Cocoa and poppy fumigation
Foreign aid, 2003 ..... PL 108–7 Title II 827
Colombian Armed Forces training
Supplemental appropriations, 2002 PL 107–206 Title I 907
Colombian National Park Service
Foreign aid, 2003 ..... PL 108–7 Title II 827
Colombian National Police
Training assistance ..... PL 108–7 Title II 827
Counter-terrorist campaign
Appropriations authorization ..... PL 107–206 Sec 601 910
Drug control
Appropriations authorization ..... PL 107–206 Sec 601 910

Colombia-U.S. relations—Continued
Drug control—Continued
Supplemental appropriations, 2002 PL 107–206 Sec 305 904
Supplemental appropriations, 2003 PL 108–11 Ch 5 890
Drug control strategy
Report to Congress ..... PL 106–246 Sec 3202 926
Foreign aid
Certification to Congress ..... PL 106–246 Sec 3201 924
PL 106–246 Sec 3207 930
Notification requirements ..... PL 108–7 Sec 520 844
Helicopters for Army and Police
Supplemental appropriations, 2000 PL 106–246 Title III 924
Human rights
Certification to Congress ..... PL 106–246 Sec 3201 924
Illegal armed groups
Visa denial ..... PL 108–7 Sec 565 867
Narcotics control ..... PL 96–533 Sec 402(c) 726
Persons aiding paramilitary groups
Visa denial ..... PL 106–246 Sec 3205 930
Plan Colombia
Limitations on support for ..... PL 106–246 Sec 3204 929
Population planning
Funding limitation ..... PL 106–246 Sec 3206 930
U.S. military personnel
Assignment limitation ..... PL 106–246 Sec 3204(b) 928
Assignment limitation waiver ..... PL 106–246 Sec 3204(c) 928
Visas
Waivers ..... PL 108–7 Sec 565(b) 868
Commission for the Preservation of America's Heritage Abroad. PL 99–83 Sec 1303 697
Commodities
Surplus
Opposing production of ..... PL 108–7 Sec 514 840
Commodity Credit Corporation
Bill Emerson Humanitarian Trust
Supplemental appropriations, 2003 PL 108–11 Title I 893
Commodity Import Program
Egypt
Appropriations, 2003 ..... PL 108–7 Title II 819
Communist countries
Foreign aid
Countries specified ..... PL 87–195 Sec 620(f) 302
U.S. relations with
Foreign aid ..... PL 87–195 Sec 620(f) 302
Competition
(see Private enterprise)
Comprehensive Nuclear Test Ban Treaty Preparatory Commission
U.S. contribution to ..... PL 108–7 Title II 830
Comptroller General of the United States
(see General Accounting Office)
Conciliators
(see Arbitration)
Congo, Democratic Republic of-U.S. relations
Foreign aid
Notification requirements ..... PL 108–7 Sec 520 844
Congress
(see also Reports to Congress)
Foreign aid
Termination of assistance ..... PL 87–195 Sec 617 296
Requests for information
Foreign aid ..... PL 87–195 Sec 633A 333
Senate procedure ..... PL 94–329 Sec 601 769
State Department
Oversight of ..... PL 92–226 Sec 407 788
Contingency fund
Appropriations authorization ..... PL 87–195 Sec 451 165
Report to Congress ..... PL 87–195 Sec 451(a)(2) 165

Contracts repudiated by foreign governments
Foreign aid cut-off ..... PL 87–195 Sec 620(e)(1)(B) ... 300
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) PL 108–7 Title II 815
Activities contrary to
Foreign aid funding prohibited ..... PL 108–7 Title II 815
Cooperative research and development programs
Non-NATO allies
Lending equipment and supplies ..... PL 90–629 Sec 65 479
Countries (foreign)-U.S. relations
Agricultural commodities
Competing with United States ..... PL 108–7 Sec 513(b) 840
Biodiversity in
Protection of ..... PL 108–7 Sec 554 862
Commodities
Competing with United States ..... PL 108–7 Sec 513 839
Community-based police assistance ..... PL 108–7 Sec 582 876
Report to Congress ..... PL 108–7 Sec 582(b) 876
Destabilizing Sierra Leone
Assistance restrictions ..... PL 108–7 Sec 566 869
Energy conservation programs
Appropriations, 2003 ..... PL 108–7 Sec 555 862
Foreign aid
Contingent on parking fines payment. PL 108–7 Sec 544 858
High income
Military aid prohibitions ..... PL 87–195 Sec 546 268
Human rights violations
Assistance limitations ..... PL 108–7 Sec 553 861
Intellectual property
International protection of ..... PL 103–392 Sec 501 624
International military education and training. PL 107–228 Sec 1223(b) 568
Loans from IFIs
Auditing funds and receipts ..... PL 104–208 Sec 576 962
Major drug transit
Determination ..... PL 87–195 Sec 490(h) 194
Major illicit drug producing
Determination ..... PL 87–195 Sec 490(h) 194
Military aid
Eligibility ..... PL 107–327 Sec 203 547
Foreign military financing grants .... PL 107–228 Sec 1223(c) 568
PL 107–228 Sec 1223(a) 568
Prohibitions ..... PL 87–195 Sec 546 268
Military training
Record keeping ..... PL 87–195 Sec 548 268
Muslim populations
International youth exchange program. PL 107–206 Title I 905
Naval vessels
Grant and sales transfers ..... PL 107–228 Sec 1701 594
Non-proliferation control capabilities
Foreign aid, fiscal year 2003 ..... PL 107–228 Sec 1302 571
Nuclear enrichment transfers
Aid prohibition ..... PL 90–629 Sec 101 494
Nuclear reprocessing transfers
Assistance prohibition ..... PL 90–629 Sec 102 496
Promoting good governance
Combating corruption ..... PL 87–195 Sec 133 91
Foreign aid ..... PL 87–195 Sec 133 91
Projects and activities ..... PL 87–195 Sec 133(b) 92
Transparency and accountability ..... PL 87–195 Sec 133 91
Promoting good governance projects
Report to Congress ..... PL 87–195 Sec 133(d) 92

Countries (foreign)-U.S. relations—Continued		
Providing military training		
Report to Congress	PL 108–7 Sec 561	864
Restricting U.S. humanitarian assistance		
Foreign aid prohibition	PL 87–195 Sec 620I	320
Security forces		
Assistance limitations	PL 108–7 Sec 553	861
Trafficking Victims Protection Act of 2000		
Foreign aid	PL 87–195 Sec 134	93
Courts		
Act of state doctrine	PL 87–195 Sec 620(e)(2)	301
Venue		
Overseas Private Investment Corporation.	PL 87–195 Sec 239(a)	135
Cuba-Russia relations		
Intelligence		
Collection of	PL 87–195 Sec 498A(d)	217
Cuba-U.S. relations		
Drug control	PL 99–83 Sec 617	661
Drug trafficking		
Findings of Congress	PL 99–83 Sec 617	661
Foreign aid		
Direct funding prohibition	PL 108–7 Sec 507	837
Prohibited	PL 96–533 Sec 717	734
	PL 95–424 Sec 602	753
Foreign aid programs		
Withholding U.S. funding share	PL 87–195 Sec 307	162
Foreign aid prohibition	PL 87–195 Sec 620(a)	298
Human rights		
Sense of Congress	PL 99–83 Sec 718	674
Intelligence facilities		
Support by former Soviet Union	PL 87–195 Sec 498A(d)	217
Refugees	PL 96–533 Sec 715	733
Deportation of	PL 96–533 Sec 712	733
Currencies (foreign)		
(see also Agricultural commodity sales)		
Counterpart funds		
Military activities	PL 93–189 Sec 40	785
Educational and cultural exchange programs.	PL 87–195 Sec 612	292
Foreign aid	PL 87–195 Sec 636	341
Accounting	PL 87–195 Sec 613	294
Military activities	PL 93–189 Sec 40	785
Presidential discretion	PL 87–195 Sec 614	294
Special authority	PL 87–195 Sec 648	353
Inconvertibility		
Overseas Private Investment Corporation insurance.	PL 87–195 Sec 234(a)(1)(A)	119
Maximum use of	PL 87–195 Sec 612	292
Social Progress Trust Fund	PL 93–189 Sec 36	783
Cyprus-Turkey relations		
Settlement of conflict	PL 99–83 Sec 101(f)	645
Cyprus-U.S. relations		
Eastern Mediterranean policy	PL 95–384 Sec 13	754
Economic Support Fund	PL 99–83 Sec 203	651
Foreign aid, 2003	PL 108–7 Title II	820
Foreign aid	PL 87–195 Sec 495	197
Negotiations with Turkey	PL 87–195 Sec 620(x)	306
Report to Congress	PL 87–195 Sec 620(x)(2)	308
Settlement in	PL 87–195 Sec 620C	311

D

Debt-for-development
Nongovernmental
Interest bearing accounts ..... PL 108–7 Sec 528 848
Local currency investing ..... PL 108–7 Sec 528 847
Debts (foreign)
Agricultural Trade Development and Assistance Act of 1954
Reduction of ..... PL 87–195 Sec 807 378
Commodity credits
Reduction of ..... PL 87–195 Sec 807 378
Concessional loans
Reduction of ..... PL 87–195 Sec 806 377
Debt reduction
Cancellation of ..... PL 106–113 Sec 501 941
Eligible countries ..... PL 106–113 Sec 501(d) 941
Exceptions ..... PL 106–113 Sec 501(f) 942
Implementation of ..... PL 87–195 Sec 704(a) 369
Multilateral debt relief ..... PL 106–113 Sec 503 943
Payment of principal ..... PL 87–195 Sec 705 370
Presidential authority ..... PL 87–195 Sec 704(a) 369
Debt-for-nature exchanges ..... PL 87–195 Ch 7 169
PL 87–195 Sec 802 374
Assistance from the Agency for International Development. PL 87–195 Ch 7 170
Authority for ..... PL 87–195 Sec 808 379
Eligible countries ..... PL 87–195 Ch 7 171
Eligible loans and credits ..... PL 87–195 Sec 808(a) 379
Eligible projects ..... PL 87–195 Ch 7 170
Sub-Saharan Africa ..... PL 87–195 Ch 7 172
Terms and conditions ..... PL 87–195 Ch 7 171
Debt-for-nonproliferation exchange
Russian Federation ..... PL 107–228 Sec 1312(a)(9) ... 578
Egypt
Report to Congress ..... PL 99–83 Sec 1205 691
Enhanced HIPC Initiative
Appropriations authorization ..... PL 108–25 Sec 503 535
HIV/AIDS related programs requirements. PL 108–25 Sec 501 534
Inclusion of non-eligible poor countries. PL 108–25 Sec 502 535
Modification of ..... PL 108–25 Sec 501 533
Foreign Assistance Act of 1961
Reduction of ..... PL 87–195 Sec 806 377
Forgiveness
Enhanced HIPC Initiative ..... PL 108–25 Sec 501 533
HIPC Initiative ..... PL 106–429 Sec 801 917
Israel
Report to Congress ..... PL 99–83 Sec 1205 691
Latin America
Report to Congress ..... PL 99–83 Sec 719 674
Portugal
Report to Congress ..... PL 99–83 Sec 1205 691
Reduction of
Authority to reduce ..... PL 87–195 Sec 806 377
PL 87–195 Sec 806 377
Russian Federation
Annual determination and certification. PL 107–228 Sec 1317(b) 582
Presidential waiver ..... PL 107–228 Sec 1317(c) 582
Reducing obligations to United States. PL 107–228 Sec 1314 578
Settlement of ..... PL 94–161 Sec 321 773
Turkey
Report to Congress ..... PL 99–83 Sec 1205 691

Defense articles
Commercial leasing of
Presidential determination ..... PL 108–7 Sec 575 872
Defense Emergency Response Fund
Supplemental appropriations, 2002 ..... PL 107–206 Title I 903
Defense, Department of
Drawdown support
Supplemental appropriations, 2003 PL 108–11 Sec 1309 884
PL 108–11 Sec 1307 891
Iraq Liberation Act of 1998
Supplemental appropriations, 2003 PL 108–11 Sec 1309 884
Operation and maintenance
Supplemental appropriations, 2002 PL 107–206 Title I 902
Defense, Secretary of
Military aid administration ..... PL 87–195 Sec 623 324
Democracy
Countries with significant Muslim populations
Supporting programs ..... PL 108–7 Sec 526 847
Programs
Supporting ..... PL 108–7 Sec 526 846
Transition initiatives
Appropriations, 2003 ..... PL 108–7 Title II 816
Department of Defense
(see Defense, Department of)
Desalting plant
Development of ..... PL 87–195 Sec 219 97
Developing countries
Agency for International Development
Capital projects ..... PL 102–549 Sec 302 627
Arms sales to
U.S. foreign policy objectives ..... PL 90–629 Sec 1 389
Central banks
U.S. technical assistance program ... PL 87–195 Sec 129 79
Cooperatives
Foreign aid ..... PL 87–195 Sec 111 57
Foreign aid
Infant feeding practices ..... PL 97–113 Sec 301(b) 706
Foreign governments and banks
U.S. technical assistance program ... PL 87–195 Sec 129 79
Health care
Promoting immunization and oral rehydration. PL 99–529 Sec 101 637
Loan guarantees
Appropriations, 2003 ..... PL 108–7 Title II 817
Microenterprises
Foreign aid ..... PL 108–7 Title II 817
Natural resources
Foreign aid ..... PL 87–195 Sec 118(c) 66
Private and voluntary organizations
Participation ..... PL 87–195 Sec 123 73
Private enterprise
Loan guarantees ..... PL 87–195 Sec 108 54
Secretary of Treasury
Technical assistance program ..... PL 87–195 Sec 129 79
Tropical forests
Conservation of ..... PL 87–195 Sec 802 374
Eligibility for benefits ..... PL 87–195 Sec 805 376
Development
(see also Foreign aid)
(see also Less-developed countries)
(see also United Nations)
Employee stock ownership plans
Expanded use of ..... PL 99–83 Sec 713 671
International Advisory Commission for the Caribbean Region. PL 99–83 Sec 714 672
Israel
Desalting plant ..... PL 87–195 Sec 219 97

Development—Continued
Presidential Task Force on Project Economic Justice. PL 99–83 Sec 713 671
Development aid
(see Foreign aid)
Development Assistance Committee
(see Organization for Economic Cooperation and Development)
Development Coordination Committee
Establishment of ..... PL 87–195 Sec 640B 347
Development Fund for Africa
Appropriations authorization ..... PL 87–195 Sec 497 209
Development Loan Committee
Establishment of ..... PL 87–195 Sec 122(e) 73
Diego Garcia
(see Indian Ocean)
Disaster assistance
(see also Foreign aid)
(see also Humanitarian aid)
Africa ..... PL 87–195 Sec 495K 202
Foreign aid ..... PL 87–195 Sec 491–495H 194
Appropriations authorization ..... PL 87–195 Sec 492(a) 195
Borrowing authority ..... PL 87–195 Sec 492(b) 196
International
Appropriations, 2003 ..... PL 108–7 Title II 815
Supplemental appropriations, 2003 PL 108–11 Ch 5 885
Lebanon ..... PL 87–195 Sec 495J 202
Nicaragua ..... PL 87–195 Sec 494 196
Pakistan ..... PL 87–195 Sec 494 196
Discrimination
Against U.S. personnel
Foreign aid restrictions ..... PL 87–195 Sec 666 365
Military aid restrictions ..... PL 87–195 Sec 505(g) 241
Military sales restrictions ..... PL 90–629 Sec 5 401
Report to Congress ..... PL 87–195 Sec 505(g) 241
PL 90–629 Sec 5 401
Drug control
Aerial eradication
Herbicides ..... PL 87–195 Sec 481(d) 175
Afghanistan
Counternarcotics efforts ..... PL 107–327 Sec 103(a)(3) 539
Opium producing areas ..... PL 107–327 Sec 105 544
Aircraft records retention ..... PL 87–195 Sec 485 183
Andean Counterdrug Initiative
Appropriations, 2003 ..... PL 108–7 Title II 826
Appropriations authorization ..... PL 87–195 Sec 482 178
Colombia
Anti-narcotics program ..... PL 96–533 Sec 402(c) 726
U.S. personnel involved ..... PL 106–246 Sec 3204(f) 929
Contribution by recipient country ..... PL 87–195 Sec 482(c) 180
Countries failing to control
Reallocation of assistance funds ..... PL 87–195 Sec 486 183
Crop eradications
Reimbursement prohibition ..... PL 87–195 Sec 483 181
Cuba
Findings of Congress ..... PL 99–83 Sec 617 661
Decertified countries
Foreign aid denial ..... PL 87–195 Sec 490(e) 193
Drug traffickers
Aid prohibition ..... PL 87–195 Sec 487 184
Expenses to combat terrorism
Supplemental appropriations, 2002 PL 107–206 Title I 907
Foreign aid
Certification procedures ..... PL 87–195 Sec 490 189
Prohibition on using to acquire real property. PL 87–195 Sec 488 184
Report to Congress ..... PL 87–195 Sec 489 185

Drug control—Continued
Foreign aid—Continued
Report to Congress—Continued
PL 87–195 Sec 489(b) 188
Weapons and ammunition procurement restrictions. PL 87–195 Sec 482(b) 180
Withholding of ..... PL 87–195 Sec 490 189
Foreign countries
Coordinating U.S. assistance activities. PL 87–195 Sec 481(b) 174
Major drug transit determination .... PL 87–195 Sec 490(h) 194
Foreign governments use of U.S. aircraft
Control of ..... PL 87–195 Sec 484(b) 182
Leasing requirement ..... PL 87–195 Sec 484 182
Report to Congress ..... PL 87–195 Sec 484(c) 183
Foreign policing activities
U.S. participation ..... PL 87–195 Sec 481(c) 174
Illicit narcotics
Alternative economic development programs. PL 87–195 Sec 126 77
Interdictions
Supplemental appropriations, 2003 PL 108–11 Ch 5 890
International illicit narcotics
Reobligation of funds ..... PL 97–113 Sec 502 707
Sense of Congress ..... PL 87–195 Sec 481 172
International narcotics
Definitions ..... PL 87–195 Sec 481(e) 176
International Narcotics Control Strategy Report. PL 87–195 Sec 489(a) 185
Jamaica
Economic Support Fund ..... PL 99–83 Sec 610 659
Latin America
Establishing a regional organization PL 99–83 Sec 615 661
Military equipment transfers ..... PL 101–167 Sec 573(f) 994
Transfer of funds appropriated ..... PL 101–167 Sec 569(d) 992
Narcotics interdictions
Appropriations, 2003 ..... PL 108–7 Title II 826
Narcotics traffickers extradition
Report to Congress ..... PL 106–246 Sec 3203 927
Peru ..... PL 99–83 Sec 612 660
Plan Colombia
Definition ..... PL 106–246 Sec 3204(h) 930
Limitations on assignment of U.S. military personnel. PL 106–246 Sec 3204(b) 928
Limitations on support for ..... PL 106–246 Sec 3204 929
Report to Congress on costs ..... PL 106–246 Sec 3203(e) 929
Traffickers
Accessing foreign bank accounts ..... PL 99–83 Sec 619 663
U.S. military and civilian personnel in Colombia
Report to Congress ..... PL 106–246 Sec 3203(f) 929
Using aircraft
Providing defensive weapons ..... PL 99–83 Sec 607 658

