

Sec.
362. Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights.

§ 361. Prohibition on providing financial assistance to terrorist countries

(a) PROHIBITION.—Funds available to the Department of Defense may not be obligated or expended to provide financial assistance to—

(1) any country with respect to which the Secretary of State has made a determination under section 6(j)(1)(A)¹ of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A));

(2) any country identified in the latest report submitted to Congress under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), as providing significant support for international terrorism; or

(3) any other country that, as determined by the President—

(A) grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or

(B) otherwise supports international terrorism.

(b) WAIVER.—(1) The President may waive the application of subsection (a) to a country if the President determines—

(A) that it is in the national security interests of the United States to do so; or

(B) that the waiver should be granted for humanitarian reasons.

(2) The President shall—

(A) notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives at least 15 days before the waiver takes effect; and

(B) publish a notice of the waiver in the Federal Register.

(c) DEFINITION.—In this section, the term “international terrorism” has the meaning given that term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)).

(Added Pub. L. 104–106, div. A, title XIII, §1341(a), Feb. 10, 1996, 110 Stat. 485, §2249a; amended Pub. L. 105–85, div. A, title X, §1073(a)(40), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; renumbered §361 and amended Pub. L. 114–328, div. A, title X, §1081(b)(3)(B), title XII, §1241(l)(1), Dec. 23, 2016, 130 Stat. 2418, 2509.)

REFERENCES IN TEXT

Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)), referred to in subsec. (a)(1), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232. For similar provisions, see section 4813(c)(1)(A)(i) of Title 50, War and National Defense, as enacted by Pub. L. 115–232.

AMENDMENTS

2016—Pub. L. 114–328, §1241(l)(1), renumbered section 2249a of this title as this section.

¹ See References in Text note below.

Subsec. (a)(1). Pub. L. 114–328, §1081(b)(3)(B), substituted “(50 U.S.C. 4605(j)(1)(A))” for “(50 U.S.C. App. 2405(j)(1)(A))”.

1999—Subsec. (b)(2)(A). Pub. L. 106–65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1997—Subsec. (a)(1). Pub. L. 105–85 substituted “50 U.S.C. App. 2405(j)(1)(A)” for “50 App. 2405(j)”.

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.

§ 362. Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights

(a) IN GENERAL.—(1) Of the amounts made available to the Department of Defense, none may be used for any training, equipment, or other assistance for a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights.

(2) The Secretary of Defense shall, in consultation with the Secretary of State, ensure that prior to a decision to provide any training, equipment, or other assistance to a unit of a foreign security force full consideration is given to any credible information available to the Department of State relating to human rights violations by such unit.

(b) EXCEPTION.—The prohibition in subsection (a)(1) shall not apply if the Secretary of Defense, after consultation with the Secretary of State, determines that the government of such country has taken all necessary corrective steps, or if the equipment or other assistance is necessary to assist in disaster relief operations or other humanitarian or national security emergencies.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a)(1) if the Secretary determines that the waiver is required by extraordinary circumstances.

(d) PROCEDURES.—The Secretary of Defense shall establish, and periodically update, procedures to ensure that any information in the possession of the Department of Defense about gross violations of human rights by units of foreign security forces is shared on a timely basis with the Department of State.

(e) REPORT.—Not later than 15 days after the application of any exception under subsection (b) or the exercise of any waiver under subsection (c), the Secretary of Defense shall submit to the appropriate committees of Congress a report—

(1) in the case of an exception under subsection (b), providing notice of the use of the exception and stating the grounds for the exception; and

(2) in the case of a waiver under subsection (c), describing—

(A) the information relating to the gross violation of human rights;

(B) the extraordinary circumstances that necessitate the waiver;

(C) the purpose and duration of the training, equipment, or other assistance; and

(D) the United States forces and the foreign security force unit involved.

(Added Pub. L. 113–291, div. A, title XII, § 1204(a)(1), Dec. 19, 2014, 128 Stat. 3531, § 2249e; renumbered § 362 and amended Pub. L. 114–328, div. A, title XII, § 1241(l), Dec. 23, 2016, 130 Stat. 2509.)

