

States made in connection with any agreement or grant subject to subsection (a) of this section shall be made on a competitive basis.

(d) Engineering, financial, and other plans

Subsection (a) of this section shall not apply to any assistance furnished for the sole purpose of preparation of engineering, financial, and other plans.

(e) Certification of country capability to maintain and utilize projects as prerequisite to assistance for capital projects exceeding cost limitations

In addition to any other requirements of this section, no assistance authorized under part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter shall be furnished with respect to any capital assistance project estimated to cost in excess of \$1,000,000 until the head of the agency primarily responsible for administering subchapter I of this chapter has received and taken into consideration a certification from the principal officer of such agency in the country in which the project is located as to the capability of the country (both financial and human resources) to effectively maintain and utilize the project taking into account among other things the maintenance and utilization of projects in such country previously financed or assisted by the United States.

(Pub. L. 87-195, pt. III, §611, Sept. 4, 1961, 75 Stat. 442; Pub. L. 87-565, pt. III, §301(b), Aug. 1, 1962, 76 Stat. 260; Pub. L. 88-205, pt. III, §301(c), Dec. 16, 1963, 77 Stat. 385; Pub. L. 90-137, pt. II, §301(d), Nov. 14, 1967, 81 Stat. 458; Pub. L. 95-424, title I, §102(g)(2)(D), (E), Oct. 6, 1978, 92 Stat. 943; Pub. L. 96-53, title I, §117, Aug. 14, 1979, 93 Stat. 365; Pub. L. 99-83, title XII, §§1208, 1211(b)(2), Aug. 8, 1985, 99 Stat. 278, 279.)

Editorial Notes

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (b), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99-83, §1208(1), substituted “\$500,000” for “\$100,000”.

Pub. L. 99-83, §1211(b)(2), substituted reference to section 1501 of title 31, for reference to section 1311 of the Supplemental Appropriation Act, 1955.

Subsec. (b). Pub. L. 99-83, §1208(2), substituted “the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto” for “the procedures set forth in the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973, with respect to such computations”.

1979—Subsec. (b). Pub. L. 96-53 substituted “Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973” for “Memorandum of the President dated May 15, 1962”.

1978—Subsec. (a). Pub. L. 95-424, §102(g)(2)(D), substituted “part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV

of subchapter II of this chapter” for “subparts I, II, and VI of part II and part IV of subchapter I of this chapter”.

Subsec. (e). Pub. L. 95-424, §102(g)(2)(E), substituted “part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter” for “subparts I, II, or VI of part II or part IV of subchapter I of this chapter”.

1967—Subsec. (e). Pub. L. 90-137 added subsec. (e).

1963—Subsec. (b). Pub. L. 88-205 substituted “the Memorandum of the President dated May 15, 1962,” for “circular A-47 of the Bureau of the Budget.”

1962—Subsec. (a). Pub. L. 87-565 included subpart VI of part II of subchapter I of this chapter within the restriction.

Statutory Notes and Related Subsidiaries

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-424 effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as a note under section 2151 of this title.

§ 2362. Use of foreign currencies

(a) Currencies received in payment for non-military assistance; foreign obligations

Except as otherwise provided in this chapter or other Acts, foreign currencies received either (1) as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, and unobligated on September 3, 1961, or (2) on or after September 4, 1961, as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, or (3) as a result of the furnishing of assistance under subchapter I of this chapter, which are in excess of amounts reserved under authority of section 2455(d) of this title or any other Act relating to educational and cultural exchanges, may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States, and the United States dollars received as reimbursement shall be deposited into miscellaneous receipts of the Treasury. Foreign currencies so received which are in excess of the amounts so reserved and of

the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President, shall be available for the authorized purposes of subchapter I of this chapter in such amounts as may be specified from time to time in appropriation Acts.

(b) United States operations abroad; excess foreign currencies

Any Act of the Congress making appropriations to carry out programs under this chapter or any other Act for United States operations abroad is hereby authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

As used in this subsection, the term “excess foreign currencies” means foreign currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the President to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits and are not prohibited from use under this subsection by an agreement entered into with the foreign country concerned.

The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available pursuant to this chapter shall not be expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.

(c) Voluntary family planning programs; limitation

In addition to funds otherwise available, excess foreign currencies, as defined in subsection (b), may be made available to friendly foreign governments and to private, nonprofit United States organizations to carry out voluntary family planning programs in countries which request such assistance. No such program shall be assisted unless the President has received assurances that in the administration of such program the recipient will take reasonable precautions to insure that no person receives any family planning assistance or supplies unless he desires such services. The excess foreign currencies made available under this subsection shall not, in any one year, exceed 5 per centum of the aggregate of all excess foreign currencies. As used in this subsection, the term “voluntary family planning program” includes, but is not limited to, demographic studies, medical and psychological research, personnel training, the construction and staffing of clinics and rural health centers, specialized training of doctors and paramedical personnel, the manufacture of medical supplies, and the dissemination of family planning information, medical assistance, and supplies to individuals who desire such assistance.