E

East Timor-U.S. relations
Relief for
Sense of Congress ..... PL 96–533 Sec 408 727
Economic aid
(see Foreign aid)
Economic Support Fund ..... PL 87–195 Ch 4 Note 257
Administration of justice
Assistance in support of ..... PL 87–195 Sec 534 264
PL 108–7 Sec 536 855
Afghanistan ..... PL 99–83 Sec 904 693
Appropriations authorization ..... PL 87–195 Sec 532 259

Economic Support Fund—Continued
Appropriations, 2003 ..... PL 108–7 Title II 819
Authority ..... PL 87–195 Sec 531 258
Burma
Supporting democracy in ..... PL 108–7 Sec 558 863
Commodity Import Program
Minimum allowance for ..... PL 97–113 Sec 203 706
Commodity import programs
Africa ..... PL 99–83 Sec 801 685
Cyprus ..... PL 99–83 Sec 203 651
Appropriations, 2003 ..... PL 108–7 Title II 820
Egypt ..... PL 99–83 Sec 202(b) 651
PL 95–92 Sec 9 762
Appropriations, 2003 ..... PL 108–7 Title II 819
Supplemental appropriations, 2003 PL 108–11 Ch 5 887
Emergency assistance ..... PL 87–195 Sec 533 264
Expenses to combat terrorism
Supplemental appropriations, 2002 PL 107–206 Title I 905
Funds available for minority enterprises PL 99–83 Sec 315 654
Indonesia
Appropriations, 2003 ..... PL 108–7 Title II 820
International youth exchange program
Appropriations, 2003 ..... PL 108–7 Title II 820
Israel ..... PL 99–83 Sec 202 650
Appropriations, 2003 ..... PL 108–7 Title II 819
Loan guarantees ..... PL 108–11 Ch 5 889
Supplemental appropriations, 2002 PL 107–206 Title I 906
Jordan
Appropriations, 2003 ..... PL 108–7 Title II 820
Modifying direct loans and guarantees. PL 108–7 Title II 820
Supplemental appropriations, 2003 PL 108–11 Ch 5 887
Kimberley Process Certification Scheme
Appropriations, 2003 ..... PL 108–7 Title II 820
Lebanon
Appropriations, 2003 ..... PL 108–7 Title II 820
Nuclear facilities
Restrictions on funding ..... PL 99–83 Sec 207 653
Pakistan
Appropriations, 2003 ..... PL 108–7 Title II 820
Modifying direct loans and guarantees. PL 108–7 Title II 820
Supplemental appropriations, 2002 PL 107–206 Title I 905
Portugal ..... PL 99–83 Sec 204 652
Southern Africa ..... PL 99–83 Sec 802 686
Sudan, National Democratic Alliance of
Foreign aid, 2003 ..... PL 108–7 Title II 821
Timor-Leste
Appropriations, 2003 ..... PL 108–7 Title II 820
Tunisia ..... PL 99–83 Sec 805 688
Turkey
Supplemental appropriations, 2003 PL 108–11 Ch 5 887
Supplemental authorization, 1979 ... PL 96–92 Sec 27 738
West Bank and Gaza
Appropriations, 2003 ..... PL 108–7 Title II 820
Zaire ..... PL 99–83 Sec 804 688
Ecuador-U.S. relations
Drug control
Supplemental appropriations, 2000 PL 106–246 Title III 923
Education
Foreign aid
Appropriations authorization ..... PL 87–195 Sec 105 49
International University for the Americas
Report to Congress ..... PL 102–549 Sec 604 632
Schools (abroad)
Sponsored by U.S. citizens ..... PL 87–195 Sec 214 96

Education and human resources
Developmental assistance
Appropriations authorization ..... PL 87–195 Sec 105 49
Educational and cultural exchange
Foreign currencies ..... PL 87–195 Sec 612 292
Foreign currencies from arms sales ..... PL 87–195 Sec 505(f) 240
Supplemental appropriations, 2002 ..... PL 107–206 Title I 912
Egypt-Israel relations
Peace process ..... PL 99–83 Sec 1206 696
Egypt-U.S. relations
Arms sales ..... PL 99–83 Sec 101(d) 644
Grants ..... PL 108–7 Title III 831
Commodity Import Program assistance
Appropriations, 2003 ..... PL 108–7 Title II 819
Economic conditions
Impact on foreign debt ..... PL 99–83 Sec 1205 691
Economic Support Fund ..... PL 99–83 Sec 202(b) 651
Foreign aid, 2003 ..... PL 108–7 Title II 819
Supplemental appropriations, 2003 PL 108–11 Ch 5 887
Peace negotiations ..... PL 95–384 Sec 28 757
El Salvador-U.S. relations
Assistance restrictions ..... PL 97–113 Sec 730 721
Community-based police
Foreign aid ..... PL 108–7 Sec 582 876
Foreign aid ..... PL 97–113 Sec 728 718
Findings of Congress ..... PL 99–83 Sec 702 663
Suspension of ..... PL 99–83 Sec 702(g) 666
Military aid ..... PL 101–513 Sec 531 976
Conditions for ..... PL 98–151 Sec 101(b)(2) 701
Murders of American churchwomen
Releasing information on ..... PL 108–7 Sec 586 878
Police training
Foreign aid for ..... PL 87–195 Sec 660(d) 360
Program for strengthening democracy .... PL 101–513 Sec 531(h) 979
Refugee assistance ..... PL 87–195 Sec 495I 201
PL 97–113 Sec 731 721
Report to Congress ..... PL 97–113 Sec 729 720
U.S. aid
Conditions on ..... PL 97–113 Sec 727–730 717
Emergency Supplemental Act, 2000 ..... PL 106–246 923
Emergency Wartime Supplemental Appropriations Act, 2003. PL 108–11 879
Emigration
(see Immigration (foreign))
Employees (U.S.)
Exporting production
Restrictions under this Act ..... PL 102–549 Sec 801 634
Endangered species
Foreign aid ..... PL 87–195 Sec 119 69
Protection of
Foreign aid ..... PL 87–195 Sec 119 69
Report to Congress ..... PL 87–195 Sec 119(h) 71
Energy, Department of
Foreign aid programs ..... PL 87–195 Sec 106(c) 52
Enterprise for the Americas
Americas Framework Agreement ..... PL 87–195 Sec 708 371
Report to Congress ..... PL 87–195 Sec 710 373
Enterprise for the Americas Act of 1992 ..... PL 102–549 Sec 601 632
Enterprise for the Americas Board
Functions ..... PL 87–195 Sec 709 372
Tropical Forest Agreements
Advice on ..... PL 87–195 Sec 811(b) 382
Enterprise for the Americas Facility
Country eligibility
Presidential determination ..... PL 87–195 Sec 703(b) 369
Debt reduction ..... PL 87–195 Sec 703 368

Enterprise for the Americas Facility—Continued
Foreign aid
Country eligibility ..... PL 87–195 Sec 703(a) 368
Enterprise for the Americas Fund
Establishment of ..... PL 87–195 Sec 707 370
Enterprise for the Americas Initiative ..... PL 87–195 Sec 701 367
Definitions ..... PL 87–195 Sec 702 367
Enterprise for the Americas Multilateral Investment Fund
Capital stock increase ..... PL 108–7 Title IV 833
Environment
Biodiversity
Protection of ..... PL 108–7 Sec 554 862
Developing countries
Findings of Congress ..... PL 87–195 Sec 117 65
Developmental programs
U.S. policies toward ..... PL 101–513 Sec 533 980
Global Warming Initiative ..... PL 101–513 Sec 533 980
U.S. policies toward ..... PL 101–167 Sec 534 989
Greenhouse gases
Report on costs to reduce ..... PL 108–7 Sec 555 862
Multilateral development banks
Report to Congress ..... PL 102–391 Sec 532(c) 973
Natural resources
Foreign aid ..... PL 87–195 Sec 117 65
Tropical forests
Protection of ..... PL 108–7 Sec 554 862
Equatorial Guinea-U.S. relations
Foreign aid ..... PL 96–533 Sec 314 725
Europe (Eastern)-U.S. relations
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 821
Overseas Private Investment Corporation
Presidential determinatio ..... PL 87–195 Sec 239(f) 137
SEED Act of 1989
Foreign aid, 2003 ..... PL 108–7 Title II 821
European Bank for Reconstruction and Development
Appropriations, 2003 ..... PL 108–7 Title IV 834
European Bank for Reconstruction and Development Act. PL 101–513 Sec 562(c) 982
European Security Act of 1998
Findings of Congress ..... PL 107–187 Sec 2 596
Excess defense articles
Arms sales
Defined ..... PL 90–629 Sec 47(1) 471
Defined ..... PL 87–195 Sec 644(g) 351
Leasing to foreign countries ..... PL 90–629 Sec 61 475
To certain countries
Using fiscal year 2003 funds ..... PL 107–228 Sec 1231 569
Transfer of
Drug enforcement activities ..... PL 101–167 Sec 573(f) 994
Notification requirements ..... PL 108–7 Sec 524 845
U.S. transfer
Congressional notification ..... PL 87–195 Sec 516(f) 254
U.S. transfer to NATO's southern flank PL 87–195 Sec 516(c)(2) 253
Excess property
Required use of ..... PL 87–195 Sec 608 288
Transfer to voluntary agencies ..... PL 87–195 Sec 607 286
Executive agreements
(see Executive-legislative relations)
Executive-legislative relations
(see also War powers)
Arms sales ..... PL 90–629 Sec 36(b) 434
Export controls
Arms sales ..... PL 90–629 385

Export controls—Continued
Chemical or biological weapons
Economic sanctions ..... PL 90–629 Sec 81 488
Missiles and missile technology
Secretary of Defense ..... PL 90–629 Sec 71 480
Secretary of State ..... PL 90–629 Sec 71 480
Export-Import Bank
Appropriations
Rescission of funds ..... PL 107–206 Title I 910
Conflict diamonds
Funding limitations ..... PL 108–7 Sec 583 877
Financing by
Limitations on ..... PL 87–195 Sec 632(f) 332
Nuclear equipment exports
Funds restrictions ..... PL 108–7 Title I 809
Overseas Private Investment Corporation
Appropriations, 2003 ..... PL 108–7 Title I 811
Noncredit account ..... PL 108–7 Title I 811
Program account ..... PL 108–7 Title I 811
PL 106–113 Title I 933
Program limitation, 2003 ..... PL 108–7 Title I 809
Subsidy costs
Appropriations, 2000 ..... PL 106–113 Title I 933
Appropriations, 2003 ..... PL 108–7 Title I 810
Tied-aid credits
Appropriations, 2000 ..... PL 106–113 Title I 933
Appropriations, 2003 ..... PL 108–7 Title I 810
Exports
(see also Trade)
Federal Coal Export Commission ..... PL 99–83 Sec 1304 699
Multilateral development banks
Additional procurement officers ..... PL 102–549 Sec 501 632
Munitions List license applications
Electronic system ..... PL 107–228 Sec 1403 588
United States Commercial Centers ..... PL 102–549 Sec 401 629
Weapons
Control capabilities ..... PL 107–228 Sec 1302 571
Expropriation
Defined ..... PL 87–195 Sec 238(b) 134

F

Family planning
(see Population planning)
Federal Coal Export Commission ..... PL 99–83 Sec 1304 699
Report to Congress ..... PL 99–83 Sec 1304(f) 700
Federal Reports Elimination and Sunset Act of 1995
Foreign aid
Report to Congress ..... PL 87–195 Note 31
Female genital mutilation
International financial institutions
U.S. opposition to ..... PL 104–208 Sec 579 963
Financial Institution Advisory Commission, International
Establishment of ..... PL 105–277 Sec 603 955
Fisheries
Seizure of U.S. vessels
Foreign aid cut-off ..... PL 87–195 Sec 620(o) 305

Food
(see also Agricultural commodity sales)
(see also Agriculture)
(see also Food aid program)
(see also Food and Agricultural Organization)
World hunger
Findings of Congress ..... PL 97–113 Sec 712 710
World security reserves ..... PL 97–113 Sec 711 709
Food aid
Agricultural research ..... PL 87–195 Sec 103A 32
PL 87–195 Sec 296 143
Definition of terms ..... PL 87–195 Sec 296(d)–(h) 147
International cooperation ..... PL 87–195 Sec 297 148
Board for International Food and Agricultural Development. PL 87–195 Sec 298 151
Harvest losses ..... PL 96–533 Sec 317 726
International Fertilizer Development Center
U.S. participation ..... PL 87–195 Sec 301(f) 156
International Food Policy Research Institute
U.S. participation ..... PL 87–195 Sec 301(h) 156
Long-term agricultural commodity agreements
Report to Congress ..... PL 99–83 Sec 1008 695
Portugal ..... PL 94–329 Sec 409 767
Private voluntary organizations ..... PL 96–533 Sec 316 725
Report to Congress ..... PL 87–195 Sec 300 154
Food and agricultural development
International
Board for ..... PL 87–195 Sec 298 151
Food and Agricultural Organization
Food reserves ..... PL 93–189 Sec 39 785
Food for Peace Program
Sense of Congress ..... PL 92–226 Sec 2 787
Food production
Foreign aid ..... PL 93–559 Sec 55 779
Food sales
(see Agricultural commodity sales)
Food supplies
(see also Food aid)
Domestic production levels ..... PL 93–189 Sec 39 785
U.N. conference on ..... PL 93–189 Sec 39 785
Foreign aid
(see also Agency for International Development)
(see also Food aid)
(see also Humanitarian aid)
(see also Overseas Private Investment Corporation)
Administration of ..... PL 87–195 Sec 621–640C 322
Personnel ..... PL 87–195 Sec 624–631 324
African Development Foundation ..... PL 96–533 Sec 502 727
Agreements or grants
Restrictions on ..... PL 87–195 Sec 611 291
Agreements prohibiting taxation of
Report to Congress ..... PL 108–7 Sec 579(f) 875
Agricultural commodities (foreign)
Assistance restrictions ..... PL 108–7 Sec 513(b) 840
Agriculture program ..... PL 87–195 Sec 103 32
Alien employees
Participation in programs ..... PL 87–195 Sec 635(f) 338
Allocation changes ..... PL 87–195 Sec 653 354
American resources, products, and services
Use of ..... PL 108–7 Sec 541 857
Anti-terrorism assistance programs ..... PL 87–195 Sec 571–574 273

Foreign aid—Continued
Anti-terrorism programs
Appropriations, 2002 ..... PL 107–206 Title I 908
Appropriations, 2003 ..... PL 108–7 Title II 829
Appropriated funds
Special authorities ..... PL 108–7 Sec 534 851
Appropriations
Ceilings and earmarks ..... PL 108–7 Sec 539 856
Obligation restrictions ..... PL 108–7 Sec 501 809
Reprogramming of funds ..... PL 108–7 Sec 538 856
Appropriations authorization, 1984 ..... PL 98–151 Sec 101(b)(2) 701
Appropriations, 2003 ..... PL 108–7 Title I 809
Program, project, and activity defined. PL 108–7 Sec 521 844
Arms Export Control Act ..... PL 87–195 Sec 636(g) 334
Audits ..... PL 87–195 Sec 635(g)(5) 339
Authority to authorize ..... PL 87–195 Sec 614(a)(4) 295
Presidential waivers ..... PL 87–195 Sec 614(b) 296
Authorization reduction
Fiscal year 1979 ..... PL 95–424 Sec 601 753
Availability of funds ..... PL 108–7 Sec 511 838
Bilateral
Rescission of funds ..... PL 107–206 Title I 910
Bilateral assistance to terrorist countries
Funding prohibition ..... PL 108–7 Sec 527 847
Budgets of developing countries
Transparency and accountability ..... PL 108–7 Sec 585 877
Burma programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Cash transfers
Separate accounts ..... PL 108–7 Sec 529(b) 849
Children
Asia ..... PL 87–195 Sec 241 142
Chile
Restrictions on ..... PL 94–161 Sec 320 773
Commodities (foreign)
Assistance restrictions ..... PL 108–7 Sec 513 839
Communist countries
Countries specified ..... PL 87–195 Sec 620(f) 302
Consolidation of accounts ..... PL 87–195 Sec 610 290
Cost-sharing with foreign countries ..... PL 87–195 Sec 110 56
Countries in default
Assistance limitations ..... PL 108–7 Sec 512 839
Countries restricting U.S. humanitarian assistance
Aid prohibition ..... PL 87–195 Sec 620I 320
Country programs
State Department authority ..... PL 108–7 Title II 821
Cuba programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Cyprus
Humanitarian assistance ..... PL 87–195 Sec 495 197
Debt burdens
Selected countries ..... PL 97–113 Sec 723 715
Democratic institutions ..... PL 87–195 Sec 281 142
Deobligation/reobligation authority ..... PL 108–7 Sec 510 838
Destruction of surplus weapons stockpiles
Appropriations authorization, 2003 PL 107–228 Sec 1241 570
Developing countries
Technology development ..... PL 87–195 Sec 107 53
Development assistance
Loan guarantees ..... PL 108–7 Title II 817
Development Coordination Committee ... PL 87–195 Sec 640B 347
Development Credit Program Account ... PL 108–7 Title II 817
Disaster assistance ..... PL 87–195 Sec 491 194

Foreign aid—Continued
Disaster assistance—Continued
Africa ..... PL 87–195 Sec 495K 202
Appropriations authorization ..... PL 87–195 Sec 492(a) 195
Borrowing authority ..... PL 87–195 Sec 492(b) 196
Coordination for ..... PL 87–195 Sec 493 196
Discrimination against U.S. personnel ... PL 87–195 Sec 666 365
Drinking water supply projects ..... PL 108–7 Title II 815
Drug control
Illicit narcotics production ..... PL 87–195 Sec 126 77
Earmarked funds
Reprogramming ..... PL 108–7 Sec 538 856
Economic Support Fund
Appropriations authorization ..... PL 87–195 Sec 532 259
Education
Appropriations authorization ..... PL 87–195 Sec 105 49
Elimination of trafficking
Assistance for ..... PL 87–195 Sec 134 93
Endangered species ..... PL 87–195 Sec 119 69
Energy programs ..... PL 87–195 Sec 106(a) 49
Evaluation of programs and projects ..... PL 87–195 Sec 125 76
Excess defense articles
Defined ..... PL 87–195 Sec 644(g) 351
Excess property
Required use of ..... PL 87–195 Sec 608 288
Transfer to voluntary agencies ..... PL 87–195 Sec 607 286
Fiscal year appropriations ..... PL 87–195 Note 24
Fiscal year availability of funds ..... PL 87–195 Note 25
Foreign Assistance Act of 1961 ..... PL 87–195 15
Definition of terms ..... PL 87–195 Sec 644 350
Foreign Assistance Act of 1962 ..... PL 87–565 808
Foreign Assistance Act of 1963 ..... PL 88–205 807
Foreign Assistance Act of 1964 ..... PL 88–633 806
Foreign Assistance Act of 1965 ..... PL 89–171 805
Foreign Assistance Act of 1966 ..... PL 89–583 804
Foreign Assistance Act of 1967 ..... PL 90–137 803
Foreign Assistance Act of 1968 ..... PL 90–554 801
Foreign Assistance Act of 1969 ..... PL 91–175 794
Foreign Assistance Act of 1971 ..... PL 92–226 787
Foreign Assistance Act of 1973 ..... PL 93–189 781
Foreign Assistance Act of 1974 ..... PL 93–559 775
Foreign currencies ..... PL 87–195 Sec 636 341
U.S. security ..... PL 87–195 Sec 614(a)(2) 295
Foreign Military Financing Program
Funds use restrictions ..... PL 108–7 Sec 549 860
Funding prohibitions ..... PL 87–195 Sec 620 298
Funds
Limit on obligations ..... PL 87–195 Note 25
Transfer between programs ..... PL 87–195 Sec 109 56
PL 87–195 Sec 610 290
PL 87–195 Sec 632 331
Health services ..... PL 87–195 Sec 104(c) 35
Appropriations authorization ..... PL 87–195 Sec 104(g) 41
HIV/AIDS ..... PL 87–195 Sec 104A 42
Malaria ..... PL 87–195 Sec 104C 49
Tuberculosis ..... PL 87–195 Sec 104B 47
HIV/AIDS
Assistance authorization ..... PL 87–195 Sec 104A(c) 42
Report to Congress ..... PL 87–195 Sec 104A(e) 46
Human rights ..... PL 96–533 Sec 710 732
Inter-American Commission ..... PL 87–195 Sec 302(a)(2) 158
Human rights conditions ..... PL 87–195 Sec 116 59
Human rights repression
Funding prohibition ..... PL 102–391 Sec 511 972
Impact on jobs in United States ..... PL 108–7 Sec 533 851
Incidental expenses ..... PL 87–195 Sec 636 341
Independent states of the former Soviet Union. PL 87–195 Sec 498 211