AMENDMENTS

2016—Pub. L. 114–328, § 1241(l)(1), renumbered section 2249e of this title as this section.

Subsec. (f). Pub. L. 114–328, § 1241(l)(2), struck out subsec. (f) which defined “appropriate committees of Congress” for this section.

HUMAN RIGHTS VETTING OF AFGHAN NATIONAL DEFENSE AND SECURITY FORCES

Pub. L. 115–91, div. A, title XII, § 1216, Dec. 12, 2017, 131 Stat. 1650, provided that: “The Secretary of Defense may establish within the Department of Defense one or more permanent positions to oversee and support, in coordination with the Department of State, the implementation of section 362 of title 10, United States Code, with respect to the Afghan National Defense and Security Forces.”

ANNUAL REPORTS

Pub. L. 113–291, div. A, title XII, § 1204(b), Dec. 19, 2014, 128 Stat. 3533, as amended by Pub. L. 115–232, div. A, title XII, § 1204(c)(2), Aug. 13, 2018, 132 Stat. 2017, provided that:

“(1) IN GENERAL.—Not later than March 31, 2015, and every March 31 thereafter through 2024, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth for the preceding fiscal year the following:

“(A) The total number of cases submitted for vetting for purposes of section 362 of title 10, United States Code (as added by subsection (a)), and the total number of such cases approved, or suspended or rejected for human rights reasons, non-human rights reasons, or administrative reasons.

“(B) In the case of units rejected for non-human rights reasons, a detailed description of the reasons relating to the rejection.

“(C) A description of the interagency processes that were used to evaluate compliance with requirements to conduct vetting.

“(D) An addendum that includes any comments by the commanders of the combatant commands about the impact of section 362 of title 10, United States Code (as so added), on their theater security cooperation plan.

“(E) Such other matters with respect to the administration of section 362 of title 10, United States Code (as so added), as the Secretary considers appropriate.

“(2) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

“(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ has the meaning given that term in section 301(1) of title 10, United States Code.”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1204(b) of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

[§ 371. Renumbered § 271]

[§ 372. Renumbered § 272]

[§ 373. Renumbered § 273]

[§ 374. Renumbered § 274]

[§ 375. Renumbered § 275]

[§ 376. Renumbered § 276]

[§ 377. Renumbered § 277]

[§ 378. Renumbered § 278]

[§ 379. Renumbered § 279]

[§ 380. Renumbered § 280]

SUBCHAPTER VII—ADMINISTRATIVE AND MISCELLANEOUS MATTERS

Sec.

- 381. Consolidated budget.
- 382. Execution and administration of programs and activities.
- 383. Assessment, monitoring, and evaluation of programs and activities.
- 384. Department of Defense security cooperation workforce development.
- 385. Department of Defense support for other departments and agencies of the United States Government that advance Department of Defense security cooperation objectives.
- 386. Annual report.

§ 381. Consolidated budget

(a) CONSOLIDATED BUDGET.—The budget of the President for each fiscal year, as submitted to Congress by the President pursuant to section 1105 of title 31, shall set forth by budget function and as a separate item the amounts requested for the Department of Defense for such fiscal year for all security cooperation programs and activities of the Department of Defense, including the military departments, to be conducted in such fiscal year, including the specific country or region and the applicable authority, to the extent practicable.

(b) QUARTERLY REPORT ON USE OF FUNDS.—Not later than 30 days after the end of each calendar quarter, the Secretary shall submit to the appropriate committees of Congress a report on the obligation and expenditure of funds for security cooperation programs and activities of the Department of Defense during such calendar quarter.

(Added Pub. L. 114–328, div. A, title XII, § 1249(a), Dec. 23, 2016, 130 Stat. 2526.)

PRIOR PROVISIONS

A prior section 381 was renumbered section 281 of this title.

EFFECTIVE DATE; APPLICABILITY

Pub. L. 114–328, div. A, title XII, § 1249(b), Dec. 23, 2016, 130 Stat. 2526, provided that: “The amendment made by subsection (a) [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 23, 2016], and shall apply as follows:

“(1) Subsection (a) of section 381 of title 10, United States Code, as added by subsection (a), shall apply to budgets submitted to Congress by the President pur-