(d) Reciprocal release of dollar value equivalents

In furnishing assistance under this chapter to the government of any country in which the United States owns excess foreign currencies as defined in subsection (b) of this section, except those currencies generated under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], the President shall endeavor to obtain from the recipient country an agreement for the release, on such terms and conditions as the President shall determine, of an amount of such currencies up to the equivalent of the dollar value of assistance furnished by the United States for programs as may be mutually agreed upon by the recipient country and the United States to carry out the purposes for which new funds authorized by this chapter would themselves be available.

(Pub. L. 87-195, pt. III, §612, Sept. 4, 1961, 75 Stat. 443; Pub. L. 88-205, pt. III, §301(d), Dec. 16, 1963, 77 Stat. 385; Pub. L. 88-633, pt. III, §301(c), Oct. 7, 1964, 78 Stat. 1012; Pub. L. 88-638, §2(1), Oct. 8, 1964, 78 Stat. 1037; Pub. L. 89-171, pt. III, §301(b), Sept. 6, 1965, 79 Stat. 659; Pub. L. 89-583, pt. III, §301(e), Sept. 19, 1966, 80 Stat. 805; Pub. L. 91-175, pt. III, §302, Dec. 30, 1969, 83 Stat. 820; Pub. L. 110-246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (d), was in the original “this Act”, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Mutual Security Act of 1954, referred to in subsec. (a), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85-141, 71 Stat. 355; June 30, 1958, Pub. L. 85-477, ch. 1, §§101 to 103, ch. II, §§201 to 205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86-108, §2, ch. 1, §101, ch. II, §§201 to 205(a) to (i), (k) to (n), ch. III, §301, ch. IV, §401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86-472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85-141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86-108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86-472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87-195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94-329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104-127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

The Food for Peace Act, as amended, referred to in subsec. (d), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-246 substituted “Food for Peace Act” for “Agricultural Trade Development and Assistance Act of 1954”.

1969—Subsec. (d). Pub. L. 91-175 added subsec. (d).

1966—Subsec. (c). Pub. L. 89-583 added subsec. (c).

1965—Subsecs. (b), (c). Pub. L. 89-171 redesignated subsec. (c) as (b) and prohibited dollar funds made

available pursuant to this chapter from being expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.

1964—Subsec. (b). Pub. L. 88-638 redesignated subsec. (b), as added by Pub. L. 88-205, as subsec. (t) of section 1704 of Title 7, Agriculture.

Subsec. (c). Pub. L. 88-633 added subsec. (c).

1963—Pub. L. 88-205 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SEPARATE ACCOUNTS FOR LOCAL CURRENCIES AND CASH TRANSFERS

Pub. L. 116-260, div. K, title VII, § 7026, Dec. 27, 2020, 134 Stat. 1737, provided that:

“(a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—

“(1) AGREEMENTS.—If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I [22 U.S.C. 2151 et seq., 2293 et seq.] or chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

“(A) require that local currencies be deposited in a separate account established by that government;

“(B) enter into an agreement with that government which sets forth—

“(i) the amount of the local currencies to be generated; and

“(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

“(C) establish by agreement with that government the responsibilities of USAID [United States Agency for International Development] and that government to monitor and account for deposits into and disbursements from the separate account.

“(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

“(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 (as the case may be), for such purposes as—

“(i) project and sector assistance activities; or

“(ii) debt and deficit financing; or

“(B) for the administrative requirements of the United States Government.

“(3) PROGRAMMING ACCOUNTABILITY.—USAID shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

“(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign

Assistance Act of 1961 (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

“(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—

“(1) IN GENERAL.—If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I [22 U.S.C. 2151 et seq., 2293 et seq.] or chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle with any other funds.

“(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98-1159).

“(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by such assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

“(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of paragraph (1) only through the regular notification procedures of the Committees on Appropriations.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 116-94, div. G, title VII, § 7026, Dec. 20, 2019, 133 Stat. 2859.

Pub. L. 116-6, div. F, title VII, § 7026, Feb. 15, 2019, 133 Stat. 312.

Pub. L. 115-141, div. K, title VII, § 7026, Mar. 23, 2018, 132 Stat. 877.

Pub. L. 115-31, div. J, title VII, § 7026, May 5, 2017, 131 Stat. 633.

Pub. L. 114-113, div. K, title VII, § 7026, Dec. 18, 2015, 129 Stat. 2748.

Pub. L. 113-235, div. J, title VII, § 7026, Dec. 16, 2014, 128 Stat. 2614.

Pub. L. 113-76, div. K, title VII, § 7026, Jan. 17, 2014, 128 Stat. 505.

Pub. L. 112-74, div. I, title VII, § 7026, Dec. 23, 2011, 125 Stat. 1206.

Pub. L. 111-117, div. F, title VII, § 7027, Dec. 16, 2009, 123 Stat. 3355.

Pub. L. 111-8, div. H, title VII, § 7027, Mar. 11, 2009, 123 Stat. 871.

Pub. L. 110-161, div. J, title VI, § 628, Dec. 26, 2007, 121 Stat. 2325.