Foreign aid—Continued
Independent states of the former Soviet Union—Continued
PL 87–195 Ch 11 211
Appropriations authorization ..... PL 87–195 Sec 498C 221
Criteria for assistance ..... PL 87–195 Sec 498A 214
Cuban intelligence facilities ..... PL 87–195 Sec 498A(d) 217
Report to Congress ..... PL 87–195 Sec 498A(c) 216
Infant feeding practices ..... PL 97–113 Sec 301(b) 706
International financial institutions
Opposing loans to certain countries PL 104–208 Sec 579 963
International military education and training
Funds use restrictions ..... PL 108–7 Sec 549 860
International organizations
Appropriations authorization ..... PL 87–195 Sec 302 157
Integration of women ..... PL 87–195 Sec 305 161
Report to Congress ..... PL 87–195 Sec 306 161
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
International organizations and programs. PL 87–195 Sec 301 154
Audit of ..... PL 87–195 Sec 301(d) 155
International Private Investment Advisory Council on Foreign Aid. PL 87–195 Sec 601(c) 281
Iran programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Iraq programs
Withholding of funds ..... PL 87–195 Sec 307 162
Iraq Relief and Reconstruction Fund
Appropriations, 2003 ..... PL 108–11 Ch 5 886
Italy
Disaster assistance ..... PL 87–195 Sec 495B 197
Land mine removal
Agency for International Development grants. PL 108–7 Sec 547 859
Latin America and the Caribbean
Report to Congress ..... PL 99–83 Sec 709 670
Least developed countries
Emphasis on ..... PL 87–195 Sec 124 76
Lebanon
Certification on troop deployment .... PL 107–228 Sec 1224 569
Disaster assistance ..... PL 87–195 Sec 495C 198
Less-developed countries
Agricultural programs ..... PL 87–195 Sec 222A 700
Libya programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Loans
Accelerated repayments ..... PL 87–195 Sec 127 78
Defaults on ..... PL 93–559 Sec 56 780
General authorities ..... PL 87–195 Sec 122 72
Reducing bilateral ..... PL 87–195 Sec 209 94
Local currencies
Separate accounts ..... PL 108–7 Sec 529 848
Malaria
Assistance authorization ..... PL 87–195 Sec 104C(c) 49
Management innovations
Systems analysis ..... PL 87–195 Sec 621A 323
Micro- and small enterprise development credits
Findings of Congress ..... PL 87–195 Sec 108 54
Microenterprise development
Loan guarantees ..... PL 108–7 Title II 817
Middle East
International contributions ..... PL 94–161 Sec 322 774
Minority business participation ..... PL 95–88 Sec 133 759
Minority Resource Center ..... PL 98–151 Sec 101(b)(2) 703
Minority set-aside ..... PL 99–83 Sec 315 654

Foreign aid—Continued
Minority set-aside—Continued
PL 98–151 Sec 101(b)(2) 701
Multilateral
Rescission of funds ..... PL 107–206 Title I 910
Natural resources
Tropical forests ..... PL 87–195 Sec 118 66
Nongovernmental organizations
Donated space on commercial ships PL 107–206 Sec 602 911
Nonproliferation and export control assistance. PL 87–195 Sec 581 277
North Korea programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Nutrition ..... PL 87–195 Sec 103 32
Olympic games boycott ..... PL 96–533 Sec 718 734
Palestine Liberation Organization programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Personnel
(see also Peace Corps)
Assignments ..... PL 87–195 Sec 627–630 328
Consultants ..... PL 87–195 Sec 626 327
Officers ..... PL 87–195 Sec 624 324
Official expenses ..... PL 87–195 Sec 636 341
Police training prohibited ..... PL 87–195 Sec 660 358
Policy
Findings and sense of Congress ..... PL 87–195 Sec 101–102 19
Political repression abroad ..... PL 93–189 Sec 32 782
Poor
Determining target populations ..... PL 87–195 Sec 128 78
Population Development Assistance
Appropriations ..... PL 87–195 Note 24
Population planning ..... PL 87–195 Sec 104(b) 35
Appropriations authorization ..... PL 87–195 Sec 104(g) 41
Findings of Congress ..... PL 87–195 Sec 104 35
President
Discretionary assistance activities ... PL 87–195 Sec 106(d) 52
Private and voluntary organizations
Assisting in development ..... PL 87–195 Sec 123 73
Encouraging involvement in ..... PL 87–195 Sec 601 279
Procurement abroad ..... PL 87–195 Sec 604 283
Procurement from small businesses ..... PL 94–329 Sec 602 771
Program changes
Congressional notification ..... PL 87–195 Sec 634A 336
Programs
Notification requirements ..... PL 108–7 Sec 515 840
Prohibited circumstances
Presidential certification ..... PL 90–629 Sec 101(b) 495
Provided through private and voluntary organizations. PL 99–83 Sec 710 671
Public Law 480
Report to Congress ..... PL 108–7 Sec 537(b) 855
Supplemental appropriations, 2003 PL 108–11 Title I 893
Reappraisal of ..... PL 90–554 Part V 801
Refugees
Africa ..... PL 87–195 Sec 495F 199
Report to Congress ..... PL 87–195 Note 30
PL 87–195 Sec 634 333
PL 97–113 Sec 722 714
Human rights violations in assistance recipient countries. PL 87–195 Sec 502B(b) 231
Sunset Act ..... PL 87–195 Note 31
Reprogramming of funds ..... PL 87–195 Sec 634A 336
Restrictions
Other eligibilities ..... PL 108–7 Sec 537 855
Romania
Disaster assistance ..... PL 87–195 Sec 495D 198
Rural development ..... PL 87–195 Sec 103 32

Foreign aid—Continued		
Sahel Development Program	PL 87–195 Sec 120	71
Secretary of State		
Responsibilities	PL 87–195 Sec 622	323
Self-help development aid	PL 95–88 Sec 131	759
Services and commodities	PL 87–195 Sec 607	286
Small and micro-enterprise development	PL 87–195 Sec 108	54
South Caucasus and Central Asia		
Administrative authorities	PL 87–195 Sec 499E	236
Authorization for assistance	PL 87–195 Sec 499(b)	224
	PL 87–195 Sec 499A(b)	224
	PL 87–195 Sec 499C(b)	225
	PL 87–195 Sec 499D(b)	236
Authorization for programs	PL 87–195 Sec 499B(b)	225
Border control assistance	PL 87–195 Sec 499C	225
Development of infrastructure	PL 87–195 Sec 499B	225
Promoting democracy and tolerance	PL 87–195 Sec 499D	236
Promoting economic growth and development.	PL 87–195 Sec 499A	224
Promoting reconciliation and recovery.	PL 87–195 Sec 499	224
Soviet Union (former), independent states of		
Authorities for assistance	PL 87–195 Sec 498B	218
Special authorities	PL 87–195 Note	29
Special Foreign Assistance Act of 1971	PL 91–652	789
Special Foreign Assistance Act of 1986	PL 99–529	637
Special missions abroad	PL 87–195 Sec 631	330
Sub-Saharan Africa		
Report to Congress	PL 101–513 Sec 562(c)	982
Supplemental appropriations, 2003		
Transfers between accounts	PL 108–11 Sec 1501	884
Syria programs		
Withholding U.S. funding share	PL 87–195 Sec 307	162
Targeting for poor	PL 87–195 Sec 128	78
Termination of		
Countries involved in nuclear transfers.	PL 90–629 Sec 102(b)	497
Termination of programs		
Expenses assistance	PL 87–195 Sec 617(c)	297
Terrorism		
Prohibited to countries supporting	PL 87–195 Sec 620A	308
Trade and Development Agency		
Appropriations authorization	PL 87–195 Sec 661(f)	363
Development programs	PL 87–195 Sec 661	361
Transfer of funds		
Congressional notification	PL 108–11 Sec 1501	884
Inspector General audit of	PL 108–7 Sec 50(d)	809
Limitations on	PL 108–11 Sec 1501	884
Presidential justification	PL 108–7 Sec 509(c)	838
Restrictions on	PL 108–7 Sec 509	838
Transportation expenses	PL 87–195 Sec 636	341
Tuberculosis		
Assistance authorization	PL 87–195 Sec 104B(c)	47
Turkey		
Disaster assistance	PL 87–195 Sec 495E	199
U.S. assistance		
Prohibition on taxation of	PL 108–7 Sec 579	874
U.S. private and voluntary organizations		
Funding restrictions	PL 108–7 Sec 502	809
U.S. small business participation	PL 87–195 Sec 602	282
Unexpended balances		
Disposition of	PL 87–195 Sec 645	353
Utilizing nongovernmental organizations		
Study on	PL 99–83 Sec 311	653
Victims of torture	PL 87–195 Sec 130	84

Foreign aid—Continued
Volunteer organizations
Approved by Agency for International Development. PL 87–195 Sec 635(c) 338
Withholding of
Presidential determination ..... PL 106–386 Sec 110(d) 615
Women in development process ..... PL 87–195 Sec 113 58
World Food Program
Allocation of funds ..... PL 87–195 Note 29
Foreign aid, fiscal year 1991
General provisions ..... PL 101–513 Title V 976
Foreign aid, fiscal year 1993
General provisions ..... PL 102–391 Title V 972
Foreign aid, fiscal year 1994
Supplemental appropriations ..... PL 103–306 Title VI 970
Foreign aid, fiscal year 1996
General provisions ..... PL 104–208 Title V 959
Foreign aid, fiscal year 1999
General provisions ..... PL 105–277 Title V 951
Foreign aid, fiscal year 2003
Continuing appropriations ..... PL 107–229 Sec 101 895
Limited funding ..... PL 107–229 Sec 111 897
General provisions ..... PL 108–7 Title V 835
Foreign assistance
(see Foreign aid)
Foreign Assistance and Related Programs Appropriations Act, 1984. PL 98–151 Sec 101(b)(1) 701
Foreign Claims Settlement Commission
Foreign aid cut-off ..... PL 87–195 Sec 620(e)(1) 300
Foreign currencies
(see Currencies (foreign))
Foreign gifts and decorations
(see Gifts (foreign))
Foreign governments
(see Governments (foreign))
Foreign Military Financing Program
Colombian Armed Forces
Assistance appropriations, 2003 ..... PL 108–7 Title III 831
Supplemental appropriations, 2003 PL 108–11 Ch 5 891
Support for ..... PL 108–7 Title II 827
Foreign aid funds restrictions ..... PL 108–7 Sec 549 860
Grants
Appropriations authorization, 2003 PL 107–228 Sec 1223(a) 568
NATO Participation Act of 1994
Assistance authorization ..... PL 107–187 Sec 5 598
Procurement of defense articles and services. PL 108–11 Ch 5 831
PL 108–7 Title III 831
Supplemental appropriations, 2002 ..... PL 107–206 Title I 909
Foreign military sales
Refinancing program ..... PL 100–202 Title III 1001
Foreign Military Sales Act
(see Arms Export Control Act)
Foreign Military Sales Act Amendments of 1971. PL 91–672 791
Foreign ministers
(see Ambassadors)
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988. PL 100–202 Sec 101(e) 1001
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990. PL 101–167 987
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991. PL 101–513 976

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993. PL 102–391 972
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997. PL 104–208 959
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999. PL 105–277 951
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000. PL 106–113 932
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001. PL 106–429 916
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002. PL 107–115 914
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003. PL 108–7 809
Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994. PL 103–306 Title VI 970
Foreign Service Reserve Officers
Assignments
Foreign aid program ..... PL 87–195 Sec 625 325
Language and experience related .... PL 87–195 Sec 625(i) 327
Foreign trade
(see Trade)
France-U.S. relations
Arms control
Limiting conventional arms transfers. PL 99–83 Sec 129 641
Fuel supplies
Use in foreign aid program ..... PL 87–195 Sec 647 353
Fugitives
(see Refugees)

G

Gabon-U.S. relations
Albert Schweitzer Hospital
Foreign aid ..... PL 93–189 Sec 33 782
General Accounting Office
Foreign aid
Account auditing ..... PL 87–195 Sec 635(g)(5) 339
General Framework Agreement for Peace in Bosnia and Herzegovina
Foreign aid certification, 2003 ..... PL 108–7 Title II 822
Gerald B.H. Solomon Freedom Consolidation Act of 2002. PL 107–187 596
Germany-U.S. relations
Air defense agreements ..... PL 99–83 Sec 132 648
West Berlin
Foreign aid ..... PL 87–195 Sec 614(b) 296
Gifts (U.S.)
Foreign aid appropriations
Prohibition ..... PL 87–195 Sec 451(c) 165
Glenn Amendment
Countries involved in nuclear reprocessing transfers
Assistance prohibition ..... PL 90–629 Sec 102 496
Global Environment Facility (GEF)
Appropriations, 2003 ..... PL 108–7 Title IV 833
Global security ..... PL 97–113 Sec 710 709

Gorgas Memorial Institute
Appropriations authorization ..... PL 93–559 Sec 47 776
Governments (foreign)-U.S. relations
Airport security ..... PL 99–83 Sec 551 657
Central banks
U.S. technical assistance program ... PL 87–195 Sec 129 79
Chemical or biological weapons exports
Economic sanctions ..... PL 90–629 Sec 81 488
Debt relief arrangements
Report to Congress ..... PL 102–391 Sec 548 974
Developing countries
U.S. technical assistance program ... PL 87–195 Sec 129 79
Foreign aid personnel assigned to ..... PL 87–195 Sec 627 328
Lethal weapons exports
Foreign aid funding prohibition ..... PL 108–7 Sec 543 857
Military aid
Defense articles ..... PL 90–629 Sec 21(l) 409
Defense articles returned ..... PL 90–629 Sec 21(m) 410
Military coups
Certification for foreign aid ..... PL 108–7 Sec 508 837
Foreign aid funding prohibition ..... PL 108–7 Sec 508 837
Greece-U.S. relations
Arms sales ..... PL 99–83 Sec 101(e) 644
Arms sales credits
Repayment ..... PL 96–92 Sec 17(b) 736
Resolution in Cyprus ..... PL 87–195 Sec 620C 311
Guatemala-U.S. relations
Belize independence
Recognition of ..... PL 99–83 Sec 703(g) 667
Foreign aid
Conditions for ..... PL 99–83 Sec 703 666
Suspension of ..... PL 99–83 Sec 703(d) 667
International military education and training
Restriction on ..... PL 108–7 Title III 830
Murders of American citizens
Releasing information on ..... PL 108–7 Sec 586 878

H

Haiti-U.S. relations
Arms sales
Eligibility for ..... PL 108–7 Sec 551 860
Assistance in recovering stolen assets .... PL 99–529 Sec 204 641
Defense articles purchase
Notification requirements ..... PL 108–7 Sec 551 860
Democracy in
Findings of Congress ..... PL 99–529 Sec 201 638
Foreign aid
Conditions for ..... PL 99–83 Sec 705 668
Notification requirements ..... PL 108–7 Sec 520 844
Prohibitions on ..... S 2757 Sec 111 635
Provided through private and voluntary organizations. PL 99–83 Sec 705 668
Foreign aid, 1984
Conditions for ..... PL 98–151 Sec 101(b)(2) 703
Foreign aid, 1987 ..... PL 99–529 Sec 202 639
Immigration (illegal) to United States
Halting ..... PL 99–83 Sec 705(d) 669
Military aid, 1987
Authorization ..... PL 99–529 Sec 203 649
Conditions on ..... PL 99–529 Sec 203 649
Refugees ..... PL 98–151 Sec 101(b)(2) 703

Haiti-U.S. relations—Continued
Refugees—Continued
PL 97–113 Sec 721 714
Health care
Children
Promoting immunization and oral rehydration. PL 99–529 Sec 101 637
Heavily Indebted Poor Countries (HIPC) Trust Fund
U.S. contributions to
Appropriations authorization ..... PL 106–429 Sec 801(b) 918
Herbicides
Drug control uses ..... PL 87–195 Sec 481(d) 175
Hickenlooper Amendment ..... PL 87–195 Sec 620(e)(1) 300
Hijackings
TWA Flight 847
Sense of Congress ..... PL 99–83 Sec 558 658
HIV/AIDS
Antiretroviral treatment
Distribution increase ..... PL 108–25 Sec 402 531
Assistance for children and families
Findings of Congress ..... PL 108–25 Sec 311 526
Pilot program ..... PL 108–25 Sec 314 528
Public-private programs ..... PL 108–25 Sec 315 529
Combating
Activities supported ..... PL 87–195 Sec 104A(d) 43
Findings of Congress ..... PL 87–195 Sec 104A(a) 42
U.S. policy on ..... PL 87–195 Sec 104A(b) 42
Developing countries
Improving injection safety ..... PL 108–25 Sec 306 525
Research, treatment, and control of PL 108–7 Sec 522 844
Epidemic
Findings of Congress ..... PL 108–25 Sec 2 505
U.S. policies on ..... PL 108–25 Sec 2 510
Findings of Congress ..... PL 108–25 Sec 2 505
Global fight against
U.S. response to ..... PL 108–25 Sec 4 511
Global Fund
Private contributions to ..... PL 108–25 Sec 202(h) 519
Report to Congress ..... PL 108–25 Sec 202(c) 516
U.S. contribution to ..... PL 108–7 Title II 813
U.S. participation ..... PL 108–25 Sec 202 516
Global treatment of individuals infected
Report to Congress ..... PL 108–25 Sec 305 524
Integrated strategy to combat
Established by the President ..... PL 108–25 Sec 101 511
Promoting public-private partnerships. PL 108–25 Sec 201 516
International AIDS Vaccine Initiative
U.S. contribution to ..... PL 87–195 Sec 302(l) 160
Latin America and the Caribbean
Findings of Congress ..... PL 108–25 Sec 2 505
Mother-to-child transmission
Report to Congress ..... PL 108–25 Sec 313 527
Overseas areas
Placing U.S. health care professionals. PL 108–25 Sec 304 523
Prescription drugs
Illegal diversion of ..... PL 108–25 Sec 307 525
Sub-Saharan Africa
Findings of Congress ..... PL 108–25 Sec 2 505
Private sector assistance ..... PL 108–25 Sec 404 532
U.S. activities to combat
Coordinator of ..... PL 108–25 Sec 202(e) 519
World global impact
Findings of Congress ..... PL 108–25 Sec 2 505

