

State in accordance with section 1189(a) of title 8.

(Pub. L. 87-195, pt. III, §620L, as added Pub. L. 109-446, §3(a), Dec. 21, 2006, 120 Stat. 3320.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), 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.

#### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(4)(B) of this section delegated to Secretary of State by Determination of President of the United States, No. 2007-20, June 1, 2007, 72 F.R. 34973, set out as a note under section 2378b of this title.

### § 2378d. Limitation on assistance to security forces

#### (a) In general

No assistance shall be furnished under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights.

#### (b) Exception

The prohibition in subsection (a) shall not apply if the Secretary determines and reports to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice.

#### (c) Duty to inform

In the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

(Pub. L. 87-195, pt. III, §620J, as added Pub. L. 110-161, div. J, title VI, §651, Dec. 26, 2007, 121 Stat. 2341.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, 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 Arms Export Control Act, referred to in subsec. (a), 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.

#### CODIFICATION

Another section 620J of Pub. L. 87-195 is classified to section 2378a of this title.

#### PART II—ADMINISTRATIVE PROVISIONS

### § 2381. Exercise of functions

#### (a) Delegation by President; rules and regulations; utilization of goods and services from private enterprise, and facilities and resources of Federal agencies when not competitive with private enterprise

The President may exercise any functions conferred upon him by this chapter through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions, and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions to any of his subordinates. In providing technical assistance under this chapter, the head of any such agency or such officer shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. In such fields as education, health, housing, or agriculture, the facilities and resources of other Federal agencies shall be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with private enterprise, and can be made available without interfering unduly with domestic programs.

#### (b) Eligibility of suppliers; debarment period; causes for debarment; conditions for reinstatement; periodic review

The President shall issue and enforce regulations determining the eligibility of any person to receive funds made available under this chapter. A person may be suspended under such regulations for a temporary period pending the completion of an investigation and any resulting judicial or debarment proceedings, upon cause for belief that such person or an affiliate thereof probably has undertaken conduct which constitutes a cause for debarment; and, after an opportunity has been afforded to such person for a hearing, he may be debarred for an additional period, not to exceed three years. Among the causes for debarment shall be (1) offering or accepting a bribe or other illegal payment or credit in connection with any transaction financed with funds made available under this chapter; or (2) committing a fraud in the procurement or performance of any contract financed with funds made available under this chapter; or (3) acting in any other manner which shows a lack of integrity or honesty in connection with any transaction financed with funds made available under this chapter. Reinstatement of eligibility in each particular case shall be subject to such conditions as the President shall direct. Each person whose eligibility is denied or suspended under this subsection shall, upon request, be entitled to a review of his eligibility not less often than once every two years.

(Pub. L. 87-195, pt. III, §621, Sept. 4, 1961, 75 Stat. 445; Pub. L. 87-565, pt. III, §302(a), Aug. 1, 1962, 76

Stat. 262; Pub. L. 88-205, pt. III, §302(a), Dec. 16, 1963, 77 Stat. 388; Pub. L. 90-554, pt. III, §302(a), Oct. 8, 1968, 82 Stat. 964.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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

1968—Pub. L. 90-554 designated existing provisions as subsec. (a) and added subsec. (b).

1963—Pub. L. 88-205 provided that goods and professional and other services from private enterprise should be utilized on a contract basis, and that Federal agencies be utilized only when not competitive with private enterprise and available without interfering unduly with domestic programs.

1962—Pub. L. 87-565 struck out designation “(a)” from provisions of subsec. (a), and repealed subsecs. (b) to (e) which related to the abolition of the Development Loan Fund, International Cooperation Administration, and the Office of Inspector General and Comptroller, the transfer of their functions, and the transfer of the function of the Export-Import Bank under section 1704(e) of title 7.

#### 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 below.

#### AID OFFICE OF SECURITY

Pub. L. 105-277, div. A, §101(d) [title V, §587], Oct. 21, 1998, 112 Stat. 2681-150, 2681-204, as amended by Pub. L. 106-31, title V, §5002(b), May 21, 1999, 113 Stat. 109, provided that:

“(a) ESTABLISHMENT OF OFFICE.—There shall be established within the Office of the Administrator of the Agency for International Development, an Office of Security. Such Office of Security shall, notwithstanding any other provision of law except section 207 of the Foreign Service Act of 1980 [22 U.S.C. 3927] and section 103 of Public Law 99-339 [22 U.S.C. 4802], have the responsibility for the supervision, direction, and control of all security activities relating to the programs and operations of that Agency.

