

§ 7422. Waiver and termination of prohibitions of this subchapter

(a) Authority to initially waive section 7424

The President is authorized to waive the prohibitions and requirements of section 7424 of this title for a single period of 1 year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

- (i) covered United States persons;
- (ii) covered allied persons; and
- (iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) Authority to extend waiver of section 7424

The President is authorized to waive the prohibitions and requirements of section 7424 of this title for successive periods of 1 year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

- (I) covered United States persons;
- (II) covered allied persons; and
- (III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) Authority to waive sections 7423 and 7425 with respect to an investigation or prosecution of a named individual

The President is authorized to waive the prohibitions and requirements of sections 7423 and

7425 of this title to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of section 7424 of this title is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

- (i) Covered United States persons.
- (ii) Covered allied persons.
- (iii) Individuals who were covered United States persons or covered allied persons.

(d) Termination of waiver pursuant to subsection (c)

Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 7423 and 7425 of this title shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of section 7424 of this title expires and is not extended pursuant to subsection (b).

(e) Termination of prohibitions of this subchapter

The prohibitions and requirements of sections 7423, 7424, and 7425 of this title shall cease to apply, and the authority of section 7427 of this title shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

(Pub. L. 107-206, title II, § 2003, Aug. 2, 2002, 116 Stat. 901; Pub. L. 110-181, div. A, title XII, § 1212(b)(1), Jan. 28, 2008, 122 Stat. 371.)

AMENDMENTS

2008—Subsecs. (a), (b). Pub. L. 110-181, § 1212(b)(1)(A), (B), substituted “section 7424” for “sections 7424 and 7426” in heading and text.

Subsecs. (c)(2)(A), (d). Pub. L. 110-181, § 1212(b)(1)(C), (D), substituted “section 7424” for “sections 7424 and 7426”.

Subsec. (e). Pub. L. 110-181, § 1212(b)(1)(E), substituted “and 7425” for “7425, and 7426”.

§ 7423. Prohibition on cooperation with the International Criminal Court

(a) Application

The provisions of this section—