HIV/AIDS, tuberculosis, and malaria
Combating
Allocation of appropriations ..... PL 108–25 Sec 403 532
Appropriations authorization ..... PL 108–25 Sec 401 531
Integrated strategy to combat
Report to Congress ..... PL 108–25 Sec 101(b) 512
Honduras-U.S. relations
Foreign aid
Appropriations, 2003 ..... PL 108–7 Sec 551 860
Police training
Foreign aid for ..... PL 87–195 Sec 660(d) 360
Refugees ..... PL 99–83 Sec 704 668
Hong Kong-U.S. relations
Promoting democracy, human rights, and the rule of law in. PL 108–7 Sec 526 846
Hospitals (abroad)
Sponsored by U.S. citizens
Foreign aid ..... PL 87–195 Sec 214 96
Hostages (U.S.)
Iraq and Kuwait
Benefits to ..... PL 101–513 Sec 599C 984
Lebanon
Benefits to ..... PL 101–513 Sec 599C 984
Housing
Less-developed countries ..... PL 87–195 Sec 221–223 98
Housing guaranties
Less-developed countries
Appropriations authorization ..... PL 87–195 Sec 222 98
Human rights
Chile
Inter-American Commission on ..... PL 93–189 Sec 35 783
Cuba
Sense of Congress ..... PL 99–83 Sec 718 674
Female genital mutilation
U.S. opposition to ..... PL 104–208 Sec 579 963
Foreign aid ..... PL 87–195 Sec 502B 229
Foreign aid conditioned on ..... PL 87–195 Sec 116 59
Guatemala
Findings of Congress ..... PL 99–83 Sec 703(h) 667
Indonesia
Military aid ..... PL 108–7 Sec 569 869
Inter-American Commission on ..... PL 87–195 Sec 302(a)(2) 158
Korea
Erosion of ..... PL 94–329 Sec 412 768
Mexico
Prisoners (U.S.) ..... PL 94–329 Sec 408 767
Overseas Private Investment Corporation. PL 87–195 Sec 239(i) 138
Reaffirmation of congressional support .. PL 97–113 Sec 713 710
Report to Congress ..... PL 87–195 Sec 502B(b) 231
Severe forms of trafficking ..... PL 87–195 Sec 502B(h) 234
Security assistance conditioned on ..... PL 87–195 Sec 502B(b) 231
Status of
Report to Congress ..... PL 87–195 Sec 116(d) 60
Human Rights and Democracy Fund of the Bureau of Democracy. PL 108–7 Sec 526 847
Human Rights and Foreign Assistance
Interagency Group on ..... PL 96–533 Sec 710 732
Hungary-U.S. relations
Overseas Private Investment Corporation
Presidential determination ..... PL 87–195 Sec 239(f) 137
Hunger
Findings of Congress ..... PL 97–113 Sec 712 710

Hunger prevention
(see Food aid)

I

Immigration (U.S.)
Alien employees of U.S. Government ..... PL 87–195 Sec 635(f) 338
Amerasians
Admission to United States ..... PL 100–202 Sec 584 1004
Imports
Educational and cultural materials
(see Educational and cultural exchange)
Indian Ocean
Military forces deployed ..... PL 94–329 Sec 407 767
Indochina War
International Commission of Control and Supervision. PL 93–559 Sec 48 776
Laotian Agreement and Protocol (1973) PL 93–189 Sec 34 782
Limitation on funds for ..... PL 93–189 Sec 31 781
Termination of ..... PL 93–189 Sec 30 781
Tonkin Gulf Resolution
Repealed ..... PL 91–672 Sec 12 793
Vietnam Agreement (1973) ..... PL 93–189 Sec 34 782
Indonesia-U.S. relations
Activities to combat terrorism
Supplemental appropriations, 2002 PL 107–206 Title I 908
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 820
International military education and training
Restrictions on ..... PL 108–7 Title III 830
Military aid
Presidential certification ..... PL 108–7 Sec 569 869
Training police forces
Supplemental appropriations, 2002 PL 107–206 Title I 907
Indus Basin Development
Grants
Appropriations authorization ..... PL 87–195 Sec 302(b)(2) 158
Loans
Appropriations authorization ..... PL 87–195 Sec 302(b)(1) 158
U.S. contributions ..... PL 87–195 Sec 303 160
Infant feeding practices
Developing countries
Report to Congress ..... PL 97–113 Sec 301(b) 706
Institute for Scientific and Technological Cooperation. PL 96–53 Sec 401–414 740
Intellectual property
Protection of ..... PL 103–392 Sec 501 624
Intelligence (foreign)
Cuba-Russia relations ..... PL 87–195 Sec 498A(d) 217
Russia-U.S. relations ..... PL 87–195 Sec 498A(d) 217
Inter-American Commission on Human Rights
Chile ..... PL 93–189 Sec 35 783
Support of ..... PL 87–195 Sec 302(a)(2) 158
Inter-American Development Bank
Social Progress Trust Fund Agreement (1961). PL 93–189 Sec 36 783
Inter-American Foundation
Abolition of ..... PL 106–113 Sec 586 937
Report to Congress ..... PL 106–113 Sec 586(e) 937
Activities
Authorities for ..... PL 108–7 Sec 532 851
Appropriations, 2003 ..... PL 108–7 Title II 825
Social Progress Trust Fund ..... PL 93–189 Sec 36 783
Inter-American Foundation Act ..... PL 91–175 Part IV 795

Inter-American Investment Corporation
Capital stock increase
Appropriations, 2003 ..... PL 108–7 Title IV 833
Inter-American Social Development Institute
(see Inter-American Foundation)
Interagency Group on Human Rights and Foreign Assistance. PL 96–533 Sec 710 732
Interagency Task Force to Monitor and Combat Trafficking. PL 106–386 Sec 105 606
International Advisory Commission for the Caribbean Region. PL 99–83 Sec 714 672
International agreements
(see Executive-legislative relations)
International AIDS Vaccine Initiative
Appropriations, 2003 ..... PL 108–7 Title II 813
U.S. contribution to ..... PL 87–195 Sec 302(l) 160
International Anti-Terrorism Committee
Establishment of ..... PL 99–83 Sec 506 656
International Atomic Energy Agency-U.S. relations
Appropriations, 2003
Restrictions on ..... PL 108–7 Title II 829
Assistance to Iran
Report to Congress ..... PL 107–228 Sec 1344 587
Budget assessment increase ..... PL 107–228 Sec 1305 572
Country specific programs
Report to Congress ..... PL 107–228 Sec 1344 587
Findings of Congress ..... PL 107–228 Sec 1305 572
Foreign aid funding prohibitions ..... PL 108–7 Title IV 834
Israel participation
Report to Congress ..... PL 108–7 Title II 830
Programs and projects review
Report to Congress ..... PL 107–228 Sec 1343 587
Voluntary contributions ..... PL 107–228 Sec 1305 572
International Bank for Reconstruction and Development
(see World Bank)
International Civil Aviation Organization
Enforcement of standards ..... PL 99–83 Sec 554 657
International Coffee Organization
Appropriations, 2003 ..... PL 108–7 Title IV 834
United States rejoining in 2003 ..... PL 108–7 Title IV 834
International Committee of the Red Cross
Appropriations, 2003 ..... PL 108–7 Title II 828
Magen David Adom Society of Israel ..... PL 108–7 Title II 829
International Development and Food Assistance Act of 1975. PL 94–161 773
International Development and Food Assistance Act of 1977. PL 95–88 Sec 1 758
International Development and Food Assistance Act of 1978. PL 95–424 750
International Development Association
Appropriations, 2003 ..... PL 108–7 Title IV 833
International Development Cooperation Act of 1979. PL 96–53 Sec 1 739
International Disaster Assistance
Appropriations, 2003 ..... PL 108–7 Title II 815
Supplemental appropriations, 2002 ..... PL 107–206 Title I 905
Supplemental appropriations, 2003 ..... PL 108–11 Ch 5 885
International Fertilizer Development Center PL 108–7 Title II 815
International Financial Institution Advisory Commission
Establishment of ..... PL 105–277 Sec 603 955
Report to Congress ..... PL 105–277 Sec 603(g), (i) 956

International financial institutions (IFIs)
(see also Multilateral development banks)
Countries (foreign)
Auditing funds and receipts ..... PL 104–208 Sec 576 962
Female genital mutilation
U.S. opposition to ..... PL 104–208 Sec 579 963
Financial management reform ..... PL 108–7 Sec 573 870
Opposing loans to Cambodia ..... PL 108–7 Sec 560 864
International financial programs and reform PL 105–277 Title VI 955
International Food and Agricultural Development
Board for ..... PL 87–195 Sec 298 151
International Food Policy Research Institute
U.S. participation ..... PL 87–195 Sec 301(h) 156
International Fund for Agricultural Development
Resources increase
Appropriations, 2003 ..... PL 108–7 Title IV 834
U.S. participation ..... PL 87–195 Sec 103(g) 32
International law
(see Arbitration)
(see Organization of American States)
(see United Nations)
International Monetary Fund
Policy implementation
Certification of ..... PL 106–429 Sec 801(c)(1)(B) 918
Practices consistent with U.S. policies
Report to Congress ..... PL 106–113 Sec 504(e) 945
Principles for lending
U.S. goals ..... PL 106–429 Sec 805 921
Structural reform efforts
Report to Congress ..... PL 105–277 Sec 606 957
International Narcotics Control Strategy Report. PL 87–195 Sec 489(a) 185
International Organization for Migration
Appropriations, 2003 ..... PL 108–7 Title II 828
International organizations
(see also respective institutions)
Foreign aid personnel assigned to ..... PL 87–195 Sec 628 328
Funding contributed by the United States
Report to Congress ..... PL 87–195 Sec 307(b) 163
International Atomic Energy Agency
Foreign aid funding prohibition ..... PL 108–7 Title IV 834
International Coffee Organization
Appropriations, 2003 ..... PL 108–7 Title IV 834
U.S. voluntary contributions ..... PL 99–83 Sec 402 654
Report to Congress ..... PL 87–195 Sec 306 161
International Organizations and Conferences
Supplemental appropriations, 2002 ..... PL 107–206 Title I 901
International organizations and programs
Appropriations, 2003 ..... PL 108–7 Title IV 834
Limitation of funds appropriated ..... PL 108–7 Sec 516 841
International organizations-U.S. relations
Military aid
Eligibility ..... PL 107–327 Sec 203 547
International Private Investment Advisory Council on Foreign Aid. PL 87–195 Sec 601(c) 281
International Scientific and Technological Cooperation, Council on. PL 96–53 Sec 407 744
International Security and Development Assistance Authorizations Act of 1983. PL 98–151 Sec 101(b)(2) 701
International Security and Development Cooperation Act of 1980. PL 96–533 723
International Security and Development Cooperation Act of 1981. PL 97–113 705

International Security and Development Cooperation Act of 1985.	PL 99–83	643
International Security Assistance Act of 1977.	PL 95–92	762
International Security Assistance Act of 1978.	PL 95–384	754
International Security Assistance Act of 1979.	PL 96–92	736
International Security Assistance and Arms Export Control Act of 1976.	PL 94–329	765
International University for the Americas		
Progress toward establishing		
Report to Congress	PL 102–549 Sec 604	632
Report to Congress	PL 102–549 Sec 604	633
Investment		
Defined	PL 87–195 Sec 238(a)	134
Foreign resistance to		
Foreign aid cut-off	PL 87–195 Sec 620(l)	304
Guaranties		
Disputes	PL 87–195 Sec 635(i)	339
Investment abroad (private)		
Advisory council on	PL 87–195 Sec 601(c)	281
Iran Nuclear Proliferation Prevention Act of 2002.	PL 107–228 Sec 1341	586
Iran-Russia relations		
Foreign aid, 2003		
Technical assistance prohibitions	PL 108–7 Title II	824
Iran-U.S. relations		
Democracy and human rights		
Support for	PL 108–7 Sec 526	847
Foreign aid		
Direct funding prohibition	PL 108–7 Sec 507	837
Foreign aid programs		
Withholding U.S. funding share	PL 87–195 Sec 307	162
International Atomic Energy Agency assistance		
Report to Congress	PL 107–228 Sec 1344	587
Iraq		
U.N. sanctions against		
Countries not in compliance	PL 108–7 Sec 531	850
Iraq Freedom Fund		
Supplemental appropriations, 2003	PL 108–11 Title I	881
	PL 108–11 Title I	882
Pakistan reimbursement	PL 108–11 Sec 1310	884
Iraq Liberation Act of 1998		
Drawdown support		
Supplemental appropriations, 2003	PL 108–11 Sec 1309	884
Iraq Relief and Reconstruction Fund		
Appropriations, 2003	PL 108–11 Ch 5	886
Congressional notification	PL 108–11 Ch 5	886
Iraq Sanctions Act of 1990	PL 101–513 Sec 586	983
Iraq Sanctions Act of 1992		
Provisions of		
Suspension by President	PL 108–11 Sec 1503	892
Iraq-U.S. relations		
Economic Support Fund		
Supporting Iraqi opposition groups	PL 108–7 Sec 567	869
Supporting political transition	PL 108–7 Sec 567	869
Foreign aid		
Direct funding prohibition	PL 108–7 Sec 507	837
Funds subject to reprogramming procedures.	PL 108–11 Sec 1502	884
Foreign aid programs		
Withholding of U.S. proportionate funds.	PL 87–195 Sec 307	162
Humanitarian aid		
Report to Congress	PL 108–7 Sec 507	837
U.S. security interests	PL 108–7 Sec 507	837

Iraq-U.S. relations—Continued
Iraq Relief and Reconstruction Fund
Appropriations, 2003 ..... PL 108–11 Ch 5 886
Military aid
Nonlethal military equipment ..... PL 108–11 Sec 1504 892
Military operations
Supplemental appropriations, 2003 PL 108–11 Title I 881
Natural Resources Risk Remediation Fund
Supplemental appropriations, 2003 PL 108–11 Title I 882
Post conflict strategy
Report to Congress ..... PL 108–11 Sec 1506 893
Radio broadcasting to
Supplemental appropriations, 2003 PL 108–11 Title I 880
Ireland, International Fund for
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 821
Israel-Egypt relations
Peace process ..... PL 99–83 Sec 1206 696
Israel-U.S. relations
Air base construction ..... PL 87–195 Sec 561 272
Arab League boycott
Sense of Congress ..... PL 108–7 Sec 535 854
Arms sales ..... PL 99–83 Sec 101(c) 644
PL 91–672 Sec 5 791
Advanced weapons systems ..... PL 108–7 Title III 831
PL 108–11 Ch 5 891
Grants ..... PL 108–7 Title III 831
Desalting plant ..... PL 87–195 Sec 219 97
Economic conditions
Impact on foreign debt ..... PL 99–83 Sec 1205 691
Economic Support Fund ..... PL 99–83 Sec 202 650
Appropriations, 2003 ..... PL 108–7 Title II 819
Loan guarantees ..... PL 108–11 Ch 5 889
Supplemental appropriations, 2002 PL 107–206 Title I 906
International Atomic Energy Agency
Participation in ..... PL 108–7 Title II 829
Loan guarantees ..... PL 87–195 Sec 226 108
Fiscal year allocations ..... PL 87–195 Sec 226(b) 108
Limitations on amount ..... PL 87–195 Sec 226(d) 109
Report to Congress ..... PL 87–195 Sec 226(k) 111
Peace negotiations ..... PL 95–384 Sec 28 757
Italy-U.S. relations
Disaster assistance
Appropriations authorization ..... PL 87–195 Sec 495B 197

J

Jamaica-U.S. relations
Community-based police assistance
Foreign aid ..... PL 108–7 Sec 582 876
Economic Support Fund
Aid contingent on drug control ..... PL 99–83 Sec 610 659
Japan-U.S. relations
Standardization agreements ..... PL 90–629 Sec 21(g) 407
Javits reports
Arms sales
Annual estimate and justification .... PL 90–629 Sec 25 418
Jobs Through Exports Act of 1992 ..... PL 102–549 626
Jobs Through Trade Expansion Act of 1994 .. PL 103–392 624
Jordan-U.S. relations
Arms sales ..... PL 99–83 Sec 130 646
Grants ..... PL 108–11 Ch 5 831
Debt relief
Appropriations, 1994 ..... PL 103–306 Title VI 970
Direct loans and guarantees
Appropriations, 2003 ..... PL 108–7 Title II 820

Jordan-U.S. relations—Continued
Economic Support Fund
Supplemental appropriations, 2003 PL 108–11 Ch 5 887
Foreign aid PL 96–533 Sec 712 733
Jordan
Appropriations, 2003 PL 108–7 Title II 820
Logistical support
Reimbursement for PL 108–11 Sec 1310 884
PL 107–206 Title I 902
Middle East peace PL 99–83 Sec 130 646

K

Kazakhstan-U.S. relations
Foreign aid
Conditions for PL 108–7 Sec 574 871
Waiver of PL 108–7 Sec 574 871
Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002. PL 107–115 914
Korea (Republic of)-U.S. relations
Armed Forces modernization PL 95–384 Sec 23 755
Cooperation in U.S. investigations PL 95–92 Sec 28 764
Defense articles transferred PL 91–652 Sec 3–4 789
Democratization PL 99–83 Sec 908 694
Human rights PL 94–329 Sec 412 768
Troop withdrawal PL 95–384 Sec 23 755
Korean Peninsula Energy Development Organization (KEDO)
Assistance prohibition PL 108–7 Sec 562 865
Foreign aid funding prohibition PL 108–7 Title IV 834
Foreign aid, 2003 PL 108–7 Title II 829
Presidential determination PL 108–7 Sec 562(c) 865
Presidential waiver PL 108–7 Sec 562 865
Kosovo-U.S. relations
Economic Support Fund
Foreign aid, 2003 PL 108–7 Title II 822
Training programs for women
Appropriations, 2003 PL 108–7 Title II 822

L

Land mines
Demining and clearance of
Appropriations, 2003 PL 108–7 Title II 830
Demining and removal equipment
Agency for International Development grants. PL 108–7 Sec 547 859
Language requirements
Foreign aid personnel PL 87–195 Sec 625(i) 327
Laos-U.S. relations
Aliens in the United States
Status of PL 106–429 Sec 586 916
Indochina War
Agreement and Protocol on (1973) PL 93–189 Sec 34 782
Latin America
Education
(see Education)
Latin America-U.S. relations
Administration of justice
Assistance in support of PL 108–7 Sec 536 855
Economic Support Fund assistance PL 87–195 Sec 534 264
Drug control
Transfer of funds appropriated PL 101–167 Sec 569(d) 992
Foreign debt
Report to Congress PL 99–83 Sec 719 674

