

§ 6445. Description of Presidential actions**(a) Description of Presidential actions**

Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

- (1) A private demarche.
- (2) An official public demarche.
- (3) A public condemnation.
- (4) A public condemnation within one or more multilateral fora.
- (5) The delay or cancellation of one or more scientific exchanges.
- (6) The delay or cancellation of one or more cultural exchanges.
- (7) The denial of one or more working, official, or state visits.
- (8) The delay or cancellation of one or more working, official, or state visits.
- (9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 2151n of this title.
- (10) Directing the Export-Import Bank of the United States, the United States International Development Finance Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.
- (11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 2304 of this title.
- (12) Consistent with section 262d of this title, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.
- (13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title, under—
 - (A) the Export Administration Act of 1979;
 - (B) the Arms Export Control Act [22 U.S.C. 2751 et seq.];
 - (C) the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]; or
 - (D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.
- (14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(b) Commensurate action

Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 6401(b) of this title. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) Binding agreements

The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) Exceptions

Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

(Pub. L. 105–292, title IV, § 405, Oct. 27, 1998, 112 Stat. 2806; Pub. L. 115–254, div. F, title VI, § 1470(o), Oct. 5, 2018, 132 Stat. 3518.)

Editorial Notes

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(13)(A), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to chapter 56 (§ 4601 et seq.) of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, § 1766(a), Aug. 13, 2018, 132 Stat. 2232, except for sections 11A, 11B, and 11C thereof (50 U.S.C. 4611, 4612, 4613).

The Arms Export Control Act, referred to in subsec. (a)(13)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, 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 Atomic Energy Act of 1954, referred to in subsec. (a)(13)(C), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, which is classified principally to chapter 23 (§ 2011 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 2011 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (a)(10). Pub. L. 115–254 substituted “United States International Development Finance Corporation” for “Overseas Private Investment Corporation”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 effective at the end of the transition period, as defined in section 9681 of this title, see section 1470(w) of Pub. L. 115-254, set out as a note under section 905 of Title 2, The Congress.

§ 6446. Effects on existing contracts

The President shall not be required to apply or maintain any Presidential action under this part—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities, to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing and so reports to Congress that the person or other entity to which the Presidential action would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing and so reports to Congress that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

(Pub. L. 105-292, title IV, § 406, Oct. 27, 1998, 112 Stat. 2808.)

§ 6447. Presidential waiver**(a) In general**

Subject to subsection (c), the President may waive, for a single, 180-day period, the application of any of the actions described in paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the exercise of such waiver authority would further the purposes of this chapter; or

(2) the important national interest of the United States requires the exercise of such waiver authority.

(b) Additional authority

Subject to subsection (c), the President may waive, for any additional specified period of time after the 180-day period described in subsection (a), the application of any of the actions described in paragraphs (9) through (15) of section 6445(a) of this title (or a commensurate substitute action) with respect to a country, if the President determines and reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action; or

(2) the important national interest of the United States requires the exercise of such waiver authority.

(c) Congressional notification

Not later than the date of the exercise of a waiver under subsection (a) or (b), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

(d) Sense of Congress

It is the sense of Congress that—

(1) ongoing and persistent waivers of the application of any of the actions described in paragraphs (9) through (15) of section 6445(a) of this title (or commensurate substitute action) with respect to a country do not fulfill the purposes of this chapter; and

(2) because the promotion of religious freedom is an important interest of United States foreign policy, the President, the Secretary of State, and other executive branch officials, in consultation with Congress, should seek to find ways to address existing violations, on a case-by-case basis, through the actions described in section 6445 of this title or other commensurate substitute action.

(Pub. L. 105-292, title IV, § 407, Oct. 27, 1998, 112 Stat. 2808; Pub. L. 114-281, title III, § 304, Dec. 16, 2016, 130 Stat. 1435.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (d)(1), was in the original “this Act”, meaning Pub. L. 105-292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-281, § 304(1)(A), (B), in introductory provisions, substituted “subsection (c)” for “subsection (b)” and inserted “, for a single, 180-day period,” after “may waive”.

Subsec. (a)(1) to (3). Pub. L. 114-281, § 304(1)(C), (D), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: “the respective foreign government has ceased the violations giving rise to the Presidential action;”.

Subsec. (b). Pub. L. 114-281, § 304(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 114-281, § 304(2), (4), redesignated subsec. (b) as (c) and inserted “or (b)” after “subsection (a)”.

Subsec. (d). Pub. L. 114-281, § 304(5), added subsec. (d).

§ 6448. Publication in Federal Register**(a) In general**

Subject to subsection (b), the President shall cause to be published in the Federal Register the following:

(1) Determinations of governments, officials, and entities of particular concern

Any designation of a country of particular concern for religious freedom under section 6442(b)(1) of this title, together with, when applicable and to the extent practicable, the identities of the officials or entities determined to be responsible for the violations under section 6442(b)(2) of this title. Any designation of a non-state actor as an entity of