

by the Department of State for any administrative costs associated with the activities of the special ambassador and supporting personnel, including transportation, salaries and per diem.”

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (c) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.

DELEGATION OF AUTHORITIES UNDER THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2020 AND THE EASTERN MEDITERRANEAN SECURITY AND ENERGY PARTNERSHIP ACT OF 2019

Memorandum of President of the United States, Apr. 14, 2020, 85 F.R. 35797, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State the authorities vested in the President by section 1250A(d) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92) [22 U.S.C. 2373 note] and section 205(d) of the Eastern Mediterranean Security and Energy Partnership Act of 2019 (Title II, Div. J, Public Law 116-94) [22 U.S.C. 2373 note].

Any reference in this memorandum to either Act shall be deemed to be a reference to such Acts as amended from time to time.

You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 2374. Repealed. Pub. L. 108-458, title VII, § 7104(I), Dec. 17, 2004, 118 Stat. 3788

Section, Pub. L. 87-195, pt. III, § 620D, as added Pub. L. 96-53, title V, § 505, Aug. 14, 1979, 93 Stat. 378, related to prohibition on assistance to Afghanistan.

§ 2375. Assistance to Pakistan

(a) Congressional policy, findings, and goals

The Congress recognizes that Soviet forces occupying Afghanistan pose a security threat to Pakistan. The Congress also recognizes that an independent and democratic Pakistan with continued friendly ties with the United States is in the interest of both nations. The Congress finds that United States assistance will help Pakistan maintain its independence. Assistance to Pakistan is intended to benefit the people of Pakistan by helping them meet the burdens imposed by the presence of Soviet forces in Afghanistan and by promoting economic development. In authorizing assistance to Pakistan, it is the intent of Congress to promote the expeditious restoration of full civil liberties and representative government in Pakistan. The Congress further recognizes that it is in the mutual interest of Pakistan and the United States to avoid the profoundly destabilizing effects of the proliferation of nuclear explosive devices or the capacity to manufacture or otherwise acquire nuclear devices.

(b) Reaffirmation of 1959 bilateral agreement

The United States reaffirms the commitment made in its 1959 bilateral agreement with Pakistan relating to aggression from a Communist or Communist-dominated state.

(c) Availability; defensive aspects of assistance

Security assistance for Pakistan shall be made available in order to assist Pakistan in dealing with the threat to its security posed by the Soviet presence in Afghanistan. The United States will take appropriate steps to ensure that defense articles provided by the United States to Pakistan are used for defensive purposes.

(d) Waiver of limitations respecting nuclear transfers

The President may waive the prohibitions of section 2799aa of this title with respect to any grounds for the prohibition of assistance under that section arising before the effective date of part B of the Nuclear Proliferation Prevention Act of 1994 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.

(e) Nuclear non-proliferation conditions on military assistance; exception

(1) No military assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this chapter or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which military assistance is to be furnished or military equipment or technology is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States military assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

(2) The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

(A) International narcotics control (including part VIII of subchapter I of this chapter) or any provision of law available for providing assistance for counternarcotics purposes.

(B) Facilitating military-to-military contact, training (including part V of subchapter II of this chapter) and humanitarian and civic assistance projects.

(C) Peacekeeping and other multilateral operations (including part VI of subchapter II of this chapter relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment provided under this subparagraph shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided.

(D) Antiterrorism assistance (including part VIII of subchapter II of this chapter relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes.

(3) The restrictions of this subsection shall continue to apply to contracts for the delivery of F-16 aircraft to Pakistan.

(4) Notwithstanding the restrictions contained in this subsection, military equipment, technology, or defense services, other than F-16 aircraft, may be transferred to Pakistan pursuant

to contracts or cases entered into before October 1, 1990.

(f) Storage costs

The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amount paid, on such terms and conditions as the President may prescribe: *Provided*, That such payments have no budgetary impact.

