

trol 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).

**(c) Submission in classified form**

The report under subsection (a), and the description of measures under subsection (b), 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 President 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) 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.

**(2) Classified national security information**

The term "classified national security information" means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

**(3) Covered allied persons**

The term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be ex-

empted from the jurisdiction of the International Criminal Court.

**(4) Covered United States persons**

The term “covered United States persons” means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

**(5) Extradition**

The terms “extradition” and “extradite” mean the extradition of a person in accordance with the provisions of chapter 209 of title 18 (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

**(6) International Criminal Court**

The term “International Criminal Court” means the court established by the Rome Statute.

**(7) Major non-NATO ally**

The term “major non-NATO ally” means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961 [22 U.S.C. 2321k].

**(8) Participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations**

The term “participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations” means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

**(9) Party to the International Criminal Court**

The term “party to the International Criminal Court” means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

**(10) Peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations**

The term “peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations” means any military operation to main-

tain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

**(11) Rome Statute**

The term “Rome Statute” means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

**(12) Support**

The term “support” means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(Pub. L. 107–206, title II, §2013, Aug. 2, 2002, 116 Stat. 907; Pub. L. 109–364, div. A, title XII, §1222, Oct. 17, 2006, 120 Stat. 2423; Pub. L. 110–181, div. A, title XII, §1212(b)(2), Jan. 28, 2008, 122 Stat. 371.)

REFERENCES IN TEXT

Executive Order 12958, referred to in par. (2), which was formerly set out as a note under section 435 (now section 3161) of Title 50, War and National Defense, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

AMENDMENTS

2008—Par. (13). Pub. L. 110–181 struck out par. (13) which defined “United States military assistance”.

2006—Par. (13)(A). Pub. L. 109–364 struck out “or 5” before “of part II”.

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.

**§ 7433. Assistance to international efforts**

Nothing in this subchapter shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Queda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

(Pub. L. 107–206, title II, §2015, Aug. 2, 2002, 116 Stat. 909.)

**CHAPTER 82—AFGHANISTAN FREEDOM SUPPORT**

Sec.  
7501. Definition.

**SUBCHAPTER I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN**

7511. Declaration of policy.  
7512. Purposes of assistance.  
7513. Authorization of assistance.