

America, including section 550(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (FOAA)(Public Law 109-102), as amended by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234), sections 620K(e) and 620L(b)(4) of the Foreign Assistance Act [of 1961], as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109-446), and section 301 of title 3, United States Code, I hereby certify and report that:

With respect to the provision of assistance for the administrative and personal security costs of the Office of the President of the Palestinian Authority; for the activities of the President of the Palestinian Authority to promote democracy, peaceful resolution of the Israeli-Palestinian conflict, and the rule of law and to fulfill his duties as President, including, among other things, to maintain control of the management and security of border crossings and to foster the Middle East peace process; and, with respect to independent agencies:

- it is in the national security interest of the United States to provide such assistance;
- as the case may be, the President of the Palestinian Authority, the President's party, and independent agencies and any members thereof, including any individual or entity for which assistance is proposed to be provided, are not members of, appointed by, or effectively controlled by Hamas or any other foreign terrorist organization; and
- such assistance provided hereunder will not be transferred or retransferred to any member of Hamas or other foreign terrorist organization or to any entity effectively controlled by Hamas or other foreign terrorist organization.

Accordingly, I hereby waive section 550(a) of the FOAA, as amended, and section 620K(a) of the Foreign Assistance Act, as amended, with respect to such assistance, and authorize such assistance for the above purposes.

Furthermore, I hereby determine that, with respect to assistance to nongovernmental organizations for the West Bank and Gaza other than assistance covered by paragraphs (b)(1), (2), and (3) of section 620L of the Foreign Assistance Act, as amended, it is in the national security interest of the United States to provide such assistance as the Secretary of State deems appropriate, and assign to the Secretary of State the functions under section 620L(b)(4)(B) regarding the specific programs, projects, and activities to be carried out using such assistance.

I also hereby assign the functions of the President under section 550(b) and (c) of the FOAA, as amended and as carried forward under the Revised Continuing Appropriations Resolution, 2007 (Public Law 110-5), to the Secretary of State.

You are hereby authorized and directed to report this determination to the Congress and publish it in the Federal Register.

GEORGE W. BUSH.

§ 2378c. Limitation on assistance for the West Bank and Gaza

(a) Limitation

Assistance may be provided under this chapter to nongovernmental organizations for the West Bank and Gaza only during a period for which a certification described in section 2378b(b) of this title is in effect with respect to the Palestinian Authority.

(b) Exceptions

Subsection (a) shall not apply with respect to the following:

(1) Assistance to meet basic human needs

Assistance to meet food, water, medicine, health, or sanitation needs, or other assistance to meet basic human needs.

(2) Assistance to promote democracy

Assistance to promote democracy, human rights, freedom of the press, non-violence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or any other foreign terrorist organization.

(3) Assistance for individual members of the Palestinian Legislative Council

Assistance, other than funding of salaries or salary supplements, to individual members of the Palestinian Legislative Council who the President determines are not members of Hamas or any other foreign terrorist organization, for the purposes of facilitating the attendance of such members in programs for the development of institutions of democratic governance, including enhancing the transparent and accountable operations of such institutions, and providing support for the Middle East peace process.

(4) Other types of assistance

Any other type of assistance if the President—

(A) determines that the provision of such assistance is in the national security interest of the United States; and

(B) not less than 30 days prior to the obligation of amounts for the provision of such assistance—

(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A).

(c) Marking requirement

Assistance provided under this chapter to nongovernmental organizations for the West Bank and Gaza shall be marked as assistance from the American people or the United States Government unless the Secretary of State or, as appropriate, the Administrator of the United States Agency for International Development, determines that such marking will endanger the lives or safety of persons delivering such assistance or would have an adverse effect on the implementation of that assistance.

(d) Congressional notification

Assistance made available under this chapter to nongovernmental organizations for the West Bank and Gaza may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 2394-1(a) of this title.

(e) Definitions

In this section:

(1) Appropriate congressional committees

the¹ 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) Foreign terrorist organization

The term “foreign terrorist organization” means an organization designated as a foreign terrorist organization by the Secretary of State in accordance with section 1189(a) of title 8.

(Pub. L. 87–195, pt. III, §620L, as added Pub. L. 109–446, §3(a), Dec. 21, 2006, 120 Stat. 3320.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), and (d), 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.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(4)(B) of this section delegated to Secretary of State by Determination of President of the United States, No. 2007–20, June 1, 2007, 72 F.R. 34973, set out as a note under section 2378b of this title.

§ 2378d. Limitation on assistance to security forces**(a) In general**

No assistance shall be furnished under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] to any unit of the security forces of a foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights.

(b) Exception

The prohibition in subsection (a) shall not apply if the Secretary determines and reports to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations that the government of such country is taking effective steps to bring the responsible members of the security forces unit to justice.

(c) Duty to inform

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.

¹ So in original. Probably should be capitalized.

(d) Credible information

The Secretary shall establish, and periodically update, procedures to—

(1) ensure that for each country the Department of State has a current list of all security force units receiving United States training, equipment, or other types of assistance;

(2) facilitate receipt by the Department of State and United States embassies of information from individuals and organizations outside the United States Government about gross violations of human rights by security force units;

(3) routinely request and obtain such information from the Department of Defense, the Central Intelligence Agency, and other United States Government sources;

(4) ensure that such information is evaluated and preserved;

(5) ensure that when vetting an individual for eligibility to receive United States training the individual’s unit is also vetted;

(6) seek to identify the unit involved when credible information of a gross violation exists but the identity of the unit is lacking; and

(7) make publicly available, to the maximum extent practicable, the identity of those units for which no assistance shall be furnished pursuant to subsection (a).

(Pub. L. 87–195, pt. III, §620M, formerly §620J, as added Pub. L. 110–161, div. J, title VI, §651, Dec. 26, 2007, 121 Stat. 2341; renumbered §620M and amended Pub. L. 112–74, div. I, title VII, §7034(k), Dec. 23, 2011, 125 Stat. 1216.)

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, 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.

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

AMENDMENTS

2011—Subsec. (a). Pub. L. 112–74, §7034(k)(2), substituted “information” for “evidence” and “a gross violation” for “gross violations”.

Subsec. (b). Pub. L. 112–74, §7034(k)(3), substituted “steps” for “measures”.

Subsec. (d). Pub. L. 112–74, §7034(k)(4), added subsec. (d).

PART II—ADMINISTRATIVE PROVISIONS

§ 2381. Exercise of functions**(a) Delegation by President; rules and regulations; utilization of goods and services from private enterprise, and facilities and resources of Federal agencies when not competitive with private enterprise**

The President may exercise any functions conferred upon him by this chapter 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