“(b) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—There are transferred to the Office of Security all security functions exercised by the Office of Inspector General of the Agency for International Development exercised before the date of enactment of this Act [Oct. 21, 1998]. The Administrator shall transfer from the Office of the Inspector General of such Agency to the Office of Security established by subsection (a), the personnel (including the Senior Executive Service position designated for the Assistant Inspector General for Security), assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, and other funds held, used, available to, or to be made available in connection with such functions. Unexpended balances of appropriations, and other funds made available or to be made available in connection with such functions, shall be transferred to and merged with funds appropriated by this Act under the heading ‘Operating Expenses of the Agency for International Development’ [112 Stat. 2681-157].

“(c) TRANSFER OF EMPLOYEES.—Any employee in the career service who is transferred pursuant to this section shall be placed in a position in the Office of Security established by subsection (a) which is comparable to the position the employee held in the Office of the Inspector General of the Agency for International Development.”

#### AGENCY FOR INTERNATIONAL DEVELOPMENT BUDGET SUBMISSION

Pub. L. 106-429, §101(a) [title V, §576], Nov. 6, 2000, 114 Stat. 1900, 1900A-54, provided that: “The Agency for International Development shall submit to the Committees on Appropriations a detailed budget justification that is consistent with the requirements of section 515 [114 Stat. 1900A-26], for each fiscal year. The Agency shall submit to the Committees on Appropriations a proposed budget justification format no later than November 15, 2000, or 30 days after the enactment of this Act [Nov. 6, 2000], whichever occurs later. The proposed format shall include how the Agency’s budget justification will address: (1) estimated levels of obligations for the current fiscal year and actual levels for the 2 previous fiscal years; (2) the President’s request for new budget authority and estimated carryover obligational authority for the budget year; (3) the disaggregation of budget data and staff levels by program and activity for each bureau, field mission, and central office; and (4) the need for a user-friendly, transparent budget narrative.”

Pub. L. 106-113, div. B, §1000(a)(2) [title V, §581], Nov. 29, 1999, 113 Stat. 1535, 1501A-116, provided that: “Beginning with the fiscal year 2001 budget, the Agency for International Development shall submit to the Committees on Appropriations a detailed budget for each fiscal year. The Agency shall submit to the Committees on Appropriations a proposed budget format no later than October 31, 1999, or 30 days after the enactment of this Act [Nov. 29, 1999], whichever occurs later. The proposed format shall include how the Agency’s budget submission will address: (1) estimated levels of obligations for the current fiscal year and actual levels for the two previous fiscal years; (2) the President’s request for new budget authority and estimated carry-over obligational authority for the budget year; (3) the disaggregation of budget data by program and activity for each bureau, field mission, and central office; and (4) staff levels identified by program.”

Pub. L. 102-391, title V, §599E, Oct. 6, 1992, 106 Stat. 1698, provided that: “The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Agency for International Development.”

#### REORGANIZATION PLAN NO. 2 OF 1979

Reorganization Plan No. 2 of 1979, 44 F.R. 41165, 93 Stat. 1378, which established the United States International Development Cooperation Agency, was repealed by Pub. L. 105-277, div. G, subdiv. A, title XIV, §§1401, 1422(a)(1), Oct. 21, 1998, 112 Stat. 2681-790, 2681-792, effective Apr. 1, 1999.

#### EXECUTIVE ORDER NO. 10973

Ex. Ord. No. 10973, Nov. 3, 1961, 26 F.R. 10469, as amended, which related to the administration of foreign assistance and related functions, was revoked by Ex. Ord. No. 12163, §1-903(a)(1), Sept. 29, 1979, 44 F.R. 56679, eff. Oct. 1, 1979, set out below.

Ex. Ord. No. 10973, Nov. 3, 1961, 26 F.R. 10469, as amended, was superseded insofar as any provision therein was in conflict with any provision of Ex. Ord. No. 11579, Jan. 19, 1971, 36 F.R. 969, set out as a note under section 2191 of this title.

