

(A) the action may only be taken after the requirements of sections 6443 and 6444 of this title have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) Authority for delay of Presidential actions

The President may delay action under paragraph (2) described in any of paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 6442(c)(3) of this title.

(c) Implementation

(1) In general

In carrying out subsection (b), the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation of such violations in countries with which the United States has diplomatic relations.

(2) Guidelines for Presidential actions

In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

(Pub. L. 105–292, title IV, §401, Oct. 27, 1998, 112 Stat. 2800.)

DELEGATION OF RESPONSIBILITIES UNDER THE
INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998

Memorandum of President of the United States, Aug. 17, 1999, 64 F.R. 47345, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions and authorities vested in the President by title IV, subtitle I (sections 401–409) of the International Religious Freedom Act of 1998 [22 U.S.C. 6441 et seq.] (Public Law 105–292) (the “Act”).

Any reference in this memorandum to any act shall be deemed to be a reference to such act as amended from time to time.

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 90 days after the date on which each Annual Report is submitted under section 6412(b) of this title, the President shall—

(i) 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 each such country during the preceding 12 months or longer;

(ii) designate each country the government of which has engaged in or tolerated violations described in clause (i) as a country of particular concern for religious freedom; and

(iii) designate each country that engaged in or tolerated severe violations of religious freedom during the previous year, but does not meet, in the opinion of the President at the time of publication of the Annual Report, all of the criteria described in section 6402(15) of this title for designation under clause (ii) as being placed on a “Special Watch List”.

(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 before the date on which each Annual Report is submitted under section 6412(b) of this title.

(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**(A) In general**

Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A)(ii), the President, not later than 90 days after such designation, shall submit to the appropriate congressional committees—

- (i) the designation of the country, signed by the President;
- (ii) the identification, if any, of responsible parties determined under paragraph (2); and
- (iii) a description of the actions taken under subsection (c), the purposes of the actions taken, and the effectiveness of the actions taken.

(B) Removal of designation

A country that is designated as a country of particular concern for religious freedom under paragraph (1)(A)(ii) shall retain such designation until the President determines and reports to the appropriate congressional committees that the country should no longer be so designated.

(4) Effect on designation as country of particular concern

The presence or absence of a country from the Special Watch List in any given year shall not preclude the designation of such country as a country of particular concern for religious freedom under paragraph (1)(A)(ii) in any such year.

(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 shall designate the specific sanction or sanctions that the President determines satisfy the requirements under this subsection and include a description of the impact of such sanction or sanctions on each country. 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; Pub. L. 114-281, title III, §302, Dec. 16, 2016, 130 Stat. 1434.)

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

2016—Subsec. (b)(1)(A). Pub. L. 114-281, §302(1)(A)(i), amended subpar. (A) generally. Prior to amendment, text read as follows: “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.”

Subsec. (b)(1)(C). Pub. L. 114-281, §302(1)(A)(ii), substituted “before the date on which each Annual Report is submitted under section 6412(b) of this title” for “prior to September 1 of the respective year”.

Subsec. (b)(3). Pub. L. 114-281, §302(1)(B), amended par. (3) generally. Prior to amendment, text read as follows: “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).”

Subsec. (b)(4). Pub. L. 114-281, §302(1)(C), added par. (4).

Subsec. (c)(5). Pub. L. 114-281, §302(2), substituted “the President shall designate the specific sanction or

sanctions that the President determines satisfy the requirements under this subsection and include a description of the impact of such sanction or sanctions on each country.” for “the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection.”

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”.

§ 6442a. Non-state actor designations

(a) In general

The President, concurrent with the annual foreign country review required under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)), shall—

(1) review and identify any non-state actors operating in any such reviewed country or surrounding region that have engaged in particularly severe violations of religious freedom; and

(2) designate, in a manner consistent with such Act [22 U.S.C. 6401 et seq.], each such non-state actor as an entity of particular concern for religious freedom.

(b) Report

Whenever the President designates a non-state actor under subsection (a) as an entity of particular concern for religious freedom, the President, as soon as practicable after the designation is made, shall submit a report to the appropriate congressional committees that describes the reasons for such designation.

(c) Actions

The President should take specific actions, when practicable, to address severe violations of religious freedom of non-state actors that are designated under subsection (a)(2).

(d) Department of State annual report

The Secretary of State should include information detailing the reasons the President designated a non-state actor as an entity of particular concern for religious freedom under subsection (a) in the Annual Report required under section 102(b)(1) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)).

(e) Sense of Congress

It is the sense of Congress that—

(1) the Secretary of State should work with Congress and the U.S. Commission on International Religious Freedom—

(A) to create new political, financial, and diplomatic tools to address severe violations of religious freedom by non-state actors; and

(B) to update the actions the President can take under section 405 of the International Religious Freedom Act of 1998 (22 U.S.C. 6445);

(2) governments must ultimately be held accountable for the abuses that occur in their territories; and