Latin America-U.S. relations—Continued
Trade
United States Commercial Centers PL 102–549 Sec 401 629
Lavi aircraft
Foreign military sales loans for ..... PL 99–83 Sec 101(c) 644
Leasing
Defense equipment
Excess defense articles ..... PL 90–629 Sec 61 475
Presidential authority ..... PL 90–629 Sec 61 475
Report to Congress ..... PL 90–629 Sec 61 475
PL 90–629 Sec 62 477
Waiver of costs ..... PL 90–629 Sec 61 475
Strategic and critical materials
Restrictions on ..... PL 90–629 Sec 65(c) 479
Lebanon-U.S. relations
Armed Forces
Deployment to Lebanon-Israeli border. PL 107–228 Sec 1224 569
Civil strife
Sense of Congress ..... PL 94–329 Sec 410 768
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 820
Foreign aid ..... PL 87–195 Sec 495C 198
PL 87–195 Sec 495J 202
Presidential certification on deployment of Armed Forces. PL 107–228 Sec 1224 569
Resolution of crisis ..... PL 97–113 Sec 715 710
Legislative Reorganization Acts (1946 and 1970)
Foreign affairs oversight ..... PL 92–226 Sec 407 788
Less-developed countries
(see also Africa-U.S. relations)
(see also Latin America-U.S. relations)
Agricultural commodity imports
(see Agricultural commodity sales)
Arms control
Limiting conventional weapons ..... PL 99–83 Sec 129 641
Sophisticated weapons ..... PL 90–629 Sec 4 400
Foreign aid
Agricultural programs ..... PL 87–195 Sec 222A 700
Liberia-U.S. relations
Foreign aid
Conditions for ..... PL 99–83 Sec 807 689
Notification requirements ..... PL 108–7 Sec 520 844
Military aid
Prohibitions on ..... PL 108–7 Title III 832
Library of Congress
Russian Leadership Program
Establishment of ..... PL 106–31 Sec 3011 946
Libya-U.S. relations
Foreign aid
Direct funding prohibition ..... PL 108–7 Sec 507 837
Foreign aid programs
Withholding U.S. funding share ..... PL 87–195 Sec 307 162
Imports and exports
Prohibition on ..... PL 99–83 Sec 504 655
Terrorism ..... PL 97–113 Sec 718 712
Loan guarantees
Developing countries
Appropriations, 2003 ..... PL 108–7 Title II 817
Locust plagues
Africa
Foreign aid ..... PL 95–424 Sec 120 751
Lodge Commission
Negotiations to implement ..... PL 92–226 Sec 410 788

Loyalty
(see Refugees)

M

Magen David Adom Society of Israel
International Committee of the Red Cross activities. PL 108–7 Title II 829
Malaria
Combating
Coordination efforts ..... PL 87–195 Sec 104C(d) 49
Findings of Congress ..... PL 87–195 Sec 104C(a) 49
U.S. policy on ..... PL 87–195 Sec 104C(b) 49
Resurgence of
World Health Organization estimates. PL 108–25 Sec 2 507
Vaccine development programs
U.S. contribution to ..... PL 87–195 Sec 302(m) 160
Mediation
(see Arbitration)
Mediterranean (Eastern)-U.S. relations
Military aid ..... PL 87–195 Sec 620C 311
Military balance maintenance ..... PL 101–167 Sec 573(e) 994
Merchant marine (U.S.)
Defense articles shipped by ..... PL 87–195 Sec 603 283
Differential in rates
Foreign aid ..... PL 87–195 Sec 640C 349
Fresh fruit shipped by ..... PL 87–195 Sec 603 283
Mexican Debt Disclosure Act of 1995 ..... PL 104–6 Title IV 966
Mexico-U.S. relations
Economic policies
Findings of Congress ..... PL 104–6 Sec 401 966
Report to Congress ..... PL 104–6 Sec 403–404 966
Facilitating international trade ..... PL 99–83 Sec 717 672
Loans, credits, guarantees, and currency swaps
Presidential certification ..... PL 104–6 Sec 406 968
Prisoners in Mexico ..... PL 94–329 Sec 408 767
MIA
(see also Indochina War)
Indochina War
Laotian Agreement and Protocol (1973). PL 93–189 Sec 34 782
Vietnam
Accounting of ..... PL 95–88 Sec 132(b) 759
Microenterprise development
Definitions ..... PL 87–195 Sec 131(e) 88
Grant assistance
Findings of Congress ..... PL 87–195 Sec 131 85
Microenterprise Report to Congress ..... PL 108–31 503
Microfinance
U.S. loan facility
Establishment of ..... PL 87–195 Sec 132 89
Middle East
(see also Israel-U.S. relations)
Aid to Egypt and Israel
International efforts ..... PL 94–161 Sec 322 774
Middle East-U.S. relations
Arms shipments to
Limitation on ..... PL 91–672 Sec 5 791
Peace efforts ..... PL 96–533 Sec 711 732
Findings of Congress ..... PL 95–384 Sec 28 757
Science and technology cooperative
Sense of Congress ..... PL 99–83 Sec 202(d) 651
Military (foreign)
Defense articles and services
Utilization of ..... PL 87–195 Sec 502 228

Military (foreign)—Continued
Military training provided by United States
Report to Congress ..... PL 87–195 Sec 656 357
Military (U.S.)
(see also Mutual defense)
Stationed abroad
Hostilities against ..... PL 90–629 Sec 21(c)(2) 404
Military aid (U.S.)
(see also Arms sales)
(see also Economic Support Fund)
(see also Mutual defense)
Administrative costs
Appropriations, 2003 ..... PL 108–7 Title III 832
Allocation changes ..... PL 87–195 Sec 653 354
Appropriations, 2003 ..... PL 108–7 Title III 830
Arms control
Considerations in providing assistance. PL 87–195 Sec 511 246
Colombian drug control
Supplemental appropriations, 2002 PL 107–206 Sec 305 904
Consolidation of accounts ..... PL 87–195 Sec 610 290
Counterpart funds ..... PL 93–189 Sec 40 785
Country funding level increases
Congressional notification ..... PL 108–7 Title III 831
Defense articles
Appropriations authorization ..... PL 87–195 Sec 504 238
Loans of ..... PL 87–195 Sec 503–504 236
Procurement ..... PL 87–195 Sec 605 285
Repair of ..... PL 90–629 Sec 21(l) 409
Return of ..... PL 90–629 Sec 21(m) 410
Defense Department expenses
Funding limitation ..... PL 108–7 Title III 832
Determination on ..... PL 87–195 Sec 505(c) 239
Discrimination in providing assistance ... PL 87–195 Sec 505(g) 241
Eastern Mediterranean ..... PL 87–195 Sec 620C 311
Education and training ..... PL 87–195 Sec 541–543 266
PL 94–329 Sec 106 765
Appropriations authorization ..... PL 87–195 Sec 542 266
Maritime skills ..... PL 87–195 Sec 545 268
Education and training programs
Exchange students ..... PL 87–195 Sec 544 267
El Salvador ..... PL 101–513 Sec 531 976
Eligibility
Conditions of ..... PL 87–195 Sec 505 238
Emergency authority ..... PL 87–195 Sec 506 242
Excess defense articles
Authority limitations ..... PL 87–195 Sec 516(b) 252
Congressional notification ..... PL 87–195 Sec 516(f) 254
Limitations on ..... PL 87–195 Sec 516(b) 252
Exchanged for strategic raw materials ... PL 87–195 Sec 663 364
Foreign military financing grants
Appropriations authorization ..... PL 107–228 Sec 1223(a) 568
Foreign Military Financing Program
Appropriations, 2003 ..... PL 108–7 Title III 831
Congressional notification ..... PL 108–11 Ch 5 891
Israel ..... PL 108–7 Title III 831
PL 108–11 Ch 5 891
Jordan ..... PL 108–11 Ch 5 831
Supplemental appropriations, 2003 PL 108–11 Ch 5 831
Foreign military sales
Refinancing ..... PL 100–202 Title III 1001
Grant assistance
Prohibition on ..... PL 87–195 Sec 546 268
Greece
Appropriations authorization, 2003 PL 107–228 Sec 1222 567

Military aid (U.S.)—Continued
Hostile countries
Mutual defense against ..... PL 87–195 Sec 501 227
International military education and training
Appropriations authorization, 2003 PL 107–228 Sec 1211 567
PL 107–228 Sec 1223(b) 568
Appropriations, 2003 ..... PL 108–7 Title III 830
Liberia
Prohibitions against ..... PL 108–7 Title III 832
Military assistance advisory groups
Restrictions ..... PL 87–195 Sec 515 250
Military personnel assigned abroad
Restrictions ..... PL 87–195 Sec 515 250
National security assistance strategy
Report to Congress ..... PL 107–228 Sec 1501 590
North Atlantic Treaty Organization
Excess defense articles ..... PL 87–195 Sec 516 251
Standardization agreements ..... PL 90–629 Sec 21(g) 407
Poland
Credit sales ..... PL 107–229 Sec 128 897
Defense articles ..... PL 107–229 Sec 128 897
Policy ..... PL 87–195 Sec 501 227
President
Report to Congress ..... PL 87–195 Sec 506(b)(2) 242
Procurement of defense articles and services
Financing of ..... PL 108–11 Ch 5 831
PL 108–7 Title III 831
Report to Congress ..... PL 87–195 Sec 506(a) 242
Secretary of Defense ..... PL 87–195 Sec 623 324
Security assistance surveys ..... PL 90–629 Sec 26 421
Stockpiling for foreign countries
Authority to transfer ..... PL 87–195 Sec 514 247
Sudan
Prohibitions against ..... PL 108–7 Title III 832
Termination of
Presidential action ..... PL 87–195 Sec 505(c) 239
Presidential determination ..... PL 87–195 Sec 505(b) 239
Training foreign participants
Annual list of personnel or military units. PL 87–195 Sec 548(b) 268
Records database ..... PL 87–195 Sec 548 268
Turkey ..... PL 99–83 Sec 101(f) 645
Appropriations authorization, 2003 PL 107–228 Sec 1222 567
Military bases abroad
(see Military (U.S.), stationed abroad)
Military equipment (U.S.)
Missiles and missile technology
Export controls ..... PL 90–629 Sec 71 480
Transfer of ..... PL 90–629 Sec 71 480
United States Munitions List ..... PL 90–629 Sec 71 480
Naval vessels
Transfers of ..... PL 107–228 Sec 1701 594
Transfer excess defense articles
Report to Congress ..... PL 101–167 Sec 573(c) 993
Transfer to drug producing countries ..... PL 101–167 Sec 573 992
Transfer to NATO members ..... PL 90–629 Sec 91 492
Definitions ..... PL 90–629 Sec 95 494
Transfer to NATO southern flank countries. PL 101–167 Sec 573 992
United States Munitions List
Export controls ..... PL 90–629 Sec 71 480
Used for land mine removal
Disposed of on a grant basis ..... PL 108–7 Sec 547 859
Military equipment
Missiles in South Asia
U.S. policy ..... PL 107–228 Sec 1601 591

Military equipment—Continued
Terrorist countries receiving
Prohibitions ..... PL 87–195 Sec 620H 320
Uranium ammunition
Restrictions on ..... PL 87–195 Sec 620G 319
Military sales
(see Arms sales)
Minorities
Economic Support Fund
Minority set aside ..... PL 99–83 Sec 315 654
Minority Resource Center ..... PL 98–151 Sec 101(b)(2) 703
PL 95–88 Sec 133(c) 760
Missile Technology Control Regime
Definitions ..... PL 90–629 Sec 74 487
Export controls
Presidential sanctions ..... PL 90–629 Sec 72–73 481
Presidential waiver ..... PL 90–629 Sec 73(e) 485
Foreign country adherents
Report to Congress ..... PL 90–629 Sec 73A 486
Foreign persons
Export controls ..... PL 90–629 Sec 73 783
U.S. persons
Export controls ..... PL 90–629 Sec 72 481
Missiles
(see Military equipment (U.S.))
Missing-in-action
(see MIA)
Mozambique-U.S. relations
Foreign aid
Conditions for ..... PL 99–83 Sec 813 690
Multilateral development banks
Developmental programs
Foreign aid ..... PL 87–195 Sec 209 94
Environment
Report to Congress ..... PL 102–391 Sec 532(c) 973
Environmental concerns
Promoting U.S. policies ..... PL 101–513 Sec 533 980
U.S. contributions to ..... PL 108–7 Title IV 833
Multilateral Investment Guarantee Agency
Capital stock increase
Appropriations, 2003 ..... PL 108–7 Title IV 833
U.S. subscription limitation ..... PL 108–7 Title IV 833
Multilateral organizations
(see International organizations)
Mutual defense
Arms sales ..... PL 90–629 Sec 4 400
Foreign aid effect on ..... PL 87–195 Sec 650 354
Mutual Educational and Cultural Exchange Act of 1961
(see Educational and cultural exchange)

N

Nagorno-Karabakh-U.S. relations
Confidence building measures
Appropriations, 2003 ..... PL 108–7 Title II 823
Narcotics (Illicit)
(see Drug control)
National commitments
Foreign aid ..... PL 87–195 Sec 650 354
National Endowment for Democracy
Programs supporting
Appropriations, 2003 ..... PL 108–7 Sec 526 846
National security
Global problems affecting ..... PL 97–113 Sec 710 709

Nationality
(see Refugees)
Nationalization of U.S. property
Foreign aid cut-off ..... PL 87–195 Sec 620(e)(1)(A) ... 300
Hickenlooper Amendment ..... PL 87–195 Sec 620(e)(1) 300
Nationalizations
(see also Foreign claims)
Cuba
Foreign aid prohibition ..... PL 87–195 Sec 620(a) 298
Overseas Private Investment Corporation insurance against. PL 87–195 Sec 234(a)(1)(B) .. 119
U.S. policy on ..... PL 87–195 Sec 601(b)(6) 280
NATO Enlargement Facilitation Act of 1996
Findings of Congress ..... PL 107–187 Sec 2 596
NATO Participation Act of 1994
Countries eligible for assistance
Assistance authorization ..... PL 107–187 Sec 5 598
Findings of Congress ..... PL 107–187 Sec 2 596
Slovakia
Assistance eligibility ..... PL 107–187 Sec 4 596
NATO-U.S. relations
CFE Treaty
U.S. arms transfers ..... PL 90–629 Sec 93 492
Cooperative research and development programs
Lending materials and equipment ... PL 90–629 Sec 65 479
Enlargement of ..... PL 107–187 Sec 2 596
Findings of Congress ..... PL 107–187 Sec 2 596
Southern and southeastern flank
U.S. military aid ..... PL 87–195 Sec 516(c)(2) 253
U.S. military aid
Excess defense articles ..... PL 87–195 Sec 516(c)(2) 253
Standardization agreements ..... PL 90–629 Sec 21(g) 407
Natural resources
Conservation of
Foreign aid ..... PL 87–195 Sec 117 65
Developing countries
Foreign aid ..... PL 87–195 Sec 117 65
Tropical forests
Conservation of ..... PL 87–195 Sec 802 374
Foreign aid ..... PL 87–195 Sec 118 66
Natural Resources Risk Remediation Fund
Supplemental appropriations, 2003 ..... PL 108–11 Title I 882
New Zealand-U.S. relations
Standardization agreements ..... PL 90–629 Sec 21(g) 407
Nicaragua-U.S. relations
Conflict resolution ..... PL 99–83 Sec 722(c) 677
Contadora Agreement
Aid in implementing ..... PL 99–83 Sec 722(h) 681
Findings and policy of Congress ..... PL 99–83 Sec 722 676
Foreign aid
Appropriations, 2003 ..... PL 108–7 Sec 551 860
Disaster assistance ..... PL 87–195 Sec 494 196
Foreign aid used against government
Limitations on ..... PL 99–83 Sec 722(e) 681
Military aid
Prohibited ..... PL 96–533 Sec 119 725
Military or paramilitary activities assistance
Prohibiting ..... PL 99–83 Sec 722(d) 680
Nicaraguan foreign and domestic policies. PL 99–83 Sec 722(b) 676
Report to Congress ..... PL 99–83 Sec 722(j) 682
U.S. aid ..... PL 97–113 Sec 724 715
U.S. policies toward ..... PL 99–83 Sec 722(i) 682
Nicaraguan Democratic Resistance-U.S. relations
Humanitarian assistance ..... PL 99–83 Sec 722(g) 681

Nigeria-U.S. relations
Foreign Military Financing Program
Assistance restrictions ..... PL 108–7 Sec 557 863
Human rights violations
Assistance restrictions ..... PL 108–7 Sec 557 863
International military education and training
Assistance restrictions ..... PL 108–7 Sec 557 863
Report to Congress ..... PL 108–7 Title III 830
Nongovernmental organizations
Channeling foreign aid through ..... PL 99–83 Sec 311 653
Foreign aid in support of ..... PL 108–7 Sec 537 855
Nonproliferation and Disarmament Fund
Appropriations, 2003 ..... PL 108–7 Title II 829
PL 108–7 Title II 830
Expenses to combat terrorism
Supplemental appropriations ..... PL 107–206 Title I 908
Nonproliferation Assistance Coordination Act of 2002. PL 107–228 Sec 1331 583
North Atlantic Treaty Organization (NATO)
(see NATO)
North Korea-U.S. relations
Foreign aid
Direct funding prohibition ..... PL 108–7 Sec 507 837
Foreign aid programs
Withholding of U.S. proportionate funds. PL 87–195 Sec 307 162
Military forces
Report to Congress ..... PL 104–208 Sec 585 964
North Vietnam-U.S. relations
(see Indochina War)
Nuclear detonation
U.S. foreign policy ..... PL 97–113 Sec 737 722
Nuclear exports
Foreign aid funding prohibition ..... PL 108–7 Sec 506 836
Nuclear facilities
Economic Support Fund
Restrictions on ..... PL 99–83 Sec 207 653
Report to Congress ..... PL 97–113 Sec 735 721
Nuclear nonproliferation
Controls
Foreign aid ..... PL 87–195 Sec 581 277
PL 90–629 Sec 101 494
Enrichment transfers
Foreign aid prohibition ..... PL 90–629 Sec 101 494
Reprocessing transfers
Foreign aid prohibition ..... PL 90–629 Sec 102 496
South Asia
Findings of Congress ..... PL 87–195 Sec 620F 318
Report to Congress ..... PL 87–195 Sec 620F(c) 319
Sense of Congress ..... PL 87–195 Sec 620F 318
U.S. policy ..... PL 107–228 Sec 1601 591
U.S. objectives in South Asia
Report to Congress ..... PL 107–228 Sec 1601 591
Uranium
Export of ..... PL 96–533 Sec 110 723
Nuclear transfers
U.S. foreign policy ..... PL 97–113 Sec 737 722

O

Oaths of allegiance
(see Refugees)
Obligations (U.S.)
Definitions and applications ..... 31 USC 1551 1010
Documentary evidence requirements ..... 31 USC 1501 1009