(g) Inapplicability of restrictions to previously owned items

Subsection (e) does not apply to broken, worn or unupgraded items or their equivalent which Pakistan paid for and took possession of prior to October 1, 1990 and which the Government of Pakistan sent to the United States for repair or upgrade. Such equipment or its equivalent will be returned to the Government of Pakistan: *Provided*, That the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States and that its total value does not exceed \$25,000,000.

(h) Ballistic missile sanctions not affected

Nothing contained herein shall affect sanctions for transfers of missile equipment or technology required under section 4612 of title 50 or section 2797b of this title.

(Pub. L. 87-195, pt. III, § 620E, as added Pub. L. 97-113, title VII, § 736, Dec. 29, 1981, 95 Stat. 1561; amended Pub. L. 99-83, title IX, § 902, Aug. 8, 1985, 99 Stat. 267; Pub. L. 100-202, § 101(e) [title V, § 557], Dec. 22, 1987, 101 Stat. 1329-131, 1329-170; Pub. L. 101-167, title V, § 591, Nov. 21, 1989, 103 Stat. 1253; Pub. L. 101-513, title V, § 574(a), Nov. 5, 1990, 104 Stat. 2042; Pub. L. 102-145, § 118, as added Pub. L. 102-266, § 102, Apr. 1, 1992, 106 Stat. 93; Pub. L. 102-391, title V, § 570(a), Oct. 6, 1992, 106 Stat. 1681; Pub. L. 103-87, title V, § 536(a), Sept. 30, 1993, 107 Stat. 955; Pub. L. 103-236, title VIII, § 822(b)(2), Apr. 30, 1994, 108 Stat. 512; Pub. L. 104-107, title V, § 559(a), Feb. 12, 1996, 110 Stat. 743.)

Editorial Notes

REFERENCES IN TEXT

For effective date of part B of the Nuclear Proliferation Prevention Act of 1994, referred to in subsec. (d), as the date 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as an Effective Date note under section 6301 of this title.

This chapter, referred to in subsec. (e), 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.

CODIFICATION

Amendment by Pub. L. 102-145 is based on section 572(a) of H.R. 2621, One Hundred Second Congress, 1st Session, as passed by the House of Representatives on June 19, 1991, which was enacted into law by Pub. L.

102-145, § 118, as added by Pub. L. 102-266, § 102, Apr. 1, 1992, 106 Stat. 93. Section 118 of Pub. L. 102-145 provided that the authority and conditions provided in such section 572 shall be applicable to funds appropriated by Pub. L. 102-145 (and are hereby enacted) in lieu of the authority and conditions provided in section 574 of Pub. L. 101-513. See 1990, 1991, and 1992 Amendment notes below.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-107, § 559(a)(1), designated existing provisions as par. (1), substituted “military assistance” for “assistance” wherever appearing, and added par. (2).

Subsecs. (f) to (h). Pub. L. 104-107, § 559(a)(2), added subsecs. (f) to (h).

1994—Subsec. (d). Pub. L. 103-236 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The President may waive the prohibitions of section 2429 of this title at any time during the period beginning on December 29, 1981, and ending on September 30, 1994, to provide assistance to Pakistan during that period if he determines that to do so is in the national interest of the United States.”

1993—Subsec. (d). Pub. L. 103-87, which directed the substitution of “September 30, 1994” for the date specified in subsec. (d), was executed by substituting “September 30, 1994” for “September 30, 1993”. See 1992 Amendment note below.

1992—Subsec. (d). Pub. L. 102-391, which directed the substitution of “September 30, 1993” for the date specified in subsec. (d), was executed by substituting “September 30, 1993” for “April 1, 1993”. See 1991 Amendment note below.

Pub. L. 102-266 added Pub. L. 102-145, § 118. See 1991 Amendment note below.

1991—Subsec. (d). Pub. L. 102-145, § 118, as added by Pub. L. 102-266, which directed the amendment of subsec. (d) by substituting “April 1, 1993” for “April 1, 1991” in lieu of amendment by Pub. L. 101-513, § 574(a), was executed by substituting “April 1, 1993” for “April 1, 1992” to reflect the probable intent of Congress. See Codification note above and 1990 Amendment note below.

