

sion of any contract referred to in such paragraph entered into on or after December 30, 1974.

**(c) Country with longstanding democratic tradition, etc.**

Subsection (a) of this section 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) Assistance to Honduras or El Salvador**

Notwithstanding the prohibition contained in subsection (a) of this section 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 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 2394-1 of this title, 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 nonviolent expression of their political views, or prolonged detention without trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

(Pub. L. 87-195, pt. III, §660, as added Pub. L. 93-559, §30(a), Dec. 30, 1974, 88 Stat. 1803; amended Pub. L. 99-83, title I, §127(b), title VII, §711, Aug. 8, 1985, 99 Stat. 205, 243; Pub. L. 101-513, title V, §594, Nov. 5, 1990, 104 Stat. 2060; Pub. L. 104-107, title V, §540A(d), Feb. 12, 1996, 110 Stat. 737; Pub. L. 106-113, div. B, §1000(a)(2) [title V, §574], Nov. 29, 1999, 113 Stat. 1535, 1501A-111.)

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.

Section 3763(c) of title 42, referred to in subsec. (b)(1), was in the original section 515(c) of the Omnibus Crime Control and Safe Streets Act of 1968 [title I of Pub. L. 90-351, June 19, 1968, 82 Stat. 207]. Section 515 was omitted in the general revision of title I of Pub. L. 90-351 by Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1167.

AMENDMENTS

1999—Subsec. (b)(7). Pub. L. 106-113 added par. (7).

1996—Subsec. (b)(5), (6). Pub. L. 104-107 added pars. (5) and (6).

1990—Subsec. (b)(4). Pub. L. 101-513, which directed the amendment of this section by adding par. (4) at "the end of the subsection", was executed by adding par. (4) after par. (3) in subsec. (b) to reflect the probable intent of Congress.

1985—Subsec. (b)(3). Pub. L. 99-83, §127(b), added par. (3).

Subsecs. (c), (d). Pub. L. 99-83, §711, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 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.

EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR SPECIFIC FISCAL YEARS FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES

Pub. L. 103-447, title I, §104, Nov. 2, 1994, 108 Stat. 4694, provided that:

"(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) [22 U.S.C. 2394-1].

"(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 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.)."

Pub. L. 102-583, §7, Nov. 2, 1992, 106 Stat. 4933, provided for exemption of narcotics-related military assistance for fiscal years 1993 and 1994 from prohibition on assistance for law enforcement agencies, prior to repeal by Pub. L. 103-447, title I, §103(a), Nov. 2, 1994, 108 Stat. 4693.

ASSISTANCE TO PUBLIC SECURITY FORCES OF EL SALVADOR; DELEGATION OF FUNCTIONS

Determination of President of the United States, No. 86-2, Oct. 29, 1985, 50 F.R. 48073, provided:

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to Section 660(d) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2420(d)], I hereby determine that the Government of El Salvador has made significant progress, during the six month period preceding this determination, 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.

You are requested to report this determination to the Congress immediately, together with a full description of the assistance to be provided and of the purposes to which it is to be directed. None of the assistance so provided shall be furnished until 30 days after such a report has been made, as required by law.

I hereby delegate to the Secretary of State authority to make such determinations and reports as called for in the future under Section 660(d).

This determination shall be published in the Federal Register.

RONALD REAGAN.

**§ 2421. 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.

**(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 subchapter I of this chapter, 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.

**(5) 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, 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 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, 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 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 extent applicable, the information identified in section 3512 of title 31, 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 Government Accountability Office designated by the Comptroller General.

**(f) Funding**

**(1) Authorization**

(A) There are authorized to be appropriated for purposes of this section, in addition to funds otherwise 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 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 262r(c) of this title.

(Pub. L. 87–195, pt. III, §661, as added Pub. L. 93–559, §31, Dec. 30, 1974, 88 Stat. 1804; amended Pub. L. 94–161, title III, §316, Dec. 20, 1975, 89 Stat. 867; Pub. L. 95–88, title I, §128, Aug. 3, 1977, 91 Stat. 543; Pub. L. 95–424, title I, §121, Oct. 6, 1978, 92 Stat. 954; Pub. L. 96–53, title I, §119, Aug. 14, 1979, 93 Stat. 365; Pub. L. 96–533, title III, §311, Dec. 16, 1980, 94 Stat. 3148; Pub. L. 97–113, title III, §312, Dec. 29, 1981, 95 Stat. 1536; Pub. L. 99–83, title IV, §405, Aug. 8, 1985, 99 Stat. 219; Pub. L. 100–418, title II, §2204(b)(1), (2), Aug. 23, 1988, 102 Stat. 1329; Pub. L. 102–549, title II, §201, Oct. 28, 1992, 106 Stat. 3655; Pub. L. 103–392, title II, §201, Oct. 22, 1994, 108 Stat. 4099; Pub. L. 106–158, §5, Dec. 9, 1999, 113 Stat. 1746; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2004—Subsec. (e)(4). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office”.