#### EX. ORD. NO. 12163. ADMINISTRATION OF FOREIGN ASSISTANCE AND RELATED FUNCTIONS

Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended by Ex. Ord. No. 12226, July 22, 1980, 45 F.R. 49235; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13968; Ex. Ord. No. 12321, Sept. 14, 1981, 46 F.R. 46109; Ex. Ord. No. 12365, May 24, 1982, 47 F.R. 22933; Ex. Ord. No. 12423, May 26, 1983, 48 F.R. 24025; Ex. Ord. No. 12458, Jan. 14, 1984, 49 F.R. 1977; Ex. Ord. No. 12500, Jan. 24, 1985, 50 F.R.

3733; Ex. Ord. No. 12560, May 24, 1986, 51 F.R. 19159; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12620, Dec. 24, 1987, 52 F.R. 49135; Ex. Ord. No. 12639, May 6, 1988, 53 F.R. 16691; Ex. Ord. No. 12680, July 5, 1989, 54 F.R. 28995; Ex. Ord. No. 12695, Nov. 1, 1989, 54 F.R. 46589; Ex. Ord. No. 12738, §§1–6, Dec. 14, 1990, 55 F.R. 52033; Ex. Ord. No. 13030, §1, Dec. 12, 1996, 61 F.R. 66187; Ex. Ord. No. 13091, §2, June 29, 1998, 63 F.R. 36153; Pub. L. 105–277, div. G, subdiv. A, title XIV, §1422(a)(2), Oct. 21, 1998, 112 Stat. 2681–792; Ex. Ord. No. 13118, §§1–9, Mar. 31, 1999, 64 F.R. 16595–16598; Ex. Ord. No. 13346, §3, July 8, 2004, 69 F.R. 41905; Ex. Ord. No. 13361, Nov. 16, 2004, 69 F.R. 67633, provided:

By virtue of the authority vested in me by the Foreign Assistance Act of 1961 [this chapter], Reorganization Plan No. 2 of 1979 [set out above], the International Development Cooperation Act of 1979 [see Short Title of 1979 Amendment note set out under section 2151 of this title], and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

#### 1–1. DEPARTMENT OF STATE

1–100. *Delegation of Functions.* (a) Exclusive of the functions otherwise delegated, or reserved to the President, by this order, Executive Order 12884 [22 U.S.C. 5812 note], Executive Order 11579 [22 U.S.C. 2191 note], and Executive Order 12757 [former 7 U.S.C. 1738 note], and subject to the provisions of such orders, there are hereby delegated to the Secretary of State (referred to in this Part as the “Secretary”) all functions conferred upon the President by:

(1) the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq.*) (“Act”);

(i) except that with respect to section 505(a) of the Act [22 U.S.C. 2314(a)], such functions only insofar as those functions relate to other provisions which may be required by the President or only insofar as they relate to consent;

(ii) except that with respect to section 505(b) of the Act, such functions only insofar as those functions pertain to countries that agree to the conditions set forth therein;

(2) section 1205(b) of the International Security and Development Cooperation Act of 1985 (“ISDCA of 1985”) [Pub. L. 99–83, 22 U.S.C. 2346 note];

(3) section 8(d) of the Act of January 12, 1971 (22 U.S.C. 2321b(d));

(4) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a);

(5) section 402(b)(2) of title 10, United States Code, which shall be exercised in consultation with the Secretary of Defense;

(6) the third proviso under the heading “Development Assistance” contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–153];

(7) section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461) [22 U.S.C. 2151v note];

(8) sections 508, 517 [22 U.S.C. 5814 note], 518, 528(a), 535 [50 U.S.C. 1701 note], 539 [50 U.S.C. 1701 note], 544, 561, 563, 572, 574, 575, 585, 594 [22 U.S.C. 2753 note] of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–150, 2681–171, 2681–174, 2681–176, 2681–178, 2681–181, 2681–182, 2681–185, 2681–191, 2681–193, 2681–198, 2681–199, 2681–203, 2681–215];

(9) section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–177], which shall be exercised in consultation with the Secretary of the Treasury;