1990—Subsec. (d). Pub. L. 101-513 substituted “April 1, 1992” for “April 1, 1991”.

1989—Subsec. (d). Pub. L. 101-167 substituted “April 1, 1991” for “April 1, 1990”.

1987—Subsec. (d). Pub. L. 100-202 substituted “April 1, 1990” for “September 30, 1987”.

1985—Subsec. (e). Pub. L. 99-83 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as an Effective Date note under section 6301 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.

STRATEGY FOR THE UNITED STATES RELATIONSHIP WITH PAKISTAN

Pub. L. 110-53, title XX, § 2042(a)-(f), Aug. 3, 2007, 121 Stat. 520-523, provided that:

“(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

“(1) A democratic, stable, and prosperous Pakistan that is a full and reliable partner in the struggle against the Taliban, al Qaeda, and other terrorist groups, and is a responsible steward of its nuclear weapons and technology, is vital to the national security of the United States.

“(2) Since September 11, 2001, the Government of Pakistan has been a critical ally and an important

partner in removing the Taliban regime in Afghanistan and combating al Qaeda.

“(3) Pakistan has made great sacrifices in the shared struggle against al Qaeda-affiliated terrorist groups, engaging in military operations that have led to the deaths of hundreds of Pakistani security personnel and enduring acts of terrorism that have killed hundreds of Pakistani civilians.

“(4) Publicly-stated goals of the Government of Pakistan and the national interests of the United States are in close agreement in many areas, including—

“(A) curbing the proliferation of nuclear weapons technology;

“(B) combating poverty and corruption;

“(C) enabling effective government institutions, including public education;

“(D) promoting democracy and the rule of law, particularly at the national level;

“(E) addressing the continued presence of Taliban and other violent extremist forces throughout the country;

“(F) maintaining the authority of the Government of Pakistan in all parts of its national territory;

“(G) securing the borders of Pakistan to prevent the movement of militants and terrorists into other countries and territories; and

“(H) effectively dealing with violent extremism.

“(5) The opportunity exists for shared effort in helping to achieve correlative goals with the Government of Pakistan, particularly—

“(A) increased United States assistance to Pakistan, as appropriate, to achieve progress in meeting the goals of subparagraphs (A) through (C) of paragraph (4);

“(B) increased commitment on the part of the Government of Pakistan to achieve the goals of paragraph (4)(D), particularly given continued concerns, based on the conduct of previous elections, regarding whether parliamentary elections scheduled for 2007 will be free, fair, and inclusive of all political parties and carried out in full accordance with internationally-recognized democratic norms; and

“(C) increased commitment on the part of the Government of Pakistan to take actions described in paragraph (4)(E), particularly given—

“(i) the continued operation of the Taliban’s Quetta shura, as noted by then-North Atlantic Treaty Organization Supreme Allied Commander General James Jones in testimony before the Senate Foreign Relations Committee on September 21, 2006; and

“(ii) the continued operation of al Qaeda affiliates Lashkar-e Taiba and Jaish-e Muhammad, sometimes under different names, as demonstrated by the lack of meaningful action taken against Hafiz Muhammad Saeed, Maulana Masood Azhar, and other known leaders and members of such terrorist organizations; and

“(D) increased commitment on the part of the Government of the United States in regard to working with all elements of Pakistan [sic] society in helping to achieve the correlative goals described in subparagraphs (A) through (H) of paragraph (4).

“(b) STATEMENTS OF POLICY.—The following shall be the policy of the United States:

“(1) To maintain and deepen its friendship and long-term strategic relationship with Pakistan.

“(2) To work with the Government of Pakistan to combat international terrorism, especially in the frontier provinces of Pakistan, and to end the use of Pakistan as a safe haven for terrorist groups, including those associated with al Qaeda or the Taliban.

“(3) To support robust funding for programs of the United States Agency for International Development and the Department of State that assist the Government of Pakistan in working toward the goals described in subsection (a)(4), as the Government of

Pakistan demonstrates a clear commitment to building a moderate, democratic state.

