

The functions delegated by this memorandum may be delegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 6442. Presidential actions in response to particularly severe violations of religious freedom

(a) Response to particularly severe violations of religious freedom

(1) United States policy

It shall be the policy of the United States—

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c).

(2) Requirement of Presidential action

Whenever the President determines that the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c).

(b) Designations of countries of particular concern for religious freedom

(1) Annual review

(A) In general

Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

(B) Basis of review

Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) Implementation

Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time prior to September 1 of the respective year.

(2) Determinations of responsible parties

For the government of each country designated as a country of particular concern for religious freedom under paragraph (1)(A), the

President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) Congressional notification

Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

(A) the designation of the country, signed by the President; and

(B) the identification, if any, of responsible parties determined under paragraph (2).

(c) Presidential actions with respect to countries of particular concern for religious freedom

(1) In general

Subject to paragraphs (2), (3), (4), and (5) with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A), the President shall, after the requirements of sections 6443 and 6444 of this title have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) Presidential actions

One or more of the Presidential actions described in paragraphs (9) through (15) of section 6445(a) of this title, as determined by the President.

(B) Commensurate actions

Commensurate action in substitution to any action described in subparagraph (A).

(2) Substitution of binding agreements

(A) In general

In lieu of carrying out action under paragraph (1), the President may conclude a binding agreement with the respective foreign government as described in section 6445(c) of this title. The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this subchapter.

(B) Statutory construction

Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) Authority for delay of Presidential actions

If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government

of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period,

then the President shall not be required to take action until the expiration of that period of time.

(4) Exception for ongoing Presidential action under this chapter

The President shall not be required to take action pursuant to this subsection in the case of a country of particular concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this chapter in a preceding year;

(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section; and

(C) the President reports to Congress the information described in section 6444(a)(1), (2), (3), and (4) of this title regarding the actions in effect with respect to the country.

(5) Exception for ongoing, multiple, broad-based sanctions in response to human rights violations

At the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 6444(a)(1), (2), (3), and (4) of this title, and, as applicable, to section 6448 of this title, the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection. The sanctions so designated shall remain in effect subject to section 6449 of this title.

(d) Statutory construction

A determination under this chapter, or any amendment made by this chapter, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 2151n or 2304 of this title.

(Pub. L. 105-292, title IV, §402, Oct. 27, 1998, 112 Stat. 2802; Pub. L. 106-55, §2(a), Aug. 17, 1999, 113 Stat. 405.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(2)(A), was in the original “this title”, meaning title IV of Pub. L. 105-292, Oct. 27, 1998, 112 Stat. 2800, which is classified

principally to this subchapter. For complete classification of title IV to the Code, see Tables.

This chapter, referred to in subsecs. (c)(4) and (d), was in the original “this Act”, meaning Pub. L. 105-292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

AMENDMENTS

1999—Subsec. (c)(1). Pub. L. 106-55, §2(a)(1), substituted “(4), and (5)” for “and (4)” in introductory provisions.

Subsec. (c)(4). Pub. L. 106-55, §2(a)(2)(A), inserted “under this chapter” after “Exception for ongoing Presidential action” in heading.

Subsec. (c)(4)(B) to (D), (5). Pub. L. 106-55, §2(a)(2)(B)–(D), inserted “and” at end of subpar. (B), substituted period for “; and” at end of subpar. (C), redesignated subpar. (D) as par. (5), inserted par. heading, and substituted “At the time” for “at the time”.

§ 6443. Consultations

(a) In general

As soon as practicable after the President decides to take action under section 6441 of this title in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 6442 of this title, as the case may be, the President shall carry out the consultations required in this section.

(b) Duty to consult with foreign governments prior to taking Presidential actions

(1) In general

The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 6441 of this title; and

(B) if agreed to, enter into such consultations, privately or publicly.

(2) Use of multilateral fora

If the President determines it to be appropriate, such consultations may be sought and may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a), prior to implementing any such action.

(3) Election of nondisclosure of negotiations to public

If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be, the President may refrain from disclosing