(10) section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–187];

(11) section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations

Act, 1998 (Public Law 105–118) [111 Stat. 2439], and the provisions of law referenced therein;

(12) section 821(b) of the Western Hemisphere Drug Elimination Act (as contained in Public Law 105–277) [22 U.S.C. 2291 note];

(13) title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115), under the heading “Assistance for the Independent States of the Former Soviet Union, [sic]” in subsections (g)(4) and (6) [22 U.S.C. 5812 note];

(14) section 512 of Division D of the Consolidated Appropriations Act, 2004 (Public Law 108–199) [118 Stat. 170];

(15) sections 5(c) and 6 of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415), as amended [100 Stat. 948, 949];

(16) the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25) (the “HIV/AIDS Act”), as amended [22 U.S.C. 7601 *et seq.*], and amendments made by the HIV/AIDS Act, which the Secretary shall perform, in the case of section 304 [22 U.S.C. 7634], after consultation with the Secretary of Health and Human Services.

(b) The functions under section 653 of the Act [22 U.S.C. 2413] delegated to the Secretary shall be exercised in consultation with the Secretary of Defense, insofar as they relate to functions under the Act administered by the Department of Defense, and the Director of the Office of Management and Budget.

(c) The functions under sections 239(f), 620(e), 620(g), 620(j), 620(q), and 620(s) of the Act [22 U.S.C. 2199(f), 2370(e), (g), (j), (q), (s)] delegated to the Secretary shall be exercised in consultation with the Administrator of the United States Agency for International Development.

(d) The Secretary shall perform all public information functions abroad with respect to the foreign assistance, aid, and development programs of the United States Government, to the extent such functions are not specifically assigned by statute to be performed by a different officer.

(e) The Secretary may redelegate to any other officer or agency of the Executive branch functions delegated to the Secretary by this order to the extent such delegation is not otherwise prohibited by law.

#### 1–2. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

1–200. *United States Agency for International Development.*

(a) The United States Agency for International Development is an independent establishment within the Executive branch. Any reference in the Act to the agency primarily responsible for administering part I of the Act [22 U.S.C. 2151 *et seq.*], or to the Administrator of such agency, shall be deemed to be a reference to the United States Agency for International Development or to the Administrator of that agency, as appropriate.

(b) The United States Agency for International Development shall be headed by an Administrator appointed pursuant to section 624(a) of the Act [22 U.S.C. 2384(a)].

(c) The officers provided for in section 624(a) of the Act shall serve in the United States Agency for International Development.

(d) The Office of Small Business provided for in section 602(b) of the Act [22 U.S.C. 2352(b)] shall be in the United States Agency for International Development.

(e) To the extent practicable, the Administrator of the United States Agency for International Development will exercise functions relating to Foreign Service personnel in a manner that will assure maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system. To this end, the Administrator shall consult regularly with the Secretary of State.

## 1-3. DEPARTMENT OF DEFENSE

1-301. *Delegation of Functions.* Subject to the provisions of this order, there are hereby delegated to the Secretary of Defense:

(a) The functions conferred upon the President by Part II [22 U.S.C. 2301 et seq.] (except chapters 4, 6 and 8 thereof) of the Act [22 U.S.C. 2346 et seq., 2348 et seq., 2349aa et seq.] not otherwise delegated or reserved to the President.

(b) To the extent that they relate to other functions under the Act [this chapter] administered by the Department of Defense, the functions conferred upon the President by sections 602(a), 605(a), 625(a), 625(d)(1), 625(h), 627, 628, 630(3), 631(a), 634(B), 635(b) (except with respect to negotiation, conclusion, and termination of international agreements), 635(d), 635(g), and 636(i) of the Act [22 U.S.C. 2352(a), 2355(a), 2385(a), (d)(1), (h), 2387, 2388, 2390(3), 2391(a), 2394-1a, 2395(b), (d), (g), and 2396(i)].

(c) Those functions under section 634A of the Act [22 U.S.C. 2394-1], to the extent they relate to notifications to the Congress concerning changes in programs under chapters 2 and 5 of part II of the Act [22 U.S.C. 2311 et seq., 2347 et seq.] and under the Arms Export Control Act, as amended [22 U.S.C. 2751 et seq.], subject to prior consultation with the Secretary of State.

