

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 620E(d) of the Foreign Assistance Act of 1961, as amended ("the Act") (22 U.S.C. 2375(d)), I hereby determine, pursuant to section 620E(d) of the Act, that provision of assistance to Pakistan under the Act [22 U.S.C. 2151 et seq.] through April 1, 1991, is in the national interest of the United States, and therefore waive the prohibitions of section 669 of the Act (22 U.S.C. 2429) with respect to that period.

You are authorized and directed to transmit this determination, together with the statement setting forth specific reasons therefor, to the Congress immediately.

This determination shall be published in the Federal Register.

GEORGE BUSH.

Prior determinations and certifications were contained in the following:

Determination of President of the United States, No. 90-1, Oct. 5, 1989, 54 F.R. 43797.

Determination of President of the United States, No. 89-7, Nov. 18, 1988, 53 F.R. 49111.

Determination of President of the United States, No. 88-5, Jan. 15, 1988, 53 F.R. 3325.

Determination of President of the United States, No. 88-4, Dec. 17, 1987, 53 F.R. 773.

Determination of President of the United States, No. 87-3, Oct. 27, 1986, 51 F.R. 40301.

Determination of President of the United States, No. 86-03, Nov. 25, 1985, 50 F.R. 50273.

WAIVER OF SANCTIONS

Sanctions contained in subsec. (e) waived in certain regards with respect to India by Determination of President of the United States, No. 2000-18, Mar. 16, 2000, 65 F.R. 16297, set out as a note under section 2799aa-1 of this title.

Sanctions contained in subsec. (e) waived in certain regards by Determination of President of the United States, No. 2000-4, Oct. 27, 1999, 64 F.R. 60649, set out as a note under section 2799aa-1 of this title.

§ 2376. 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.

(c) Report on progress toward regional non-proliferation

Not later than April 1 of each year, 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.

(Pub. L. 87-195, pt. III, §620F, as added Pub. L. 102-391, title V, §585(a), Oct. 6, 1992, 106 Stat. 1688; amended Pub. L. 105-277, div. G, subdiv. B, title XXII, §2219(b), Oct. 21, 1998, 112 Stat. 2681-817.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-277, which directed the substitution of "Not later than April 1 of each year," for "Not later than April 1, 1993 and every six months thereafter," was executed by making the substitution for text which contained a comma after "1993" to reflect the probable intent of Congress.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

DELEGATION OF AUTHORITY WITH RESPECT TO REPORTS TO CONGRESS CONCERNING PROGRESS TOWARD NON-PROLIFERATION IN SOUTH ASIA

Memorandum of President of the United States, Mar. 30, 1994, 59 F.R. 17229, provided:

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in the President by section 620F(c) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2376(c)).

Any report prepared pursuant to this delegation of authority shall be coordinated with other agencies, as appropriate, and the Assistant to the President for Na-

tional Security Affairs, before submission to the Congress.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 2377. Prohibition on assistance to countries that aid terrorist states

(a) Withholding of assistance

The President shall withhold assistance under this chapter 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 2371 of this title.

(b) Waiver

Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) of this section 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.

(Pub. L. 87-195, pt. III, § 620G, as added Pub. L. 104-132, title III, § 325, Apr. 24, 1996, 110 Stat. 1256.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

PRIOR PROVISIONS

Another section 620G of Pub. L. 87-195 was renumbered section 620J and is classified to section 2378a of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

CONGRESSIONAL FINDINGS

Pub. L. 104-132, title III, § 324, Apr. 24, 1996, 110 Stat. 1255, provided that: “The Congress finds that—

- “(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;
- “(2) the President should continue to make efforts to counter international terrorism a national security priority;
- “(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;
- “(4) the President should use all necessary means, including covert action and military force, to disrupt,

dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

“(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya’s noncompliance with United Nations resolutions; and

“(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.”

“ASSISTANCE” DEFINED

Assistance defined for purposes of title III of Pub. L. 104-132, see section 329 of Pub. L. 104-132, set out as a note under section 2349aa-10 of this title.

§ 2378. Prohibition on assistance to countries that provide military equipment to terrorist states

(a) Prohibition

(1) In general

The President shall withhold assistance under this chapter 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 2405(j) of title 50, Appendix, or 2371 of this title.

(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 April 24, 1996.

(b) Waiver

Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) of this section 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.

(Pub. L. 87-195, pt. III, § 620H, as added Pub. L. 104-132, title III, § 326, Apr. 24, 1996, 110 Stat. 1256.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original “this Act”, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

April 24, 1966, referred to in subsec. (a)(2), was in the original “the date of enactment of this Act”, which was