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statements themselves are not legally binding.

**George W. Bush**

The White House,
September 30, 2003.

NOTE: H.R. 2657, approved September 30, was assigned Public Law No. 108–83. An original was not available for verification of the content of this statement.

## Memorandum on Transfer of Funds From International Organizations and Programs Funds to the Child Survival and Health Programs Fund

*September 30, 2003*

Presidential Determination No. 2003–41

*Memorandum for the Secretary of State*

*Subject:* Transfer of Funds from International Organizations and Programs (IO&P) Funds to the Child Survival and Health Programs Fund

Consistent with the authority vested in me by the Constitution and laws of the United States, including section 610 of the Foreign Assistance Act of 1961, as amended (FAA), I hereby determine it necessary for the purposes of the FAA that the $25 million in FY 2003 International Organizations and Programs funds that were reserved to be allocated for the United Nations Population Fund be transferred to, and consolidated with, the Child Survival and Health Programs Fund, and such funds are hereby transferred and consolidated.

You are hereby authorized and directed to report this determination to the Congress and to arrange for its publication in the *Federal Register*.

**George W. Bush**

## Letter to the Speaker of the House of Representatives on Reallocation of Funds Previously Transferred From the Emergency Response Fund

*September 30, 2003*

*Dear Mr. Speaker:*

In order to continue responses necessary as a result of the September 11th terrorist attacks, I am notifying the Congress of my intent to reallocate funds previously transferred from the Emergency Response Fund (ERF).

At this time, $290 million of ERF funds will be transferred to the Department of State to accelerate a variety of initiatives already underway in Afghanistan.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

Sincerely,

**George W. Bush**

## Letter to the Speaker of the House of Representatives on Providing Funds for the Department of Homeland Security's Counterterrorism Fund

*September 30, 2003*

*Dear Mr. Speaker:*

In accordance with provisions of the Consolidated Appropriations Act, 2001 (Public Law 106–554), and the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), I hereby request and make available $38,100,000 for the Department of Homeland Security's Counterterrorism Fund. Of these funds, I hereby designate $28,748,918 as an emergency requirement pursuant to Public Law 106–554.

These funds would allow the Department of Homeland Security to continue to improve the security at our Nation's ports by deploying radiation monitoring devices nationwide and strengthening the system that is used to identify potential threats posed by international cargo shipments and international passengers.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

Sincerely,

**George W. Bush**

## Statement on Signing the Department of Defense Appropriations Act, 2004

*September 30, 2003*

Today, I have signed into law H.R. 2658, the ''Department of Defense Appropriations Act, 2004.''

Sections 8007 and 8103 of the Act prohibit the use of funds to initiate a special access program or to initiate a new start program, unless the congressional defense committees receive advance notice. The Supreme Court of the United States has stated that the President's authority to classify and control access to information bearing on the national security flows from the Constitution and does not depend upon a legislative grant of authority. Although the advance notice contemplated by sections 8007 and 8103 can be provided in most situations as a matter of comity, situations may arise, especially in wartime, in which the President must act promptly under his constitutional grants of executive power and authority as Commander in Chief of the Armed Forces while protecting certain extraordinarily sensitive national security information. The executive branch shall construe sections 8007 and 8103 in a manner consistent with the constitutional authority of the President.

Section 8065 of the Act provides that, notwithstanding any other provision of law, no funds available to the Department of Defense for fiscal year 2004 may be used to transfer defense articles or services, other than intelligence services, to another nation or an international organization for international peacekeeping, peace enforcement, or humanitarian assistance operations, until 15 days after the executive branch notifies six committees of the Congress of the planned transfer. To the extent that protection of the U.S. Armed Forces deployed for international peacekeeping, peace enforcement, or humanitarian assistance operations might require action of a kind covered by section 8065 sooner than 15 days after notification, the executive branch shall construe section 8065 in a manner consistent with the President's constitutional authority as Commander in Chief of the Armed Forces.

A proviso in the Act's appropriation for ''Operation and Maintenance, Defense-Wide'' prohibits implementation of and purports to prohibit planning for consolidation of certain offices within the Department of Defense. Also, sections 8010(b), 8041(b), and 8115 purport to specify the content of a portion of a future budget request to the Congress for the Department of Defense. The executive branch shall construe these provisions relating to planning and making of budget recommendations in a manner consistent with the President's constitutional authority to require the opinions of the heads of departments and to recommend for congressional consideration such measures as the President shall judge necessary and expedient.

Section 8005 of the Act relating to requests to congressional committees for reprogramming of funds shall be construed as calling solely for notification, as any other construction would be inconsistent with the principles enunciated by the Supreme Court in *INS* v. *Chadha.*

A proviso within the appropriation for ''Operation and Maintenance, Air Force'' earmarks an amount of funds for a grant to a college for the purpose of funding minority aviation training, and section 8089 of the Act provides that, in implementing a healthcare interagency partnership under that section, Native Hawaiians shall have the status of Native Americans who are eligible for healthcare services. The executive branch shall implement the proviso and section 8089 in a manner consistent with the requirement to afford equal protection of the laws under the Due Process Clause of the Fifth Amendment to the Constitution.

Sections 8082, 8091, 8117, and 8131 of the Act make clear that the classified annex accompanies but is not incorporated as a part of the Act, and therefore the classified annex does not meet the bicameralism and presentment requirements specified by the Constitution for the making of a law. Accordingly,