(d) The functions under sections 627, 628, and 630(3) of the Act [22 U.S.C. 2387, 2388, and 2390(3)] delegated to the Secretary of Defense shall be exercised in consultation with the Secretary of State.

(e) the functions under section 655 of the Act [22 U.S.C. 2415] insofar as they relate to defense articles, defense services, and international military education and training furnished by grant or sale by the Secretary of Defense, except to the extent otherwise delegated.

(f) Those functions conferred upon the President under section 616 of the ISDCA of 1985 [Pub. L. 99-83, Aug. 8, 1985, 99 Stat. 232].

(g) The functions conferred upon the President under section 573 [22 U.S.C. 2321j note] and section 581(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) [Nov. 21, 1989, 103 Stat. 1246, 1250].

(h) The functions conferred upon the President under section 3 of the International Narcotics Control Act of 1989 (Public Law 101-231) [Dec. 13, 1989, 103 Stat. 1955], which shall be exercised in consultation with the Secretary of State.

1-302. *Reports and Information.* In carrying out the functions under section 514 of the Act [22 U.S.C. 2321h] delegated to him by section 301 of this order, the Secretary of Defense shall consult with the Secretary of State.

## 1-4. INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

[Revoked by Ex. Ord. No. 13118, §4, Mar. 31, 1999, 64 F.R. 16596]

## 1-5. OTHER AGENCIES

1-501. *Department of the Treasury.* (a) There are delegated to the Secretary of the Treasury the functions conferred upon the President by:

(1) section 305 [22 U.S.C. 2225], insofar as it relates to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Fund, and the International Monetary Fund;

(2) the second sentence of section 612(a) of the Act [22 U.S.C. 2362(a)];

(3) section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754); and

(4) section 655(c) of the Act [former 22 U.S.C. 2415(c)].

(b) The Secretary of the Treasury shall continue to administer any open special foreign country accounts

established pursuant to former section 514 of the Act as enacted by section 201(f) of Public Law 92-226 (86 Stat. 25) and repealed by Section 12(b)(5) of Public Law 93-189 (87 Stat. 722) [22 U.S.C. 2321g].

(c) The functions under section 305 of the Act [22 U.S.C. 2225] delegated to the Secretary of the Treasury shall be exercised in consultation with the Secretary of State.

1-502. *Department of Commerce.* There is hereby delegated to the Secretary of Commerce so much of the functions conferred upon the President by section 601(b)(1) of the Act [22 U.S.C. 2351(b)(1)] as consists of drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas.

1-503. *Office of Personnel Management.* There is hereby delegated to the Director of the Office of Personnel Management the function of prescribing regulations conferred upon the President by the proviso contained in section 625(b) of the Act [22 U.S.C. 2385(b)].

[1-504. Revoked by Ex. Ord. No. 13118, §5(2), Mar. 31, 1999, 64 F.R. 16597.]

1-505. Trade and Development Agency. There is delegated to the Director of the Trade and Development Agency the functions conferred upon the President by section 661(d) of the Act [22 U.S.C. 2421(d)].

[1-506. Revoked by Ex. Ord. No. 13118, §5(4), Mar. 31, 1999, 64 F.R. 16597.]

## 1-6. ADDITIONAL DELEGATIONS AND LIMITATIONS OF AUTHORITY; CONSULTATION

1-601. *General Delegation of Functions.* There are hereby delegated to the heads of agencies having responsibilities for carrying out the provisions of the Act [this chapter] all functions conferred upon the President by:

(a) section 654 [22 U.S.C. 2414] (except as reserved to the President); and

(b) those provisions of acts appropriating funds under the authority of the Act [this chapter] that relate to the Act, or other acts authorizing such funds, insofar as they relate to the functions delegated by this order.

1-602. *Personnel.* (a) In carrying out the functions conferred upon the President by the provisions of section 625(d) of the Act [22 U.S.C. 2385(d)], and by this order delegated to the Secretary of State, the Secretary shall authorize such of the agencies that administer programs under the Act [this chapter] as he may deem appropriate to perform any of the functions under section 625(d) of the Act to the extent that the said functions relate to the programs administered by the respective agencies.

