

fiscal year shall be for the purchase of defense articles, defense services, and military education and training for activities relating to counterinsurgency and counterterrorism operations in Pakistan.

(B) Sense of Congress

It is the sense of Congress that a significant majority of funds made available to carry out this subsection for a fiscal year should be used for the purpose described in subparagraph (A).

(3) Additional authority

Except as provided in sections 2753 and 2799aa-1 of this title, the second section 620J¹ of the Foreign Assistance Act of 1961 (as added by Public Law 110-161) [22 U.S.C. 2378d], and any provision of an Act making appropriations for the Department of State, foreign operations, and related programs that restricts assistance to the government of any country whose duly elected head of government is deposed by military coup or decree, and except as otherwise provided in this subchapter, amounts authorized to be made available to carry out paragraph (2) for fiscal years 2010 and 2011 are authorized to be made available notwithstanding any other provision of law.

(4) Definitions

In this section, the terms “defense articles”, “defense services”, and “military education and training” have the meaning given such terms in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(c) Sense of Congress

It is the sense of Congress that the United States should facilitate Pakistan’s establishment of a program to provide reconstruction assistance, including through Pakistan’s military as appropriate, in areas damaged by combat operations.

(d) Exchange program between military and civilian personnel of Pakistan and certain other countries

(1) In general

The Secretary of State is authorized to establish an exchange program between—

(A) military and civilian personnel of Pakistan; and

(B)(i) military and civilian personnel of countries determined by the Secretary of State to be in the process of consolidating and strengthening a democratic form of government; or

(ii) military and civilian personnel of North Atlantic Treaty Organization member countries,

in order to foster greater mutual respect for and understanding of the principle of civilian rule of the military.

(2) Elements of program

The program authorized under paragraph (1) may include conferences, seminars, exchanges, and other events, distribution of publications and reimbursements of expenses of foreign

military personnel participating in the program, including transportation, translation and administrative expenses.

(3) Role of nongovernmental organizations

Amounts authorized to be appropriated to carry out this section for a fiscal year are authorized to be made available for nongovernmental organizations to facilitate the implementation of the program authorized under paragraph (1).

(4) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 to carry out the program established by this subsection.

(Pub. L. 111-73, title II, §202, Oct. 15, 2009, 123 Stat. 2069.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Chapter 5 of part II of the Act is classified generally to part V (§2347 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The second section 620J of the Foreign Assistance Act of 1961 (as added by Public Law 110-161), referred to in subsec. (b), which is classified to section 2378d of this title, was renumbered section 620M of the Foreign Assistance Act of 1961 by Pub. L. 112-74, div. I, title VII, §7034(k)(1), Dec. 23, 2011, 125 Stat. 1216.

§ 8423. Limitations on certain assistance

(a) Limitation on security-related assistance

For fiscal years 2011 through 2014, no security-related assistance may be provided to Pakistan in a fiscal year until the Secretary of State, under the direction of the President, makes the certification required under subsection (c) for such fiscal year.

(b) Limitation on arms transfers

For fiscal years 2012 through 2014, no letter of offer to sell major defense equipment to Pakistan may be issued pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) and no license to export major defense equipment to Pakistan may be issued pursuant to such Act in a fiscal year until the Secretary of State, under the direction of the President, makes the certification required under subsection (c) for such fiscal year.

(c) Certification

The certification required by this subsection is a certification by the Secretary of State, under the direction of the President, to the appropriate congressional committees that—

(1) the Government of Pakistan is continuing to cooperate with the United States in efforts to dismantle supplier networks relating to the acquisition of nuclear weapons-related materials, such as providing relevant information from or direct access to Pakistani nationals associated with such networks;

(2) the Government of Pakistan during the preceding fiscal year has demonstrated a sustained commitment to and is making significant efforts towards combating terrorist groups, consistent with the purposes of assist-

¹ See References in Text note below.

ance described in section 8421 of this title, including taking into account the extent to which the Government of Pakistan has made progress on matters such as—

(A) ceasing support, including by any elements within the Pakistan military or its intelligence agency, to extremist and terrorist groups, particularly to any group that has conducted attacks against United States or coalition forces in Afghanistan, or against the territory or people of neighboring countries;

(B) preventing al Qaeda, the Taliban and associated terrorist groups, such as Lashkar-e-Taiba and Jaish-e-Mohammed, from operating in the territory of Pakistan, including carrying out cross-border attacks into neighboring countries, closing terrorist camps in the FATA, dismantling terrorist bases of operations in other parts of the country, including Quetta and Muridke, and taking action when provided with intelligence about high-level terrorist targets; and

(C) strengthening counterterrorism and anti-money laundering laws; and

(3) the security forces of Pakistan are not materially and substantially subverting the political or judicial processes of Pakistan.

(d) Certain payments

(1) In general

Subject to paragraph (2), none of the funds appropriated for security-related assistance for fiscal years 2010 through 2014, or any amounts appropriated to the Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111-32), may be obligated or expended to make payments relating to—

(A) the Letter of Offer and Acceptance PK-D-YAD signed between the Governments of the United States of America and Pakistan on September 30, 2006;

(B) the Letter of Offer and Acceptance PK-D-NAP signed between the Governments of the United States of America and Pakistan on September 30, 2006; and

(C) the Letter of Offer and Acceptance PK-D-SAF signed between the Governments of the United States of America and Pakistan on September 30, 2006.

(2) Exception

Funds appropriated for security-related assistance for fiscal years 2010 through 2014 may be used for construction and related activities carried out pursuant to the Letters of Offer and Acceptance described in paragraph (1).

(e) Waiver

(1) In general

The Secretary of State, under the direction of the President, may waive the limitations contained in subsections (a), (b), and (d) for a fiscal year if the Secretary of State determines that is important to the national security interests of the United States to do so.

(2) Prior notice of waiver

The Secretary of State, under the direction of the President, may not exercise the author-

ity of paragraph (1) until 7 days after the Secretary of State provides to the appropriate congressional committees a written notice of the intent to issue to waiver¹ and the reasons therefor. The notice may be submitted in classified or unclassified form, as necessary.

(f) Appropriate congressional committees defined

In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.

(Pub. L. 111-73, title II, §203, Oct. 15, 2009, 123 Stat. 2071.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Supplemental Appropriations Act, 2009, referred to in subsec. (d)(1), is Pub. L. 111-32, June 24, 2009, 123 Stat. 1859. For complete classification of this Act to the Code, see Tables.

§ 8424. Pakistan Counterinsurgency Capability Fund

(a) For fiscal year 2010

(1) In general

For fiscal year 2010, the Department of State’s Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111-32), hereinafter in this section referred to as the “Fund”, shall consist of the following:

(A) Amounts appropriated to carry out this subsection (which may not include any amounts appropriated to carry out subchapter I of this chapter).

(B) Amounts otherwise available to the Secretary of State to carry out this subsection.

(2) Purposes of Fund

Amounts in the Fund made available to carry out this subsection for any fiscal year are authorized to be used by the Secretary of State, with the concurrence of the Secretary of Defense, to build and maintain the counterinsurgency capability of Pakistan under the same terms and conditions (except as otherwise provided in this subsection) that are applicable to amounts made available under the Fund for fiscal year 2009.

(3) Transfer authority

(A) In general

The Secretary of State is authorized to transfer amounts in the Fund made available to carry out this subsection for any fis-

¹ So in original.