

the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) of this section with respect to such operation.

(c) Certification

The certification referred to in subsection (b) of this section is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

(Pub. L. 107-206, title II, § 2005, Aug. 2, 2002, 116 Stat. 903.)

§ 7425. Prohibition on direct or indirect transfer of classified national security information and law enforcement information to the International Criminal Court

(a) In general

Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) Indirect transfer

The procedures adopted pursuant to subsection (a) of this section shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforce-

ment information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) Construction

The provisions of this section shall not be construed to prohibit any action permitted under section 7427 of this title.

(Pub. L. 107-206, title II, § 2006, Aug. 2, 2002, 116 Stat. 904.)

§ 7426. Repealed. Pub. L. 110-181, div. A, title XII, § 1212(a), Jan. 28, 2008, 122 Stat. 371

Section, Pub. L. 107-206, title II, § 2007, Aug. 2, 2002, 116 Stat. 905, prohibited United States military assistance to parties to the International Criminal Court.

§ 7427. Authority to free members of the Armed Forces of the United States and certain other persons detained or imprisoned by or on behalf of the International Criminal Court

(a) Authority

The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) of this section who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) Persons authorized to be freed

The authority of subsection (a) of this section shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) Authorization of legal assistance

When any person described in subsection (b) of this section is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) Bribes and other inducements not authorized

This section does not authorize the payment of bribes or the provision of other such incen-

tives to induce the release of a person described in subsection (b) of this section.

(Pub. L. 107–206, title II, §2008, Aug. 2, 2002, 116 Stat. 905.)

§ 7428. Alliance command arrangements

(a) Report on alliance command arrangements

Not later than 6 months after August 2, 2002, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) Description of measures to achieve enhanced protection for members of the Armed Forces of the United States

Not later than 1 year after August 2, 2002, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2) of this section.

(c) Submission in classified form

The report under subsection (a) of this section, and the description of measures under subsection (b) of this section, or appropriate parts thereof, may be submitted in classified form.

(Pub. L. 107–206, title II, §2009, Aug. 2, 2002, 116 Stat. 906.)

§ 7429. Withholdings

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 7401 of this title are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

(Pub. L. 107–206, title II, §2010, Aug. 2, 2002, 116 Stat. 906.)

§ 7430. Application of sections 7423 and 7425 to exercise of constitutional authorities

(a) In general

Sections 7423 and 7425 of this title shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the Presi-

dent on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) Notification to Congress

(1) In general

Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) of this section that would otherwise be prohibited under section 7423 or 7425 of this title, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) Exception

If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) Construction

Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

(Pub. L. 107–206, title II, §2011, Aug. 2, 2002, 116 Stat. 907.)

§ 7431. Nondelegation

The authorities vested in the President by sections 7422 and 7430(a) of this title may not be delegated by the President pursuant to section 301 of title 3 or any other provision of law. The authority vested in the President by section 7424(c)(3) of this title may not be delegated by the President pursuant to section 301 of title 3 or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

(Pub. L. 107–206, title II, §2012, Aug. 2, 2002, 116 Stat. 907.)

§ 7432. Definitions

As used in this subchapter and in section 7402 of this title:

(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.