(b) Persons appointed, employed, or assigned after May 19, 1959, under section 527(c) of the Mutual Security Act of 1954 [former 22 U.S.C. 1787(c)] or section 625(d) of the Act [22 U.S.C. 2385(d)] for the purpose of performing functions under such Acts outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by section 310 of the Foreign Service Act of 1980 (22 U.S.C. 3950) in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1-603. *Special Missions and Staffs Abroad.* The maintenance of special missions or staffs abroad, the fixing of the ranks of the chiefs thereof after the chiefs of the United States diplomatic missions, and the authorization of the same compensation and allowances authorized for a chief of mission as defined in section 102(a)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3902(a)(3)), all under section 631 of the Act [22 U.S.C. 2391], shall be subject to the approval of the Secretary of State.

1-604. *International Agreements.* The negotiation, conclusion, and termination of international agreements pursuant to the Act [this chapter] shall be subject to the requirements of 1 U.S.C. 112b and to applicable regulations and procedures.

1-605. *Interagency Consultation.* Each officer to whom functions are delegated by this order, shall, in carrying out such functions, consult with the heads of other de-

partments and agencies, including the Director of the Office of Management and Budget, on matters pertaining to the responsibilities of departments and agencies other than his or her own.

#### 1-7. RESERVED FUNCTIONS

1-701. *Reservation of Functions to the President.* There are hereby excluded from the functions delegated by the foregoing provisions of this order:

(a) The functions conferred upon the President by sections 122(e), 298(a), 493, 504(b), 613(a), 614(a), 620(a), 620(d), 620(x), 620A, 620C(c), 621(a), 622(b), 622(c), 633(a), 633(b), 640B, and 663(b) of the Act [22 U.S.C. 2151t(e), 2220c(a), 2292b, 2312(b), 2363(a), 2364(a), 2370(a), (d), (x), 2371, 2373(c), 2381(a), 2382(b), (c), 2393(a), (b), 2399c, and 2423(b)].

(b) The functions conferred upon the President by the Act [this chapter] and section 408(b) of the Mutual Security Act of 1954 [22 U.S.C. 1928] with respect to the appointment of officers required to be appointed by and with the advice and consent of the Senate and with respect to the appointment of officers pursuant to sections 233(b) and 624(c) of the Act [22 U.S.C. 2193(b), 2384(c)].

(c) The functions conferred upon the President with respect to determinations, certifications, directives, or transfers of funds, as the case may be, by sections 209(d), 303, 465(b), 490(h), 505(d)(2)(A), 505(d)(3), 506(a), 552(c), 552(e), 610, 614(c), 620E, 632(b), 633A, 663(a) of the Act [22 U.S.C. 2169(d), 2223, 2275(b), 2291j(h), 2314(d)(2)(A), (d)(3), 2318(a), 2348a(c), (e), 2360, 2364(c), 2375, 2392(b), 2393a, 2423(a)]; those under section 604(a) of the Act [22 U.S.C. 2354(a)] except insofar as they relate to procurement under chapter 1 of part I and chapter 4 of part II [22 U.S.C. 2151 et seq., 2346 et seq.].

[(d) Redesignated (c).]

(e) The following-described functions conferred upon the President:

(1) Those under section 503(a) [22 U.S.C. 2311(a)] that relate to findings: *Provided*, that the Secretary of State, in the implementation of the functions delegated to him under section 505(a)(1), (a)(4), and (e) of the Act [22 U.S.C. 2314(a)(1), (a)(4), and (e)], is authorized to find, in the case of a proposed transfer of a defense article or related training or a related defense service by a foreign country or international organization to a foreign country or international organization not otherwise eligible under section 503(a) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(2) Those under section 505(b) [22 U.S.C. 2314(b)] in respect of countries that do not agree to the conditions set forth therein.

(3) That under section 614(b) [22 U.S.C. 2364(b)] with respect to determining any provisions of law to be disregarded to achieve the purpose of that section.

(4) That under the second sentence of section 654(c) [22 U.S.C. 2414(c)] with respect to the publication in the Federal Register of any findings or determination reserved to the President: *Provided*, that any officer to whom there is delegated the function of making any finding or determination within the purview of section 654(a) [22 U.S.C. 2414(a)] is also authorized to reach the conclusion specified in performance of the function delegated to him.