OECD
(see Organization for Economic Cooperation and Development)
Offset agreements
Arms sales
Incentive payments prohibition ..... PL 90–629 Sec 39A 457
Okinawa-U.S. relations
Chemical munitions
Transfer to United States ..... PL 91–672 Sec 13 793
Olympic games
Boycott of ..... PL 96–533 Sec 718 734
Organization for Economic Cooperation and Development (OECD)
Development Assistance Committee ..... PL 87–195 Sec 631(c) 330
Organization for the Prohibition of Chemical Weapons (OPCW)
(see Chemical Weapons Convention)
(see United States National Authority)
Organization of American States-U.S. relations
International military forces
Establishment of ..... PL 87–195 Sec 501 227
Overseas Private Investment Corporation (OPIC)
Agricultural credit and assistance programs. PL 87–195 Sec 222A(f) 101
Applicability of U.S. Code ..... PL 87–195 Sec 239(c) 135
Board of directors ..... PL 87–195 Sec 233(b) 117
Capital stock ..... PL 87–195 Sec 232 116
Conflict diamonds
Funding restrictions ..... PL 108–7 Sec 583 877
Creation, purpose and policy ..... PL 87–195 Sec 231 112
Developing countries
U.S. small business participation .... S 2757 Sec 109 635
Direct and guaranteed loads
Appropriations, 2003 ..... PL 107–229 Sec 112 897
Direct investment ..... PL 87–195 Sec 234(c) 121
Equity financing
Pilot program ..... PL 87–195 Sec 234(g) 123
Equity financing program
Congressional consultation ..... PL 87–195 Sec 234(g)(6) 125
Limitations on ..... PL 87–195 Sec 234(g)(2) 124
Exports
Insurance guaranty program ..... PL 87–195 Sec 240B 141
Functions ..... PL 87–195 Sec 234 119
Fund for acquisition equity
Creation of ..... PL 87–195 Sec 234(c) 121
General provisions and powers ..... PL 87–195 Sec 239 135
Guaranties of loans ..... PL 87–195 Sec 234(b) 121
PL 87–195 Sec 237 130
Human rights ..... PL 87–195 Sec 239(i) 138
Impact of guarantees on employment ..... PL 87–195 Sec 231 112
Income and revenues ..... PL 87–195 Sec 236 130
Insurance ..... PL 87–195 Sec 234(a) 119
Other functions ..... PL 87–195 Sec 234(f) 122
Insurance guaranty program ..... PL 87–195 Sec 237 130
Awarding contracts ..... PL 87–195 Sec 240B 141
Insurance Reserve and the Guaranty Reserve. PL 87–195 Sec 235(c) 128
Investment Advisory Council ..... PL 87–195 Sec 233(e) 118
Investment guarantees
Liabilities ..... PL 87–195 Sec 235 127
Investment insurance
Liabilities ..... PL 87–195 Sec 235 127
Investment insurance programs ..... PL 87–195 Sec 234 119
Legal capacity ..... PL 87–195 Sec 239(d) 136
Officers ..... PL 87–195 Sec 233(d) 118
Organization ..... PL 87–195 Sec 233 117

Overseas Private Investment Corporation (OPIC)—Continued
- Predecessor authority transferred ..... PL 87–195 Sec 235 127
- President of ..... PL 87–195 Sec 233(c) 118
- Private insurance companies ..... PL 87–195 Sec 234 119
- Private investment opportunities
  - Surveys ..... PL 87–195 Sec 234(d) 122
- Private political risk
  - Enhancement of ..... PL 87–195 Sec 234A 125
- Programs in Haiti
  - Prohibitions on ..... S 2757 Sec 111 635
- Report to Congress ..... PL 87–195 Sec 240A 139
- Staff ..... PL 87–195 Sec 233(d) 118
- Tax exempt status ..... PL 87–195 Sec 239(j) 138
- Technical assistance ..... PL 87–195 Sec 234(e) 122
- U.S. small business participation ..... PL 87–195 Sec 240 138
- United States Trade Representative
  - Report to Congress ..... PL 87–195 Sec 240B(b) 141
- Workers rights ..... PL 87–195 Sec 231A 115

Overseas Private Investment Corporation Amendments Act of 1988. S 2757 635

P

Pakistan-U.S. relations
- Direct loans and guarantees
  - Appropriations, 2003 ..... PL 108–7 Title II 820
- Disaster assistance ..... PL 87–195 Sec 494 196
- Economic Support Fund
  - Foreign aid, 2003 ..... PL 108–7 Title II 820
  - Supplemental appropriations, 2002 PL 107–206 Title I 905
- Foreign aid ..... PL 87–195 Sec 620E 314
  - Notification requirements ..... PL 108–7 Sec 520 844
- Logistical support
  - Reimbursement for ..... PL 108–11 Sec 1310 884
  - PL 107–206 Title I 902

Palestine
- (see Palestine Liberation Organization)
- (see Palestinian Authority-U.S. relations)

Palestine Liberation Organization
- Conditions for U.S. recognition ..... PL 99–83 Sec 1302 696
- West Bank and Gaza assistance
  - Funding limitation ..... PL 108–7 Sec 545 858

Palestine Liberation Organization-U.S. relations
- Aid programs
  - Withholding U.S. funding share ..... PL 87–195 Sec 307 162

Palestinian Authority-U.S. relations
- Assistance limitations
  - Presidential waiver of ..... PL 108–7 Sec 563 865
- Democratic elections
  - Foreign aid ..... PL 108–7 Sec 563 865
- Foreign aid
  - Funding prohibition ..... PL 108–7 Sec 552 861
- Foreign aid limitations ..... PL 108–7 Sec 563 865
- Restrictions ..... PL 108–7 Sec 548 859
- Statehood ..... PL 108–7 Sec 563 865
- Waiver on foreign aid prohibition ..... PL 108–7 Sec 552(b) 861

Palestinian Broadcasting Corporation
- Foreign aid funding prohibition ..... PL 108–7 Sec 566 868

Paraguay-U.S. relations
- Military aid ..... PL 99–83 Sec 706 669

Patents
- Foreign aid
  - Claims ..... PL 87–195 Sec 606 286

Peace Corps
(see also Foreign Service)
Activities
Authorities for ..... PL 108–7 Sec 532 851
Appropriations authorization, 1984 ..... PL 98–151 Sec 101(b)(2) 701
Appropriations, 2003 ..... PL 108–7 Title II 825
Peacekeeping operations
Appropriations authorization ..... PL 87–195 Sec 552 270
Appropriations, 2003 ..... PL 108–7 Title III 832
Costs to U.N. members
Data on ..... PL 87–195 Sec 554 272
Costs to United States
Data on ..... PL 87–195 Sec 554 272
Expenses to combat terrorism
Supplemental appropriations, 2002 PL 107–206 Title I 909
General authority ..... PL 87–195 Sec 551 270
Supplemental appropriations, 2003 ..... PL 108–11 Ch 5 882
Persian Gulf
Stinger missiles
Restrictions on ..... PL 101–167 Sec 581 995
Peru-U.S. relations
Air interdiction programs
Certification for ..... PL 108–7 Title II 827
Foreign aid
Conditions for ..... PL 99–83 Sec 612 660
Human rights ..... PL 99–83 Sec 707 670
Philippines-U.S. relations
Economic Support Fund
Support for peace in Mindanao ..... PL 108–11 Ch 5 888
Foreign aid
Tied to U.S. security interests ..... PL 99–83 Sec 901 691
PL 480
(see Agricultural Trade Development and Assistance Act of 1954)
Plan Colombia
Costs to support
Report to Congress ..... PL 106–246 Sec 3204(e) 929
Poland-U.S. relations
Humanitarian assistance ..... PL 97–113 Sec 502 707
PL 97–113 Sec 708 708
Military equipment
Credit sales ..... PL 107–229 Sec 128 897
Overseas Private Investment Corporation
Presidential determination ..... PL 87–195 Sec 239(f) 137
Polish currency
Use of ..... PL 97–113 Sec 709 709
Trade Credit Insurance Program ..... PL 87–195 Sec 225 105
Police training
El Salvador
Foreign aid for ..... PL 87–195 Sec 660(d) 360
Foreign aid for
Prohibited ..... PL 87–195 Sec 660 358
Honduras
Foreign aid for ..... PL 87–195 Sec 660(d) 360
Political prisoners
U.S. aid cut-off ..... PL 93–189 Sec 32 782
Political tests
(see Refugees)
Population planning
Abortions
Foreign aid funding prohibition ..... PL 108–7 Title II 814
Colombia
Foreign aid limitation ..... PL 106–246 Sec 3206 930
Family programs
Program violations ..... PL 108–7 Title II 814
Requirements for funding ..... PL 108–7 Title II 814
Foreign aid ..... PL 87–195 Sec 104(b) 35

Population planning—Continued
Involuntary sterilization
Foreign aid funding prohibition ..... PL 87–195 Sec 104(f) 40
PL 108–7 Sec 518 843
Portugal-U.S. relations
Economic conditions
Impact on foreign debt ..... PL 99–83 Sec 1205 691
Economic Support Fund ..... PL 99–83 Sec 204 652
Food aid ..... PL 94–329 Sec 409 767
Portuguese African colonies ..... PL 93–559 Sec 50 777
Poverty
Developing countries
Capital projects to eliminate ..... PL 102–549 Sec 303 628
POW
Indochina War
Laotian Agreement and Protocol (1973). PL 93–189 Sec 34 782
President
(see also Reports to Congress)
Arms sales
Certification procedures ..... PL 90–629 Sec 36(b) 434
Arms sales procurement
Determination on U.S. adverse impact. PL 90–629 Sec 42(c) 469
Arms sales to Jordan
Certification ..... PL 99–83 Sec 130(c) 647
Certification
Bosnia-Herzegovina peace ..... PL 108–7 Title II 822
Congressional notification
Designation of non-NATO allies ..... PL 87–195 Sec 517 255
Transfer of excess defense articles ... PL 87–195 Sec 516(f) 254
Determination
Major drug transit and illicit drug producing countries. PL 87–195 Sec 490(h) 194
Drug control
Certification procedures ..... PL 87–195 Sec 490(b) 192
Foreign aid programs
Suspension of ..... PL 87–195 Sec 620 298
Former Soviet Union
Determination on aid eligibility ..... PL 87–195 Sec 498A(b) 215
Loans, credits, and guarantees to Mexico
Certification procedures ..... PL 104–6 Sec 406 968
Military aid
Determination on ..... PL 87–195 Sec 505(b) 239
Sanctions
Report to Congress ..... PL 90–629 Sec 102(b) 497
Waiver certification ..... PL 90–629 Sec 102(b) 497
Sanctions against Serbia or Montenegro
Certification ..... PL 104–208 Sec 540 959
Serbia or Montenegro
Waiver of sanctions ..... PL 104–208 Sec 540(c) 960
Presidential Task Force on Project Justice ... PL 99–83 Sec 713 671
Prisoners of War
(see POW)
Private and voluntary organizations
Agricultural credit and assistance programs. PL 87–195 Sec 222A 700
Assisting in development
Foreign aid ..... PL 87–195 Sec 123 73
Assisting in development and relief
Foreign aid ..... PL 87–195 Sec 123(b) 74
Less-developed countries
Agricultural programs ..... PL 87–195 Sec 222A 700
Private enterprise
(see also Nationalizations)
(see also Overseas Private Investment Corporation (OPIC))
Arms sales guarantees ..... PL 90–629 Sec 24 417

Private enterprise—Continued
Foreign aid
Loan guarantees ..... PL 87–195 Sec 108 54
Micro- and small enterprise development credits. PL 87–195 Sec 108 54
Program for Appropriate Technologies in Health (PATH)
Malaria Vaccine Initiative ..... PL 87–195 Sec 302(m) 160
Propaganda
(see also Lobbying)
Funding prohibition ..... PL 108–7 Sec 540 856
Property abroad (U.S.)
Destruction of
Foreign aid cut-off ..... PL 87–195 Sec 620(j) 304
Protection Against Nuclear Terrorism program
Implementation of
Appropriations authorization ..... PL 107–228 Sec 1305 573
Puerto Rico
Caribbean Development Bank membership. PL 93–559 Sec 52 778

R

Refugees
Administrative expenses
Appropriations, 2003 ..... PL 108–7 Title II 828
Africa
Humanitarian assistance ..... PL 87–195 Sec 495F 199
Assistance to
Appropriations, 2003 ..... PL 108–7 Title II 828
Categories of aliens
Establishment of ..... PL 101–167 Sec 599D 996
Chile
Rights of ..... PL 93–189 Sec 35 783
Cuba ..... PL 96–533 Sec 715 733
El Salvador
Humanitarian assistance ..... PL 87–195 Sec 495I 201
Sense of Congress ..... PL 97–113 Sec 731 721
Expenses to combat terrorism
Supplemental appropriations, 2002 PL 107–206 Title I 908
Haiti ..... PL 97–113 Sec 721 714
Illegal immigration ..... PL 99–83 Sec 705(d) 669
Honduras
Assistance ..... PL 99–83 Sec 704 668
Palestinians
Limitation on assistance to ..... PL 87–195 Sec 301(c) 155
Resettling in Israel
Appropriations, 2003 ..... PL 108–7 Title II 829
Southeast Asia
Sense of Congress ..... PL 96–53 Sec 509 748
U.S. Emergency Refugee and Migration Assistance Fund
Appropriations, 2003 ..... PL 108–11 Ch 5 828
Religious freedom
Sense of Congress ..... PL 88–633 Sec 501 806
Reports to Congress
Afghanistan
Foreign aid certification ..... PL 107–327 Sec 103(b)(1) 543
Foreign aid from donor states ..... PL 107–327 Sec 303(c) 552
Meeting security needs of ..... PL 107–206 Sec 603 912
Military aid ..... PL 107–327 Sec 205 547
Promoting security ..... PL 107–327 Sec 206(c) 549
Africa-U.S. relations
Arms sales ..... PL 90–629 Sec 33 430
African Development Foundation ..... PL 95–424 Sec 122 751

Reports to Congress—Continued
Agency for International Development
Budget submission ..... PL 102–391 Sec 599E 975
Democracy transition initiatives ..... PL 108–7 Title II 816
Microenterprise Act, 2000 ..... PL 108–31 Sec 4 503
Aid for Latin America and the Caribbean. PL 99–83 Sec 709 670
Arms sales ..... PL 90–629 Sec 4 400
PL 90–629 Sec 36 431
PL 90–629 Sec 36(b) 434
PL 91–672 Sec 8(d) 791
Annual estimate ..... PL 90–629 Sec 25 418
Brokers activities ..... PL 107–228 Sec 1205 566
Combat readiness, impact on ..... PL 90–629 Sec 21(i) 408
Illegal payments ..... PL 94–329 Sec 607 771
License approvals ..... PL 107–228 Sec 1205 566
Military dictators ..... PL 90–629 Sec 1 389
Training and related support ..... PL 90–629 Sec 30A(d) 427
Transfers ..... PL 90–629 Sec 3(d) 395
Waivers ..... PL 90–629 Sec 40(g)(2) 464
Arms sales (commercial)
Agent fees ..... PL 90–629 Sec 39 456
Arms sales (U.S.)
NATO/CFE countries ..... PL 90–629 Sec 94 493
Transfers ..... PL 90–629 Sec 3(d)(3) 397
Asia
Amerasian children ..... PL 99–83 Sec 903(b) 692
Assistance to victims of trafficking ..... PL 106–386 Sec 107(b)(1)(D) 609
Attorney General
Number of eligible applicants not receiving visas. PL 106–386 Sec 107(g) 611
Burma
Democratization ..... PL 104–208 Sec 570(d) 961
Central Asia
Foreign aid ..... PL 108–7 Sec 574 871
Classification of ..... PL 87–195 Sec 634B 337
Coal
Federal Coal Export Commission ..... PL 99–83 Sec 1304(f) 700
Colombia
Cano Limon pipeline ..... PL 107–206 Title I 907
Combat operations involving U.S. personnel. PL 107–206 Sec 601(b) 911
Committed to reforms and policies .. PL 107–206 Sec 601(b) 911
Drug control strategy ..... PL 106–246 Sec 3202 926
Colombia drug control
U.S. military and civilian personnel PL 106–246 Sec 3203(f) 929
Colombian Armed Forces
Human rights abuses ..... PL 108–7 Sec 564(a)(3) 866
Combating HIV/AIDS
Implementing U.S. policies ..... PL 87–195 Sec 104A(e) 46
Commercial Service Officers
Increase in ..... PL 102–549 Sec 701 633
Comptroller General of the United States
International financial institutions .. PL 106–429 Sec 803(a) 920
Contingency fund
Appropriations authorization ..... PL 87–195 Sec 451(a)(2) 165
Continuing appropriations
Obligations made under ..... PL 107–229 Sec 134 898
Operations under ..... PL 107–229 Sec 133 898
Cooperative projects
Presidential certification ..... PL 90–629 Sec 27(f) 423
Cyprus
Negotiations with Turkey ..... PL 87–195 Sec 620(x)(2) 308
Resolution of conflict ..... PL 87–195 Sec 620C(c) 313
Debt relief programs ..... PL 106–429 Sec 803(d) 920
Defense equipment
Leasing of ..... PL 90–629 Sec 62 477

Reports to Congress—Continued
Defense equipment—Continued
Leasing of—Continued
Waiver of costs ..... PL 90–629 Sec 61 475
Developing countries
Capital projects ..... PL 102–549 Sec 302(c) 627
PL 102–549 Sec 305 628
Technical assistance program ..... PL 87–195 Sec 129(h) 83
Discrimination
Aid suspension ..... PL 87–195 Sec 505(g) 241
Arms sales suspension ..... PL 90–629 Sec 5 401
Donated HIV/AIDS prescription drugs
Illegal diversion of ..... PL 108–25 Sec 307 525
Drawdown support
Prior congressional notification ..... PL 108–11 Sec 1309 884
PL 108–11 Sec 1307 891
Drug control ..... PL 87–195 Sec 481 172
Foreign governments using U.S. aircraft. PL 87–195 Sec 484(c) 183
Supplemental appropriations, 2000 PL 106–246 Title III 924
Drug control in Colombia
U.S. personnel involved ..... PL 106–246 Sec 3204(f) 929
Economic Support Fund
Supplemental appropriations, 2002 PL 107–206 Title I 907
Egypt
Economic conditions ..... PL 99–83 Sec 1205 691
El Salvador ..... PL 97–113 Sec 729 720
Eliminating trafficking in persons
Country compliance lists ..... PL 106–386 Sec 110 613
Endangered species ..... PL 87–195 Sec 119(h) 71
Enterprise for the Americas
Americas Framework Agreement ..... PL 87–195 Sec 710 373
Excess defense articles
Transfer of ..... PL 87–195 Sec 516(f) 254
PL 101–167 Sec 573(c) 993
Executive branch agencies
Overseas HIV/AIDS treatment activities. PL 108–25 Sec 305 524
Expanding debt relief to non-HIPC countries
Costs and other options ..... PL 108–25 Sec 502 535
Family programs
Program violations ..... PL 108–7 Title II 814
Food aid ..... PL 87–195 Sec 300 154
Long-term agricultural commodity agreements. PL 99–83 Sec 1008 695
Food shortage ..... PL 93–559 Sec 55 779
Foreign aid ..... PL 87–195 Sec 634 334
PL 87–195 Sec 654 355
PL 97–113 Sec 722 714
Agreements prohibiting taxation of PL 108–7 Sec 579(f) 875
Allocation changes ..... PL 87–195 Sec 653(a) 354
Budgets of developing countries ..... PL 108–7 Sec 585(b) 878
Countries in default ..... PL 87–195 Sec 620(q) 305
Cut-offs for defaults ..... PL 87–195 Sec 620(u) 306
Drug control ..... PL 87–195 Sec 489 185
PL 87–195 Sec 489(b) 188
Exemptions from the Sunset Act of 1995. PL 87–195 Note 31
International organizations ..... PL 87–195 Sec 301 154
Limit on transfers of funds ..... PL 87–195 Note 25
Presidential certification ..... PL 87–195 Sec 614(c) 296
Presidential discretion ..... PL 87–195 Sec 614 294
Prior notification ..... PL 87–195 Note 27
Sub-Saharan Africa ..... PL 101–513 Sec 562(c) 982
Sunset Act of 1995 ..... PL 87–195 Note 31
Foreign aid reprogramming
Prior notification ..... PL 87–195 Note 26