“(4) To work with the international community to secure additional financial and political support to effectively implement the policies set forth in this subsection.

“(5) To facilitate a just resolution of the dispute over the territory of Kashmir, to the extent that such facilitation is invited and welcomed by the Governments of Pakistan and India and by the people of Kashmir.

“(6) To facilitate greater communication and cooperation between the Governments of Afghanistan and Pakistan for the improvement of bilateral relations and cooperation in combating terrorism in both countries.

“(7) To work with the Government of Pakistan to dismantle existing proliferation networks and prevent the proliferation of nuclear technology.

“(c) STRATEGY RELATING TO PAKISTAN.—

“(1) REQUIREMENT FOR REPORT ON STRATEGY.—Not later than 90 days after the date of the enactment of this Act [Aug. 3, 2007], the President shall transmit to the appropriate congressional committees a report that describes the long-term strategy of the United States to engage with the Government of Pakistan to achieve the goals described in subparagraphs (A) through (H) of subsection (a)(4) and to carry out the policies described in subsection (b).

“(2) FORM.—The report required by paragraph (1) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

“(d) LIMITATION ON UNITED STATES SECURITY ASSISTANCE TO PAKISTAN.—

“(1) LIMITATION.—For fiscal year 2008, United States assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be provided to, and a license for any item controlled under the Arms Export Control Act (22 U.S.C. 2751 et seq.) may not be approved for, Pakistan until the President transmits to the appropriate congressional committees a report that contains a determination of the President that the Government of Pakistan—

“(A) is committed to eliminating from Pakistani territory any organization such as the Taliban, al Qaeda, or any successor, engaged in military, insurgent, or terrorist activities in Afghanistan;

“(B) is undertaking a comprehensive military, legal, economic, and political campaign to achieving the goal described in subparagraph (A); and

“(C) is currently making demonstrated, significant, and sustained progress toward eliminating support or safe haven for terrorists.

“(2) MEMORANDUM OF JUSTIFICATION.—The President shall include in the report required by paragraph (1) a memorandum of justification setting forth the basis for the President’s determination under paragraph (1).

“(3) FORM.—The report required by paragraph (1) and the memorandum of justification required by paragraph (2) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

“(e) NUCLEAR PROLIFERATION.—

“(1) CONGRESSIONAL FINDING.—Congress finds that the maintenance by any country of a procurement or supply network for the illicit proliferation of nuclear and missile technologies would be inconsistent with that country being considered an ally of the United States.

“(2) SENSE OF CONGRESS.—It is the sense of Congress that the national security interest of the United States will best be served if the United States develops and implements a long-term strategy to improve the United States relationship with Pakistan and works with the Government of Pakistan to stop nuclear proliferation.

“(f) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the President such sums as may be necessary to provide assistance described in subsection (d)(1) for Pakistan for fiscal year 2008 in accordance with the requirements of subsection (d)(1).

“(2) OTHER FUNDS.—Amounts authorized to be appropriated under this subsection are in addition to amounts otherwise available for such purposes.

“(3) DECLARATION OF POLICY.—Congress declares that the amount of funds appropriated pursuant to the authorization of appropriations under paragraph (1) and for subsequent fiscal years shall be determined by the extent to which the Government of Pakistan displays demonstrable progress in—

“(A) preventing al Qaeda and other terrorist organizations from operating in the territory of Pakistan, including eliminating terrorist training camps or facilities, arresting members and leaders of terrorist organizations, and countering recruitment efforts;

“(B) preventing the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan, including by arresting Taliban leaders, stopping cross-border incursions, and countering recruitment efforts; and

“(C) implementing democratic reforms, including allowing free, fair, and inclusive elections at all levels of government in accordance with internationally-recognized democratic norms, and respecting the independence of the press and judiciary.

“(4) BIENNIAL REPORTS TO CONGRESS.—

“(A) IN GENERAL.—The Secretary of State shall submit to the appropriate congressional committees a biannual report describing in detail the extent to which the Government of Pakistan has displayed demonstrable progress in meeting the goals described in subparagraphs (A) through (C) of paragraph (3).