(f) That under section 523(d) of the Mutual Security Act of 1954 [22 U.S.C. 1783(d)].

(g) Those under sections 130 [Pub. L. 99-83, Aug. 8, 1985, 99 Stat. 207], 504 and 505 [22 U.S.C. 2349aa-8, 2349aa-9] of the ISDCA of 1985[.]

(h) Those functions conferred by section 1(f)(1) and section 1(f)(2)(B)(ii)(VII) [now IX] of the State Department Basic Authorities Act of 1956, as amended [22 U.S.C. 2651a].

(i) Those functions conferred by section 202(d)(4)(C)(i) and (ii) of the HIV/AIDS Act, as amended [22 U.S.C. 7622(d)(4)(C)(i), (ii)].

1-702. *Subsequent Amendments.* Functions conferred upon the President by subsequent amendments to the

Act [this chapter] are delegated to the Secretary only insofar as they do not relate directly and necessarily to the conduct of programs and activities that either the President or an agency other than the Department of State is authorized to administer pursuant to express reservation or delegation of authorities in a statute or in this or another Executive order.

1-703. *Office of Management and Budget.* In this order the Director of the Office of Management and Budget shall retain all authorities related to the implementation of his budgetary and policy coordination functions, including the authority to:

(a) request and receive information from any agency that is subject to this delegation;

(b) carry out all responsibilities associated with implementing the Government Performance and Results Act [Pub. L. 103-62, see Short Title of 1993 Amendment note set out under section 1101 of Title 31, Money and Finance], the Government Management Reform Act [Pub. L. 103-356, see Short Title of 1994 Amendment note set out under section 3301 of Title 31], and other comparable government-wide statutes dealing with management; and

(c) carry out all statutory budget and policy coordination responsibilities assigned to the Director of the Office of Management and Budget by statute or Executive order.

#### 1-8. FUNDS

1-800. *Allocation of Funds.* Funds described below that are appropriated or otherwise made available to the President shall be deemed to be allocated without any further action of the President, as follows:

(a) Except as provided in subsections (b) and (c), there are allocated to the Secretary all funds made available for carrying out the Act, including any funds appropriated under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs".

(b) There are allocated to the Secretary of Defense all funds made available for carrying out chapters 2 and 5 of Part II of the Act [22 U.S.C. 2311 et seq., 2347 et seq.].

(c) There are allocated to the Secretary of the Treasury all funds made available for carrying out section 129 of the Act [22 U.S.C. 2151aa].

(d) The Secretary of State, the Secretary of Defense, and the Secretary of the Treasury may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c) of this section, respectively, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

#### 1-9. GENERAL PROVISIONS

1-901. *Definition.* As used in this order, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

1-902. *References to Orders and Acts.* Except as may for any reason be inappropriate:

(a) References in this order or in any other Executive order to (1) the Foreign Assistance Act of 1961 [this chapter] (including references herein to "the Act"), (2) unrevoked provisions of the Mutual Security Act of 1954 [act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended], or (3) any other act that relates to the subject of this order shall be deemed to include references to any subsequent amendments thereto.

(b) References in any prior Executive order to the Mutual Security Act of 1954 [act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended] or any provisions thereof shall be deemed to be references to the Act [this chapter] or the corresponding provision, if any, thereof.

(c) References in this order to provisions of any Act, and references in any other Executive order or in any memorandum delegation to provisions of any Act related to the subject of this order shall be deemed to include references to any provision of law that is the same or substantially the same as such provisions, respectively.

(d) References in this order or in any other Executive order to this order or to any provision thereof shall be

deemed to include references thereto, respectively, as amended from time to time.

(e) References in any prior Executive order not superseded by this order to any provisions of any Executive order so superseded shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

1-903. *Prior Executive Orders.* (a) The following are revoked:

(1) Executive Order No. 10973 [22 U.S.C. 2381 note] of November 3, 1961, as amended;

(2) section 2(a) of Executive Order No. 11579 [22 U.S.C. 2191 note], of January 19, 1971; and

(3) Executive Order No. 10893 [22 U.S.C. 2382 note] of November 8, 1960.