Reports to Congress—Continued
Foreign aid to Communist countries ..... PL 87–195 Sec 620(f) 302
Foreign countries
Community-based police assistance PL 108–7 Sec 582(b) 876
Military aid ..... PL 107–327 Sec 205 547
Foreign governments
Projects to promote good governance PL 87–195 Sec 133(d) 92
Foreign military budgets
Sunset provision ..... PL 87–195 Sec 620(s)(2) 306
Foreign Military Financing Program
Advance congressional notification .. PL 108–11 Ch 5 891
Foreign military personnel
Training provided by United States PL 108–7 Sec 561 864
Global Fund ..... PL 108–25 Sec 202(c) 516
Governments (foreign)
Debt relief arrangements ..... PL 102–391 Sec 548 974
Greenhouse gas emissions ..... PL 108–7 Sec 555 862
Herbicides used for drug control
Health effects of ..... PL 87–195 Sec 481(d)(3) 176
HIV/AIDS
Preventing mother-to-child transmission. PL 108–25 Sec 313 527
HIV/AIDS, tuberculosis, and malaria
Integrated strategy to combat ..... PL 108–25 Sec 101(b) 512
Human rights ..... PL 87–195 Sec 502B(b) 231
Children ..... PL 102–391 Sec 511 972
Severe forms of trafficking ..... PL 87–195 Sec 502B(h) 234
Status of ..... PL 87–195 Sec 116(d) 60
Trafficking in persons ..... PL 87–195 Sec 116(f) 63
Independent states of the former Soviet Union
Foreign aid ..... PL 87–195 Sec 498A(c) 216
Obligation of funds ..... PL 107–206 Title I 907
Infant feeding practices
Developing countries ..... PL 97–113 Sec 301(b) 706
Inter-American Foundation
Abolition of ..... PL 106–113 Sec 586(e) 938
International arms control and nonproliferation strategy. PL 107–228 Sec 1309 576
International Atomic Energy Agency
Assistance to Iran ..... PL 107–228 Sec 1344 587
Israel participation ..... PL 108–7 Title II 830
International Committee of the Red Cross
Magen David Adom Society ..... PL 108–7 Title II 829
International Financial Institution Advisory Commission. PL 105–277 Sec 603(g), (i) 956
International financial institutions
Financial management reform ..... PL 108–7 Sec 573 870
International Monetary Fund
Practices consistent with U.S. policies. PL 106–113 Sec 504(e) 945
Structural reform efforts ..... PL 105–277 Sec 606 957
International Narcotics Control Strategy Report. PL 87–195 Sec 489(a) 185
International organizations
Foreign aid ..... PL 87–195 Sec 306 161
U.S. funding contributions ..... PL 87–195 Sec 307(b) 163
International University for the Americas. PL 102–549 Sec 604 633
Iraq
Humanitarian aid ..... PL 108–7 Sec 507 837
Natural Resources Risk Remediation Fund. PL 108–11 Title I 882
Iraq Freedom Fund
Supplemental appropriations, 2003 PL 108–11 Title I 882

Reports to Congress—Continued
Iraq Relief and Reconstruction Fund
Advance notification ..... PL 108–11 Ch 5 886
Iraq Sanctions Act of 1992
Suspension of provisions by President. PL 108–11 Sec 1503 892
Israel
Economic conditions ..... PL 99–83 Sec 1205 691
Loan guarantees ..... PL 87–195 Sec 226(k) 111
Jordan
Logistical support reimbursement ... PL 108–11 Sec 1310 884
PL 107–206 Title I 902
KEDO
U.S. assistance to ..... PL 108–7 Sec 562(d) 865
Mexico-U.S. relations
Debt ..... PL 104–6 Sec 403–404 966
Military aid (U.S.) ..... PL 87–195 Sec 655 356
Military training to foreign military personnel. PL 87–195 Sec 656 357
Missile Technology Control Regime
Foreign country adherents ..... PL 90–629 Sec 73A 486
Missiles and missile technology exports
Sanctions waiver ..... PL 90–629 Sec 73(e) 485
Narcotics traffickers
Extradition of ..... PL 106–246 Sec 3203 927
National security assistance strategy
Formulating and implementing ..... PL 107–228 Sec 1501 590
NBC weapons
Transfers of, by foreign countries .... PL 107–228 Sec 1308 573
Nicaragua-U.S. relations ..... PL 99–83 Sec 722(j) 682
Nigeria
Presidential certification ..... PL 108–7 Sec 556 863
North Korea
Military forces ..... PL 104–208 Sec 585 964
Nuclear facilities ..... PL 97–113 Sec 735 721
Obligation of funds
International narcotics control and law enforcement. PL 107–206 Title I 907
Overseas Private Investment Corporation. PL 87–195 Sec 240A 139
Pakistan
Logistical support reimbursement ... PL 108–11 Sec 1310 884
Palestinian statehood
Democratic elections ..... PL 108–7 Sec 563 865
Plan Colombia
Costs to support ..... PL 106–246 Sec 3204(e) 929
PL 106–246 Sec 3203(e) 929
Portugal
Economic conditions ..... PL 99–83 Sec 1205 691
Post conflict Iraq
U.S. assistance strategy ..... PL 108–11 Sec 1506 893
President
Certification for export exemption ... PL 90–629 Sec 38(j)(3) 456
Determination on major illicit drug transit and producing countries. PL 87–195 Sec 490(h) 194
Nonproliferation and threat reduction objectives. PL 107–228 Sec 1339 586
Review of United States Munitions List. PL 90–629 Sec 38(f) 451
Sanctions waiver ..... PL 90–629 Sec 102(b) 497
U.S. military aid ..... PL 87–195 Sec 506(b)(2) 242
Programs and projects
International Atomic Energy Agency PL 107–228 Sec 1343 587
Russian Federation
Debt discussion with other creditor states. PL 107–228 Sec 1318 582

Reports to Congress—Continued
Russian Federation Debt for Nonproliferation Act of 2002
Implementation of ..... PL 107–228 Sec 1321 583
Russian Federation Nonproliferation Investment Agreement
Entering into ..... PL 107–228 Sec 1315 580
Russian Leadership Program ..... PL 106–31 Sec 3011(f) 948
Secretary of the Treasury
MDBs procedures and management controls. PL 106–429 Sec 802(b) 919
World Bank and IMF policies implementation. PL 106–429 Sec 801(c)(2) 919
Security assistance surveys ..... PL 90–629 Sec 26 421
South Asia
Nuclear weapons nonproliferation ... PL 87–195 Sec 620F(c) 319
U.S. nuclear and missile nonproliferation objectives. PL 107–228 Sec 1601(c) 591
Sudan
Conflict in ..... PL 107–245 Sec 8 563
War crimes investigation ..... PL 107–245 Sec 10 564
Sudan peace process
Efforts to deny oil revenues ..... PL 107–245 Sec 5(e) 562
Negotiations with the Sudan People's Liberation Movement. PL 107–245 Sec 5(c) 562
U.S. opposition to financing assistance. PL 107–245 Sec 5(d) 562
Taiwan
Military aid ..... PL 107–228 Sec 1263 570
Terrorism related assistance ..... PL 99–83 Sec 502 655
PL 99–83 Sec 502 655
Terrorism supporting countries
Ban on importation of goods and services. PL 99–83 Sec 505 656
Trade and Development Agency
Development programs ..... PL 87–195 Sec 661(d) 362
Trade Credit Insurance Program ..... PL 87–195 Sec 225(h) 107
Trafficking in persons
Actions against significant persons .. PL 106–386 Sec 111 616
Tropical Forest Facility ..... PL 87–195 Sec 813 383
Tropical forests
Protection of ..... PL 87–195 Sec 118(f) 69
Turkey
Economic conditions ..... PL 99–83 Sec 1205 691
U.S. counternarcotics strategy
Colombia and neighboring countries PL 106–246 Sec 3202 926
U.S. military aid ..... PL 87–195 Sec 506(a) 242
U.S. military stationed abroad
Hostilities against ..... PL 90–629 Sec 21(c)(2) 404
United States Microfinance Loan Facility. PL 87–195 Sec 132(b)(3) 90
United States Munitions List
Removal of items ..... PL 90–629 Sec 38(f)(1) 451
United States Trade Representative
Overseas Private Investment Corporation. PL 87–195 Sec 240B(b) 141
Uzbekistan
Strategic partnership and cooperation commitments. PL 107–206 Title I 909
Weapons proliferation and export control capabilities
Training programs ..... PL 107–228 Sec 1302 571
World food situation ..... PL 93–189 Sec 39(a)(4) 785
Zimbabwe
Restoration of rule of law ..... PL 108–7 Sec 556 863
Reprogramming of funds
Foreign aid ..... PL 87–195 Sec 634A 336

Romania-U.S. relations
Foreign aid ..... PL 87–195 Sec 495D 198
Russia-U.S. relations
Foreign aid, 2003
Technical assistance to Iran ..... PL 108–7 Title II 824
Russian Leadership Program
Establishment of ..... PL 106–31 Sec 3011 946
Russian Democracy Act of 2002 ..... PL 107–246 553
Purposes of ..... PL 107–246 Sec 2(b) 554
Russian Federation transition
Findings of Congress ..... PL 107–246 Sec 2(a) 553
Russian Far East-U.S. relations
Foreign aid, 2003 ..... PL 108–7 Title II 823
Russian Federation Debt for Nonproliferation Act of 2002. PL 107–228 Sec 1311 576
Implementation of
Report to Congress ..... PL 107–228 Sec 1321 583
Russian Federation Nonproliferation Investment Agreement
Authority of President ..... PL 107–228 Sec 1314 578
PL 107–228 Sec 1315 580
Report to Congress ..... PL 107–228 Sec 1315 580
Russian Federation-U.S. relations
Assistance programs ..... PL 107–246 Sec 5 556
Center for Independent Press and the Rule of Law. PL 107–228 Sec 1316 581
Debt-for-nonproliferation exchange ..... PL 107–228 Sec 1312(a)(9) ... 578
National security
Findings of Congress ..... PL 107–228 Sec 1312 576
Promoting democracy ..... PL 107–246 Sec 3 555
Regional initiatives program support ..... PL 107–246 Sec 5 556
Terrorism
State sponsors of ..... PL 107–228 Sec 1317 582
Weapons stockpiles
Control and destruction of ..... PL 107–228 Sec 1312 577
Russian Leadership Program
Advisory Board
Establishment of ..... PL 106–31 Sec 3011(e) 948
Establishment of ..... PL 106–31 Sec 3011 946

S

Sabbatino Amendment
Act of state doctrine denied recognition PL 87–195 Sec 620(e)(2) 301
Sahel Development Program
Planning ..... PL 87–195 Sec 120 71
Sanctions
Against Burma
Foreign aid restrictions ..... PL 104–208 Sec 570 960
Against countries transferring nuclear devices. PL 90–629 Sec 102(b) 497
Against Serbia or Montenegro
Termination of ..... PL 104–208 Sec 540 959
Chemical or biological weapons
Export controls ..... PL 90–629 Sec 81 488
PL 90–629 Sec 81 488
Foreign persons
Presidential determination ..... PL 90–629 Sec 81(a)(1) 489
PL 90–629 Sec 81(d) 491
Presidential waiver ..... PL 90–629 Sec 81(e) 491
Missiles and missile technology
Exceptions ..... PL 90–629 Sec 73(h) 486
Export controls ..... PL 90–629 Sec 73 783
Saudi Arabia-U.S. relations
Arms sales
AWACS ..... PL 99–83 Sec 131 647

Science and technology
(see also Technical assistance)
Middle East
Cooperative ..... PL 99–83 Sec 202(d) 651
Scientific and Technological Cooperation, Institute for. PL 96–53 Sec 401–414 740
Scientific exchange
(see Educational and cultural exchange)
Secondary schools
(see Educational and cultural exchange)
Security assistance (U.S.)
(see Military aid (U.S.))
Security Assistance Act of 2002 ..... PL 107–228 565
Security supporting assistance
(see Economic Support Fund)
Serbia-U.S. relations
Foreign aid
Notification requirements ..... PL 108–7 Sec 520 844
Presidential determination ..... PL 108–7 Sec 578 874
International Criminal Tribunal for Yugoslavia. PL 108–7 Sec 578 874
Sierra Leone-U.S. relations
Governments destabilizing
U.S. assistance restrictions ..... PL 108–7 Sec 570 869
Special Court
Appropriations, 2003 ..... PL 108–7 Title II 821
Slovakia-U.S. relations
NATO Participation Act of 1994
Assistance eligibility ..... PL 107–187 Sec 4 598
Small Business Administration
Procurement for Agency for International Development. PL 94–329 Sec 602 771
Social development
(see Alliance for Progress)
(see Human rights)
(see United Nations)
South Africa (Republic of)-U.S. relations
Forced relocations
U.S. policy toward ..... PL 99–83 Sec 803 687
South America-U.S. relations
Andean Counterdrug Initiative
Appropriations, 2003 ..... PL 108–7 Title II 826
South and Central America-U.S. relations
Drug control
Supplemental appropriations, 2000 PL 106–246 Title III 923
South Asia-U.S. relations
Nuclear nonproliferation
South Asia ..... PL 107–228 Sec 1601 591
South Caucasus and Central Asia-U.S. relations
Foreign aid
Administrative authorities ..... PL 87–195 Sec 499E 236
Border control assistance ..... PL 87–195 Sec 499C 225
Definitions ..... PL 87–195 Sec 499F 227
Development of infrastructure ..... PL 87–195 Sec 499B 225
Promoting democracy and tolerance PL 87–195 Sec 499D 236
Promoting growth and development PL 87–195 Sec 499A 224
Promoting reconciliation and recovery. PL 87–195 Sec 499 224
South Vietnam-U.S. relations
(see Indochina War)
Southeast Asia
(see individual countries)
(see Indochina War)
Southern Africa Development Coordinating Conference (SADCC)
Foreign aid ..... PL 87–195 Sec 496(o) 208

Southern Africa-U.S. relations
Economic Support Fund ..... PL 99–83 Sec 802 686
Southern Caucasus region-U.S. relations
Foreign aid, 2003 ..... PL 108–7 Title II 823
Soviet Union (former) independent states of-U.S. relations
(see also individual countries)
Aid notification requirements ..... PL 108–7 Sec 517 842
Determination for foreign aid ..... PL 87–195 Sec 498A(b) 215
Economic reforms ..... PL 108–7 Sec 517 842
Foreign aid ..... PL 87–195 Sec 498 211
PL 87–195 Sec 498 211
Foreign aid authorities ..... PL 87–195 Sec 498B 218
Foreign aid authorization ..... PL 87–195 Sec 498C 221
Foreign aid criteria ..... PL 87–195 Sec 498A 214
Foreign aid restrictions ..... PL 108–7 Sec 517 842
Foreign aid, 2002 ..... PL 107–115 Title II 914
Foreign aid, 2003 ..... PL 108–7 Title II 823
PL 108–7 Title II 824
FREEDOM Support Act
Section 907 ..... PL 107–115 Title II 914
Health activities assistance ..... PL 108–7 Title II 824
Military capability ..... PL 108–7 Sec 517 842
Nonproliferation assistance ..... PL 107–228 Sec 1334 584
Nonproliferation coordination ..... PL 107–228 Sec 1332 583
Presidential determination ..... PL 107–115 Title II 915
Supplemental appropriations, 2002 ..... PL 107–206 Title I 907
Territorial violations ..... PL 108–7 Sec 517 842
Soviet Union (former)-U.S. relations
Arms control
Limiting conventional arms transfers. PL 99–83 Sec 129 641
Biological and chemical weapons ..... PL 97–113 Sec 716 711
Olympic games boycott ..... PL 96–533 Sec 718 734
Special Defense Acquisition Fund
Established ..... PL 90–629 Sec 51 473
Size of ..... PL 97–113 Sec 108(b) 705
Use or transfer of items
Restrictions on ..... PL 90–629 Sec 52 474
Special Foreign Assistance Act of 1971 ..... PL 91–652 789
Special Foreign Assistance Act of 1986 ..... PL 99–529 637
Sri Lanka-U.S. relations
Political settlement of internal differences. PL 99–83 Sec 907 693
State, Department of
Anti-terrorism programs
Supplemental appropriations, 2003 PL 108–11 Ch 5 828
Bureau of Democracy
Human Rights and Democracy Fund PL 108–7 Sec 526 847
Congressional oversight ..... PL 92–226 Sec 407 788
Demining programs
Supplemental appropriations, 2003 PL 108–11 Ch 5 828
Diplomatic and Consular programs
Combating international terrorism .. PL 107–206 Title I 912
Supplemental appropriations, 2002 PL 107–206 Title I 912
Supplemental appropriations, 2003 PL 108–11 Title I 880
Diplomatic and Consular Service emergencies
Supplemental appropriations, 200 ... PL 108–11 Title I 880
Embassy security and maintenance
Combating international terrorism .. PL 107–206 Title I 901
Supplemental appropriations, 2002 PL 107–206 Title I 901
Supplemental appropriations, 2003 PL 108–11 Title I 880
International broadcasting
Supplemental appropriations, 2003 PL 108–11 Title I 880
International narcotics control
Appropriations, 2003 ..... PL 108–7 Title II 826
Supplemental appropriations, 2002 PL 107–206 Title I 907

State, Department of—Continued
International narcotics control—Continued
Supplemental appropriations, 2003 PL 108–11 Ch 5 890
International organizations
Combating international terrorism PL 107–206 Title I 901
Nonproliferation programs
Supplemental appropriations, 2003 PL 108–11 Ch 5 828
Security updates
Supplemental appropriations, 2003 PL 108–11 Title I 880
State, Secretary of
Arms sales PL 90–629 Sec 2 391
Colombia
Certification to Congress PL 106–246 Sec 3207 930
Drug control assistance
Coordinating U.S. activities PL 87–195 Sec 481(b) 174
Foreign aid administration PL 87–195 Sec 622 323
Terrorism related assistance PL 99–83 Sec 502 655
Stock in financial institutions
(see Capital stock)
Stockpiling defense articles
Military aid PL 87–195 Sec 514 247
Strategic and critical materials
Restrictions on leasing PL 90–629 Sec 65(c) 479
Subscriptions in financial institutions
(see Capital stock)
Sudan Peace Act PL 107–245 558
Findings of Congress PL 107–245 558
Sudan-U.S. relations
Air transport relief flights
Contingency plan if banned PL 107–245 Sec 10 563
Appropriations authorization PL 107–245 Sec 5(b) 560
Arms sales credits
Repayment PL 96–92 Sec 17(b) 736
Assistance for peace and democratic convergence. PL 107–245 Sec 5 560
Economic Support Fund
National Democratic Alliance PL 108–7 Title II 821
Foreign aid
Conditions for PL 99–83 Sec 806 689
Direct funding prohibition PL 108–7 Sec 507 837
Notification requirements PL 108–7 Sec 520 844
Human rights violations
Condemnation of PL 107–245 Sec 4 560
Internationally sanctioned peace process
Support for PL 107–245 Sec 5(b) 561
Military aid PL 96–53 Sec 502 747
Prohibitions against PL 108–7 Title III 832
Peace process
U.N. involvement PL 107–245 Sec 7 562
War crimes investigation
Report to Congress PL 107–245 Sec 10 564
Sugar
Cuba
Quota PL 87–195 Sec 620(a) 298
Supplemental Appropriations Act For Further Recovery From and Response to Terrorist Attacks on the United States, 2002. PL 107–206 900
Supporting assistance
(see Economic Support Fund)
Syria-U.S. relations
Aid obligation PL 98–151 Sec 101(b)(1) 701
Foreign aid
Direct funding prohibition PL 108–7 Sec 507 837
Foreign aid programs
Withholding U.S. funding share PL 87–195 Sec 307 162