“(B) SCHEDULE FOR SUBMISSION.—The report required by subparagraph (A) shall be submitted not later than April 15 and October 15 of each year until October 15, 2009.

“(C) FORM.—The report required by subparagraph (A) shall be submitted in unclassified form, but may include a classified annex, if necessary.”

[For definition of “appropriate congressional committees” as used in section 2042(a)–(f) of Pub. L. 110–53, set out above, see section 2002 of Pub. L. 110–53, set out as a note under section 2151 of this title.]

[Functions of President under section 2042(c)(1), (d) of Pub. L. 110–53, set out above, assigned to Secretary of State by Memorandum of President of the United States, Sept. 28, 2007, 72 F.R. 56871, set out as a note under section 2228 of this title.]

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.

NUCLEAR NON-PROLIFERATION CONDITIONS ON ASSISTANCE FOR PAKISTAN

Determination of President of the United States, No. 90–15, Mar. 28, 1990, 55 F.R. 17417, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 620E(d) of the Foreign Assistance Act of 1961, as amended (“the Act”) (22 U.S.C. 2375(d)), I hereby determine, pursuant to section 620E(d) of the Act, that provision of assistance to Pakistan under the Act [22 U.S.C. 2151 et seq.] through April 1, 1991, is in the national interest of the United States, and therefore waive the prohibitions of section 669 of the Act (22 U.S.C. 2429) with respect to that period.

You are authorized and directed to transmit this determination, together with the statement setting forth specific reasons therefor, to the Congress immediately. This determination shall be published in the Federal Register.

GEORGE BUSH.

Prior determinations and certifications were contained in the following:

Determination of President of the United States, No. 90–1, Oct. 5, 1989, 54 F.R. 43797.

Determination of President of the United States, No. 89–7, Nov. 18, 1988, 53 F.R. 49111.

Determination of President of the United States, No. 88–5, Jan. 15, 1988, 53 F.R. 3325.

Determination of President of the United States, No. 88–4, Dec. 17, 1987, 53 F.R. 773.

Determination of President of the United States, No. 87–3, Oct. 27, 1986, 51 F.R. 40301.

Determination of President of the United States, No. 86–03, Nov. 25, 1985, 50 F.R. 50273.

WAIVER OF SANCTIONS

Sanctions contained in subsec. (e) waived in certain regards with respect to India by Determination of President of the United States, No. 2000–18, Mar. 16, 2000, 65 F.R. 16297, set out as a note under section 2799aa–1 of this title.

Sanctions contained in subsec. (e) waived in certain regards by Determination of President of the United States, No. 2000–4, Oct. 27, 1999, 64 F.R. 60649, set out as a note under section 2799aa–1 of this title.

§ 2376. Nuclear non-proliferation policy in South Asia

(a) Findings

The Congress finds that—

(1) the proliferation of weapons of mass destruction remains one of the most serious threats to international peace and stability;

(2) South Asia, in particular, is an area where the threat of a regional nuclear exchange remains high due to continued Indo-Pakistani tensions over issues such as Kashmir;

(3) to date, United States efforts to halt proliferation in South Asia have failed;

(4) although global disarmament is a desirable goal which should be vigorously pursued, both regional and sub-regional security arrangements can serve to decrease tensions and promote non-proliferation in certain areas;

(5) thus far, there has been some success on a regional basis, such as the South Pacific Nuclear Weapons Free Zone and the Treaty of Tlatelolco in Latin America;

(6) in particular, in Latin America, the Treaty of Tlatelolco has been signed by all the nuclear powers;

(7) a critical part of this treaty is Protocol II which prohibits nuclear attacks by nuclear weapons states on signatories to the treaty;

(8) in 1991, a proposal was made for a regional conference on non-proliferation in South Asia which would include Pakistan, India, the People’s Republic of China, the Soviet Union, and the United States; and

(9) thus far, Pakistan, China, Russia, and the United States have expressed interest in attending such a conference, whereas India has refused to attend.

(b) Policy

It is the sense of the Congress that the President should pursue a policy which seeks a re-