(b) The following are amended:

(1) section 3(a) of Executive Order No. 11846 of March 27, 1975, as amended [19 U.S.C. 2111 note], by adding the following new paragraph (12) after paragraph (11):

“(12) The Director of the United States International Development Cooperation Agency”;

(2) section 1-202 of Executive Order 12065 of June 28, 1978 [50 U.S.C. 435 note], by striking out “The Administrator, Agency for International Development” and inserting in lieu thereof “The Director of the United States International Development Cooperation Agency”;

(3) section 2(a) of Executive Order No. 11958 of January 18, 1977 [22 U.S.C. 2751 note], by striking out “the Administrator of the Agency for International Development” and inserting in lieu thereof “the Director of the United States International Development Cooperation Agency”;

(4) section 3 of Executive Order 10900 of January 5, 1961 [7 U.S.C. 1691 note], by adding thereto the following new subsection:

“(d) The Secretary of State may redelegate to the Director of the United States International Development Cooperation Agency, or to any other officer or agency of the Executive branch, functions delegated to such Secretary by this order.”;

(5) section 4 of Executive Order 11223 of May 12, 1965 [22 U.S.C. 2393 note], by inserting immediately following “the Secretary of State” the words “or the Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director)”;

(6) the President’s memorandum of October 18, 1961, entitled “Determination Under Section 604(a) of the Foreign Assistance Act of 1961” (26 FR 10543) is amended by inserting after “the Secretary of State” each time it appears in such memorandum the words “or the Director of the United States International Development Cooperation Agency (with respect to non-military programs administered by such Agency)”.

[(c), (d) Revoked by Ex. Ord. No. 13118, § 9, Mar. 31, 1999, 64 F.R. 16598.]

1-904. *Saving Provisions.* Except to the extent inconsistent with this order, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1-905. *Effective Date.* The provisions of this order shall become effective as of October 1, 1979.

1-906. *Implementation.* In carrying out this order, officers of the United States shall ensure that all actions taken by them are consistent with the President’s constitutional authority to: (a) conduct the foreign affairs of the United States; (b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive’s constitutional duties; (c) recommend for congressional

consideration such measures as the President may judge necessary and expedient; and (d) supervise the unitary executive branch.

[Pub. L. 105-277, div. G, subdiv. A, title XIV, § 1422(a)(2), Oct. 21, 1998, 112 Stat. 2681-792, provided that sections 1-101 through 1-103, 1-401 through 1-403, and 1-801(a), and other provisions of Ex. Ord. No. 12163 that relate to the United States International Development Cooperation Agency or the Director thereof were repealed.]

### § 2381a. Strengthened management practices

#### (a) Declaration of beliefs

The Congress believes that United States foreign aid funds could be utilized more effectively by the application of advanced management decisionmaking, information and analysis techniques such as systems analysis, automatic data processing, benefit-cost studies, and information retrieval.

#### (b) Management system; establishment; scope

To meet this need, the President shall establish a management system that includes: the definition of objectives and programs for United States foreign assistance; the development of quantitative indicators of progress toward these objectives; the orderly consideration of alternative means for accomplishing such objectives; and the adoption of methods for comparing actual results of programs and projects with those anticipated when they were undertaken. The system should provide information to the agency and to Congress that relates agency resources, expenditures, and budget projections to such objectives and results in order to assist in the evaluation of program performance, the review of budgetary requests, and the setting of program priorities.

(Pub. L. 87-195, pt. III, § 621A, as added Pub. L. 90-554, pt. III, § 302(b), Oct. 8, 1968, 82 Stat. 964; amended Pub. L. 95-424, title V, § 502(d)(1), Oct. 6, 1978, 92 Stat. 959.)

#### AMENDMENTS

1978—Subsec. (c). Pub. L. 95-424 struck out subsec. (c) relating to annual reports to Congress by the President evaluating the progress made toward implementation of this section.

#### 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.

#### 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.

### § 2382. Coordination with foreign policy

#### (a) Powers or functions of Secretary of State

Nothing contained in this chapter shall be construed to infringe upon the powers or functions of the Secretary of State.

#### (b) Coordination among representatives of United States

The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each