

Editorial Notes

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 fiscal year to the Department of Defense's Pakistan Counterinsurgency Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111-32) and such amounts may be transferred back to the Fund if the Secretary of Defense, with the concurrence of the Secretary of State, determines that such amounts are not needed for the purposes for which initially transferred.

(B) Treatment of transferred funds

Subject to subsections (d) and (e) of section 8423 of this title, transfers from the Fund under the authority of subparagraph (A) shall be merged with and be available for the same purposes and for the same time period as amounts in the Department of Defense's Pakistan Counterinsurgency Fund.

(C) Relation to other authorities

The authority to provide assistance under this subsection is in addition to any other authority to provide assistance to foreign countries.

(D) Notification

The Secretary of State shall, not less than 15 days prior to making transfers from the Fund under subparagraph (A), notify the appropriate congressional committees in writing of the details of any such transfer.

(b) Submission of notifications

Any notification required by this section may be submitted in classified or unclassified form, as necessary.

(c) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

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

(Pub. L. 111-73, title II, § 204, Oct. 15, 2009, 123 Stat. 2072.)

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REFERENCES IN TEXT

The Supplemental Appropriations Act, 2009, referred to in subsec. (a)(1), (3)(A), is Pub. L. 111-32, June 24, 2009, 123 Stat. 1859. For complete classification of this Act to the Code, see Tables.

§ 8425. Requirements for civilian control of certain assistance**(a) Requirements****(1) In general**

For fiscal years 2010 through 2014, any direct cash security-related assistance or non-assistance payments by the United States to the Government of Pakistan may only be provided or made to civilian authorities of a civilian government of Pakistan.

(2) Documentation

For fiscal years 2010 through 2014, the Secretary of State, in coordination with the Secretary of Defense, shall ensure that civilian authorities of a civilian government of Pakistan have received a copy of final documentation provided to the United States related to non-assistance payments provided or made to the Government of Pakistan.

(b) Waiver**(1) Security-related assistance**

The Secretary of State, in consultation with the Secretary of Defense, may waive the requirements of subsection (a) with respect to security-related assistance described in subsection (a) funded from accounts within budget function 150 (International Affairs) if the Secretary of State certifies to the appropriate congressional committees that the waiver is important to the national security interest of the United States.

(2) Non-assistance payments

The Secretary of Defense, in consultation with the Secretary of State, may waive the re-

quirements of subsection (a) with respect to non-assistance payments described in subsection (a) funded from accounts within budget function 050 (National Defense) if the Secretary of Defense certifies to the appropriate congressional committees that the waiver is important to the national security interest of the United States.

(c) Application to certain activities

Nothing in this section shall apply with respect to—

(1) any activities subject to reporting requirements under title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.];

(2) any assistance to promote democratic elections or public participation in democratic processes;

(3) any assistance or payments if the Secretary of State determines and certifies to the appropriate congressional committees that subsequent to the termination of assistance or payments a democratically elected government has taken office;

(4) any assistance or payments made pursuant to section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2086), as amended;

(5) any payments made pursuant to the Acquisition and Cross-Servicing Agreement between the Department of Defense of the United States of America and the Ministry of Defense of the Islamic Republic of Pakistan; and

(6) any assistance or payments made pursuant to section 943 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4578).

(d) Definitions

In this section—

(1) the term “appropriate congressional committees” means the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the term “civilian government of Pakistan” does not include any government of Pakistan whose duly elected head of government is deposed by military coup or decree.

(Pub. L. 111-73, title II, §205, Oct. 15, 2009, 123 Stat. 2074.)

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REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c)(1), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the Act is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

Section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2086), referred to in subsec. (c)(4), is not classified to the Code.

Section 943 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law

110-417; 122 Stat. 4578), referred to in subsec. (c)(6), is not classified to the Code.

SUBCHAPTER III—STRATEGY, ACCOUNTABILITY, MONITORING, AND OTHER PROVISIONS

§ 8441. Strategy reports

(a) Pakistan assistance strategy report

Not later than 45 days after October 15, 2009, the Secretary of State shall submit to the appropriate congressional committees a report describing United States policy and strategy with respect to assistance to Pakistan under this chapter. The report shall include the following:

(1) A description of the principal objectives of United States assistance to Pakistan to be provided under subchapter I of this chapter.

(2) A general description of the specific programs, projects, and activities designed to achieve the purposes of section 8411 of this title and the respective funding levels for such programs, projects, and activities for fiscal years 2010 through 2014.

(3) A plan for program monitoring, operations research, and impact evaluation research for assistance authorized under subchapter I of this chapter.

(4) A description of the role to be played by Pakistani national, regional, and local officials and members of Pakistani civil society and local private sector, civic, religious, and tribal leaders in helping to identify and implement programs and projects for which assistance is to be provided under this chapter, and of consultations with such representatives in developing the strategy.

(5) A description of the steps taken, or to be taken, to ensure assistance provided under this chapter is not awarded to individuals or entities affiliated with terrorist organizations.

(6) A projection of the levels of assistance to be provided to Pakistan under this chapter, broken down into the following categories as described in the annual “Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance”:

- (A) Civil liberties.
- (B) Political rights.
- (C) Voice and accountability.
- (D) Government effectiveness.
- (E) Rule of law.
- (F) Control of corruption.
- (G) Immunization rates.
- (H) Public expenditure on health.
- (I) Girls’ primary education completion rate.
- (J) Public expenditure on primary education.
- (K) Natural resource management.
- (L) Business start-up.
- (M) Land rights and access.
- (N) Trade policy.
- (O) Regulatory quality.
- (P) Inflation control.
- (Q) Fiscal policy.

(7) An analysis for the suitable replacement for existing Pakistani helicopters, including recommendations for sustainment and training.