T

Taiwan-U.S. relations
Arms sales
Treated as a major Non-NATO ally PL 107–228 Sec 1206 567
Defense treaty ..... PL 95–384 Sec 26 756
Immigrant visas ..... PL 97–113 Sec 714 710
Military aid
Report to Congress ..... PL 107–228 Sec 1263 570
War reserve material
Transfer of ..... PL 96–92 Sec 23 737
Taxation
Discriminatory
Foreign aid cut-off ..... PL 87–195 Sec 620(e)(1)(C) ... 300
Technical assistance
(see also Peace Corps)
Developing countries
Establishment of program ..... PL 87–195 Sec 129 79
Overseas Private Investment Corporation. PL 87–195 Sec 234(e) 122
Programs in developing countries
Appropriations authorization ..... PL 87–195 Sec 129(j) 84
Technology transfer
National security impact ..... PL 95–92 Sec 24 763
Terrorism
Afghanistan
Foreign aid to counter ..... PL 107–327 Sec 102 536
Anti-terrorism assistance programs
Foreign aid ..... PL 87–195 Sec 571–574 273
Attacks on the United States
Supplemental appropriations ..... PL 107–206 900
Combating
Broadcasting capital improvement activities. PL 107–206 Title I 902
Contributions for international peacekeeping activities. PL 107–206 Title I 901
Contributions to international organizations and conferences. PL 107–206 Title I 901
Diplomatic and Consular programs activities. PL 107–206 Title I 912
Educational and cultural exchange programs. PL 107–206 Title I 912
Embassy security, construction, and maintenance. PL 107–206 Title I 901
International broadcasting activities PL 107–206 Title I 901
Condemnation of ..... PL 99–83 Sec 508 657
Countries aiding
Aid prohibition ..... PL 87–195 Sec 620G 319
PL 87–195 Sec 620H 320
Aviation boycott ..... PL 99–83 Sec 555 657
Ban on importation of goods and services. PL 99–83 Sec 505 656
Countries supporting
Aid prohibition ..... PL 87–195 Sec 620A 308
Assistance waiver authority ..... PL 87–195 Sec 620A(d) 310
Bilateral aid prohibition ..... PL 108–7 Sec 527 847
Foreign aid funding prohibition ..... PL 108–7 Sec 543 857
U.S. prohibited transactions ..... PL 90–629 Sec 40 459
Exports to countries supporting
Foreign aid funding prohibition ..... PL 108–7 Sec 543 857
Foreign airport security ..... PL 99–83 Sec 551 657
International Anti-Terrorism Committee PL 99–83 Sec 506 656
Libya ..... PL 97–113 Sec 718 712
Prohibition on imports and exports PL 99–83 Sec 504 655
National Commission on Terrorism
Establishment of ..... PL 105–277 Sec 591 951
Russian Federation
State sponsors of ..... PL 107–228 Sec 1317 582

Terrorism—Continued
State sponsored
Civil liability ..... PL 104–208 Sec 589 964
Terrorism related assistance
Coordinated by Secretary of State ... PL 99–83 Sec 502 655
Report to Congress ..... PL 99–83 Sec 502 655
Treaty to control ..... PL 99–83 Sec 507 656
TWA Flight 847
Sense of Congress ..... PL 99–83 Sec 558 658
U.S. citizens involved in ..... PL 97–113 Sec 719 713
Terrorism, anti-
Countries not supporting U.S. efforts
Prohibited transactions ..... PL 90–629 Sec 40A 466
Foreign aid
Appropriations, 2003 ..... PL 108–7 Title II 829
Supplemental appropriations, 2002 PL 107–206 Title I 908
Thailand-U.S. relations
Ammunition sale ..... PL 96–92 Sec 24 737
Tibet-U.S. relations
Nongovernmental organizations
Preserving cultural traditions ..... PL 108–7 Sec 526 846
Promoting development ..... PL 108–7 Sec 526 846
Promoting democracy, human rights, and the rule of law in. PL 108–7 Sec 526 846
Tibetan Autonomous Region-U.S. relations
Sustainable development and environment conservation. PL 108–7 Sec 526 846
Timor-Leste-U.S. relations
Economic Support Fund
Foreign aid, 2003 ..... PL 108–7 Title II 820
Tonkin Gulf Resolution
Repealed ..... PL 91–672 Sec 12 793
Tort claims
(see Claims)
Torture
Victims of
Foreign aid ..... PL 87–195 Sec 130 84
Trade
Arms
(see Arms sales)
Commercial Service Officers
Increase in ..... PL 102–549 Sec 701 633
Cuba
Embargo ..... PL 87–195 Sec 620(a) 298
United States Commercial Centers
Promoting exports ..... PL 102–549 Sec 401 629
Trade and Development Agency ..... PL 102–549 Sec 202 626
Appropriations, 2003 ..... PL 108–7 Title I 812
Development programs
Appropriations authorization ..... PL 87–195 Sec 661(f) 363
Foreign aid ..... PL 87–195 Sec 661 361
Report to Congress ..... PL 87–195 Sec 661(d) 362
Trade and Development Program
(see Trade and Development Agency)
Renamed Trade and Development Agency. PL 102–549 Sec 202 626
Trade Credit Insurance Program
Central America ..... PL 87–195 Sec 224 105
Poland ..... PL 87–195 Sec 225 105
Report to Congress ..... PL 87–195 Sec 225(h) 107
Trade Promotion Coordinating Committee .... PL 102–549 Sec 401 629
Capital projects ..... PL 102–549 Sec 304 628
Trafficking in persons
Actions against significant persons ..... PL 106–386 Sec 111 616
Children
Findings of Congress ..... PL 106–386 Sec 102(b) 600

Trafficking in persons—Continued		
Eliminating		
Minimum standards for	PL 106–386 Sec 108	612
Interagency Task Force to Monitor and Combat.	PL 106–386 Sec 105	606
Minimum standards for eliminating		
Foreign aid withholding	PL 106–386 Sec 110	613
Governments failing to meet	PL 106–386 Sec 110	613
Prevention of	PL 106–386 Sec 106	607
Protection and assistance		
Report to Congress	PL 106–386 Sec 107(b)(1)(D)	609
Strengthening prosecution and punishment.	PL 106–386 Sec 112	618
Victims		
Protection and assistance	PL 106–386 Sec 107	607
	PL 106–386 Sec 107(a)–(b)	607
Women		
Findings of Congress	PL 106–386 Sec 102(b)	600
Trafficking Victims Protection Act of 2000	PL 106–386 Sec 101	600
Appropriations authorization, 2001–2003	PL 106–386 Sec 113	622
Definitions	PL 106–386 Sec 103	603
Findings of Congress	PL 106–386 Sec 102(b)	600
Purpose	PL 106–386 Sec 102(a)	600
Severe forms of trafficking	PL 106–386 Sec 103(8)	605
Treasury, Department of		
Debt restructuring		
Appropriations, 2003	PL 108–7 Title II	830
International affairs technical assistance		
Appropriations, 2003	PL 108–7 Title II	830
Treasury, Secretary of		
Certification to Congress		
World Bank policies implementation	PL 106–429 Sec 801(c)(1)(A)	918
Debt relief		
Report to Congress	PL 106–429 Sec 803(d)	920
Developing countries		
Technical assistance	PL 87–195 Sec 129	79
International Financial Institution Advisory Commission.	PL 105–277 Sec 603	955
MDBs		
Strengthening procedures and management controls.	PL 106–429 Sec 802(b)	919
Report to Congress		
IMF policies implementation	PL 106–429 Sec 801(c)(1)(B)	918
World Bank policies implementation	PL 106–429 Sec 801(c)(1)(B)	918
Tropical forests		
Agency for International Development		
Country analysis requirements	PL 87–195 Sec 118(e)	69
Conservation of	PL 87–195 Sec 802	374
Developing countries		
Eligibility for benefits	PL 87–195 Sec 805	376
Enterprise for the Americas Board	PL 87–195 Sec 811	382
Protection of		
Agency for International Development.	PL 87–195 Sec 118(e)	69
Private and voluntary organizations	PL 87–195 Sec 118(d)	69
Report to Congress	PL 87–195 Sec 118(f)	69
Tropical Forest Agreement		
Contents of	PL 87–195 Sec 809(b)	380
Secretary of State	PL 87–195 Sec 809	380
Tropical Forest Conservation Act of 1998	PL 87–195 Sec 801	373
Definitions	PL 87–195 Sec 803	375
Tropical Forest Facility		
Consultation with Congress	PL 87–195 Sec 812	383
Establishment of	PL 87–195 Sec 804	376
Report to Congress	PL 87–195 Sec 813	383
Tropical Forest Fund		
Establishment of	PL 87–195 Sec 810	382

Tuberculosis
Combating
Findings of Congress ..... PL 87–195 Sec 104B(a) 47
Priority to Directly Observed Treatment Short-course (DOTS) coverage. PL 87–195 Sec 104B(d) 48
U.S. policy on ..... PL 87–195 Sec 104B(b) 47
World global impact
Findings of Congress ..... PL 108–25 Sec 2 507
Tunisia-U.S. relations
Economic Support Fund ..... PL 99–83 Sec 805 688
Turkey-U.S. relations
Arms sales
Conflict with Cyprus ..... PL 99–83 Sec 101(f) 645
Arms sales credits
Repayment ..... PL 96–92 Sec 17(b) 736
Eastern Mediterranean policy ..... PL 95–384 Sec 13 754
Economic conditions
Impact on foreign debt ..... PL 99–83 Sec 1205 691
Economic Support Fund
Foreign aid restrictions ..... PL 108–11 Ch 5 888
Grants or loan guarantees ..... PL 108–11 Ch 5 888
Supplemental appropriations, 2003 PL 108–11 Ch 5 887
Supplemental authorization, 1979 ... PL 96–92 Sec 27 738
Foreign aid
Disaster relief ..... PL 87–195 Sec 495E 199
Operation Iraqi Freedom
Foreign aid conditions ..... PL 108–11 Ch 5 888
Resolution in Cyprus ..... PL 87–195 Sec 620C 311

U

Uganda-U.S. relations
Elections in ..... PL 96–533 Sec 719 735
Ukraine-U.S. relations
Arms sales to Iraq
Foreign aid prohibition ..... PL 108–7 Title II 824
Foreign aid, 2003 ..... PL 108–7 Title II 823
Nuclear reactor safety initiatives
Foreign aid, 2003 ..... PL 108–7 Title II 823
Union of Soviet Socialist Republics
(see Soviet Union (former))
United Arab Republic
(see Egypt-U.S. relations)
United Nations
Arms sales ..... PL 90–629 Sec 4 400
Arms trade
Debate on ..... PL 91–672 Sec 6 791
Countries supporting U.S. policy
Report to Congress ..... PL 101–167 Sec 527 987
Dues for membership
Foreign aid cut-off for defaults ..... PL 87–195 Sec 620(u) 306
Food supplies
Conference on ..... PL 93–189 Sec 39 785
International Atomic Energy Agency
Program review, evaluation, and audit. PL 87–195 Sec 301(e)(1) 155
International organizations
Use of membership funds ..... PL 96–53 Sec 114 739
Lodge Commission ..... PL 92–226 Sec 410 788
Member countries
Financial obligations to ..... PL 97–113 Sec 717 712
Membership dues
Foreign aid funding prohibition ..... PL 108–7 Sec 542 857
Nonaligned countries
Communique by ..... PL 97–113 Sec 720 713

United Nations—Continued
Peacekeeping operations
Providing data on costs ..... PL 87–195 Sec 554 272
Relief and Works Agency
Middle East ..... PL 87–195 Sec 301(c) 155
Sanctions against Iraq
Countries not in compliance ..... PL 108–7 Sec 531 850
Technical assistance programs
Funds to the United Nations Development Program. PL 87–195 Sec 301(g) 156
UN–HABITAT
Appropriations, 2003 ..... PL 108–7 Title IV 834
Voluntary contributions
Restrictions on ..... PL 108–7 Sec 550 860
War Crimes Tribunal
Drawdown ..... PL 108–7 Sec 546 858
United Nations Environment Program
U.S. contributions to ..... PL 99–83 Sec 402 654
United Nations Environment Program Participation Act of 1973
Appropriations, 2003 ..... PL 108–7 Title IV 834
United Nations High Commissioner for Refugees
Appropriations, 2003 ..... PL 108–7 Title II 828
United Nations Population Fund
Appropriations, 2003
U.S. contributions to ..... PL 108–7 Sec 572 870
United States Commercial Centers
Appropriations authorization ..... PL 102–549 Sec 401(i) 631
United States Government Activities to Combat HIV/AIDS Globally, Coordinator of. PL 108–25 Sec 202(e) 519
United States Information Agency
Congressional oversight ..... PL 92–226 Sec 407 788
United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003. PL 108–25 504
Definitions ..... PL 108–25 Sec 3 510
United States Microfinance Loan Facility ..... PL 87–195 Sec 132 89
Definitions ..... PL 87–195 Sec 132(e) 90
Report to Congress ..... PL 87–195 Sec 132(b)(3) 90
United States Munitions List
Export and import controls ..... PL 90–629 Sec 38 445
Export applications
Electronic system for filing and review. PL 107–228 Sec 1403 588
Review of by President
Report to Congress ..... PL 90–629 Sec 38(f) 451
United States National Authority
Non-governmental U.S. laboratory
Securing OPCW designation ..... PL 107–228 Sec 1605(b) 593
United States Trade Representative
Overseas Private Investment Corporation (OPIC)
Report to Congress ..... PL 87–195 Sec 240B(b) 141
Uranium
Export of ..... PL 96–533 Sec 110 724
Uruguay-U.S. relations
Foreign aid ..... PL 99–83 Sec 720 675
USSR
(see Soviet Union (former))
Uzbekistan-U.S. relations
Foreign aid
Conditions for ..... PL 108–7 Sec 574 871
Strategic partnership and cooperation commitments
Report to Congress ..... PL 107–206 Title I 909

Uzbekistan-U.S. relations—Continued
Supplemental foreign aid
Conditions for ..... PL 107–206 Title I 909

V

Vaccine Fund, The
U.S. contribution to ..... PL 87–195 Sec 302(k) 160
Vietnam War
(see Indochina War)
Vietnam-U.S. relations
Aid prohibition ..... PL 95–424 Sec 602 753
Aliens in the United States
Status of ..... PL 106–429 Sec 586 916
Amerasians
Admission to United States ..... PL 100–202 Sec 584 1004
Foreign aid
Prohibited ..... PL 96–533 Sec 717 734
Vietnam Agreement (1973) ..... PL 93–189 Sec 34 782
Visas
Eligible applicants not receiving
Report to Congress ..... PL 106–386 Sec 107(g) 611
Voluntary agencies
Foreign aid ..... PL 87–195 Sec 635(c) 338
Services and commodities ..... PL 87–195 Sec 607 286
Transfer of excess property to ..... PL 87–195 Sec 607 286
Volunteer service programs
(see Peace Corps)

W

War crimes
Yugoslavia (former)
Foreign aid prohibition ..... PL 108–7 Sec 576 872
Foreign aid waiver ..... PL 108–7 Sec 576(e) 872
Weapons
Chemical and biological
Proliferation control ..... PL 87–195 Sec 581 277
Transport of ..... PL 91–672 Sec 13 793
NBC
Transfers of by foreign countries ..... PL 107–228 Sec 1308 573
Surplus stockpiles
Destruction of ..... PL 107–228 Sec 1241 570
U.S. nonproliferation and threat reduction objectives
Report to Congress ..... PL 107–228 Sec 1339 586
U.S. nonproliferation efforts
Sense of Congress ..... PL 107–228 Sec 1332 583
Weapons proliferation
Chemical, biological, and conventional
Export control ..... PL 87–195 Sec 581 277
Control of
Appropriations authorization, 2003 PL 107–228 Sec 1302 571
Foreign aid ..... PL 87–195 Sec 585 278
Training programs ..... PL 107–228 Sec 1302 571
Interdiction
Foreign aid ..... PL 87–195 Sec 583 277
International control strategy
Report to Congress ..... PL 107–228 Sec 1309 576
West Bank and Gaza
Economic Support Fund
Review of U.S. assistance ..... PL 108–7 Sec 568 869
Legal reforms
Appropriations, 2003 ..... PL 108–7 Title II 820

Western Sahara-U.S. relations
Foreign aid
Conditions for ..... PL 99–83 Sec 808 689
Women
Economic development process ..... PL 87–195 Sec 113 58
Female genital mutilation
U.S. opposition to ..... PL 104–208 Sec 579 963
International organizations
Integration into policy-making positions. PL 87–195 Sec 305 161
Sub-Saharan Africa
Developmental activities participation. PL 87–195 Sec 496(g) 205
Trafficking victims
Findings of Congress ..... PL 106–386 Sec 102(b) 600
United Nations Decade for Women
Support for ..... PL 87–195 Sec 113(c) 58
Worker rights
Internationally recognized
Restrictions under this Act ..... PL 102–549 Sec 802 634
World Assembly on Aging
Convening of ..... PL 95–424 Sec 117(e) 751
World Bank
Appropriations, 2003 ..... PL 108–7 Title IV 833
Policies implementation
Certification by Secretary of the Treasury. PL 106–429 Sec 801(c)(1)(A) 918
Program review, evaluation, and audit .. PL 87–195 Sec 301(e)(2) 156
World Food Conference
Presidential implementation of policies .. PL 93–559 Sec 55 779
World Food Program
Appropriations, 2003 ..... PL 108–7 Title IV 834

Y

Yugoslavia (former)
War Crimes Tribunal
Information on ..... PL 108–7 Sec 546 858
Yugoslavia-U.S. relations
Overseas Private Investment Corporation
Presidential determination ..... PL 87–195 Sec 239(f) 137

Z

Zaire-U.S. relations
Economic Support Fund ..... PL 99–83 Sec 804 688
Shaba airlift ..... PL 96–92 Sec 26 737
Zimbabwe-U.S. relations
Foreign aid
Notification requirements ..... PL 108–7 Sec 520 844
Opposing loans to ..... PL 108–7 Sec 556 863

○

EDGE INDEX

To use the index on the left, bend the publication over and locate the desired section by following the black markers.

FOREIGN ASSISTANCE (p. 1)

APPENDICES (p. 1015)

INDEX (p. 1059)

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