1999—Subsec. (a). Pub. L. 106–158, §5(a), inserted before period at end: “, with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment”.

Subsec. (b)(5). Pub. L. 106–158, §5(b), added par. (5).

Subsec. (f)(1)(A). Pub. L. 106–158, §5(c)(1), substituted “\$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter” for “\$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996”.

Subsec. (f)(2)(A). Pub. L. 106–158, §5(c)(2), substituted “in carrying out its program, provide, as appropriate, funds” for “in fiscal years 1993 and 1994, substantially increase the amount of funds it provides”.

1994—Subsec. (f)(1). Pub. L. 103–392 redesignated existing provisions as subpar. (A), substituted “\$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996.” for “\$55,000,000 for fiscal year 1993 and \$65,000,000 for fiscal year 1994.”, and added subpar. (B).

1992—Pub. L. 102–549 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) which authorized a trade and development program to facilitate access to natural resources of interest to the United States and to stimulate reimbursable aid programs, established an agency called the Trade and Development Program to carry out the program, established an advisory board, and authorized appropriations for purposes of section.

1988—Subsec. (a). Pub. L. 100–418, §2204(b)(1), inserted sentence providing for use of funds for project planning, development, management, and procurement for bilateral and multilateral projects, for purpose of promoting use of United States exports in such projects.

Subsecs. (b) to (d). Pub. L. 100–418, §2204(b)(2), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

1985—Subsec. (b). Pub. L. 99–83 amended subsec. (b) generally, substituting provisions authorizing appropriations of \$20,000,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of \$6,907,000 for fiscal years 1982 and 1983.

1981—Pub. L. 97–113, §312(b), designated existing provisions as subsec. (a), struck out provision for use of \$4,000,000 of funds made available for fiscal year 1981 for purposes of this chapter, and added subsec. (b).

1980—Pub. L. 96–533 substituted authorization for use of \$4,000,000 of available funds for fiscal year 1981 for such authorization for use of \$3,800,000 of available funds for fiscal year 1980 for reimbursable development programs.

1979—Pub. L. 96–53 substituted “\$3,800,000” for “\$3,000,000” and “1980” for “1979”.

1978—Pub. L. 95–424 substituted “\$3,000,000 of the funds made available for the purposes of this chapter for the fiscal year 1979” for “\$2,000,000 of the funds made available for the purposes of this chapter. In the fiscal year 1977 and \$2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978.”

1977—Pub. L. 95–88 struck out provisions authorizing the President to use up to \$1,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1975 and \$2,000,000 in the fiscal year 1976, and inserted provisions authorizing the President to use

\$2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978.

1975—Pub. L. 94-161 increased usable funds in fiscal year 1976 to \$2,000,000 from \$1,000,000 and authorized use of \$2,000,000 in fiscal year 1977.

#### CHANGE OF NAME

Pub. L. 102-549, title II, §202(a), (e), Oct. 28, 1992, 106 Stat. 3657, 3658, provided that:

“(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section [Oct. 28, 1992], be known as the Trade and Development Agency.

“(e) 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.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-424 effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as a note under section 2151 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.

#### APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED

Pub. L. 102-549, title II, §202(b), Oct. 28, 1992, 106 Stat. 3657, provided that: “The enactment of this title [amending this section and section 5401 of this title, section 5314 of Title 5, Government Organization and Employees, and sections 635q to 635s of Title 12, Banks and Banking, enacting provisions set out as a note above, and amending provisions set out as a note under section 2151 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 [Oct. 28, 1992].”

#### TRADE AND DEVELOPMENT PROGRAM ACTIVITIES FOR POLAND AND HUNGARY

Pub. L. 101-179, title III, §305, Nov. 28, 1989, 103 Stat. 1314, authorized appropriation of an additional \$6,000,000 for the 3-year period beginning Oct. 1, 1989, to carry out this section, in order to permit expansion of the Trade and Development Program [now Agency] into Poland and Hungary.

#### TRADE AND DEVELOPMENT PROGRAM; REAFFIRMATION OF SUPPORT

Pub. L. 100-418, title II, §2204(a), Aug. 23, 1988, 102 Stat. 1328, provided that: “The Congress reaffirms its support for the Trade and Development Program [now Trade and Development Agency], and believes that the Program’s [Agency’s] ability to support high priority development projects in developing countries would be enhanced by an increase in the funds authorized for the Program as well as by a clarification of the Program’s status as a separate component of the International Development Cooperation Agency.”

### § 2421a. Capital projects office within 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) of this section.

#### (b) Purposes of office

The purposes referred to in subsection (a) of this section 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 infrastructure 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 October 28, 1992.