Pub. L. 109-102, title V, § 529, Nov. 14, 2005, 119 Stat. 2206.

Pub. L. 108-447, div. D, title V, § 529, Dec. 8, 2004, 118 Stat. 3003.

Pub. L. 108-199, div. D, title V, § 529, Jan. 23, 2004, 118 Stat. 178.

Pub. L. 108-7, div. E, title V, § 529, Feb. 20, 2003, 117 Stat. 190.

Pub. L. 107-115, title V, § 529, Jan. 10, 2002, 115 Stat. 2148.

Pub. L. 106-429, § 101(a) [title V, § 532], Nov. 6, 2000, 114 Stat. 1900, 1900A-32.

Pub. L. 106-113, div. B, § 1000(a)(2) [title V, § 532], Nov. 29, 1999, 113 Stat. 1535, 1501A-91.

Pub. L. 105-277, div. A, § 101(d) [title V, § 533], Oct. 21, 1998, 112 Stat. 2681-150, 2681-179.

Pub. L. 105-118, title V, § 532, Nov. 26, 1997, 111 Stat. 2414.

Pub. L. 104-208, div. A, title I, §101(c) [title V, §531], Sept. 30, 1996, 110 Stat. 3009-121, 3009-150.

Pub. L. 104-107, title V, §532, Feb. 12, 1996, 108 Stat. 732.

Pub. L. 103-306, title V, §536, Aug. 23, 1994, 108 Stat. 1637.

Pub. L. 103-87, title V, §537, Sept. 30, 1993, 107 Stat. 955.

Pub. L. 102-391, title V, §571, Oct. 6, 1992, 106 Stat. 1681.

Pub. L. 101-513, title V, §575, Nov. 5, 1990, 104 Stat. 2042.

Pub. L. 101-167, title II, title V, §592, Nov. 21, 1989, 103 Stat. 1207, 1253.

Pub. L. 100-461, title II, Oct. 1, 1988, 102 Stat. 2268-12.

Pub. L. 100-202, §101(e) [title II], Dec. 22, 1987, 101 Stat. 1329-131, 1329-143.

Pub. L. 99-500, §101(f) [title II], Oct. 18, 1986, 100 Stat. 1783-213, 1783-221, and Pub. L. 99-591, §101(f) [title II], Oct. 30, 1986, 100 Stat. 3341-214, 3341-221.

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§ 2363. Accounting, valuation, reporting, and administration of foreign currencies

(a) Responsibility of Secretary of the Treasury; regulations

Under the direction of the President, the Secretary of the Treasury shall have responsibility for valuation and central accounting with respect to foreign credits (including currencies) owed to or owned by the United States. In order to carry out such responsibility the Secretary shall issue regulations binding upon all agencies of the Government.

(b) Establishment of exchange rates

The Secretary of the Treasury shall have sole authority to establish for all foreign currencies or credits the exchange rates at which such currencies are to be reported by all agencies of the Government.

(c) Repealed. Pub. L. 97-113, title VII, § 734(a)(1), Dec. 29, 1981, 95 Stat. 1560

(d) Interest income on foreign currency proceeds; regulations; waiver; report to Congress

In cases where assistance is to be furnished to any recipient country in furtherance of the purposes of this chapter or any other Act on a basis which will result in the accrual of foreign currency proceeds to the United States, the Secretary of the Treasury shall issue regulations requiring that agreements, in respect of such assistance, include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositories: *Provided*, That whenever the Secretary of State determines it not to be in the national interest to conclude arrangements for the receipt of interest income he may waive the requirement thereof: *Provided further*, That the Secretary of State, or his delegate, shall promptly make a complete report to the Congress on each such determination and the reasons therefor.

(Pub. L. 87-195, pt. III, §613, Sept. 4, 1961, 75 Stat. 443; Pub. L. 89-171, pt. III, §301(c), Sept. 6, 1965,

79 Stat. 659; Pub. L. 94-273, §46, Apr. 21, 1976, 90 Stat. 382; Pub. L. 97-113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1981—Subsec. (c). Pub. L. 97-113 struck out subsec. (c) which provided for semi-annual reports on foreign currencies acquired without payment of dollars by the United States. See section 2394(a)(8) of this title.

1976—Subsec. (c). Pub. L. 94-273 inserted provision relating to reports after Dec. 31, 1975.

1965—Subsec. (d). Pub. L. 89-171 added subsec. (d).

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§ 2364. Special authorities

(a) Furnishing of assistance and arms export sales, credits, and guaranties upon determination and notification of Congress of importance and vitality of such action to security interests and national security interests of United States; policy justification; fiscal year limitations; transfers between accounts

(1) The President may authorize the furnishing of assistance under this chapter without regard to any provision of this chapter, the Arms Export Control Act [22 U.S.C. 2751 et seq.], any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this chapter, in furtherance of any of the purposes of this chapter, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.

(2) The President may make sales, extend credit, and issue guaranties under the Arms Export Control Act [22 U.S.C. 2751 et seq.], without regard to any provision of this chapter, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States.

(3) Before exercising the authority granted in this subsection, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs