

using local languages as appropriate and as possible, to disseminate throughout the Russian Federation information relating to democracy, free-market economics, the rule of law, and human rights.”

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, and section 3(b) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended, set out as a note under section 5812 of this title.

§ 2295a. Criteria for assistance to governments of the independent states

(a) In general

In providing assistance under this part for the government of any independent state of the former Soviet Union, the President shall take into account not only relative need but also the extent to which that independent state is acting to—

- (1) make significant progress toward, and is committed to the comprehensive implementation of, a democratic system based on principles of the rule of law, individual freedoms, and representative government determined by free and fair elections;
- (2) make significant progress in, and is committed to the comprehensive implementation of, economic reform based on market principles, private ownership, and integration into the world economy, including implementation of the legal and policy frameworks necessary for such reform (including protection of intellectual property and respect for contracts);
- (3) respect internationally recognized human rights, including the rights of minorities and the rights to freedom of religion and emigration;
- (4) respect international law and obligations and adhere to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Charter of Paris, including the obligations to refrain from the threat or use of force and to settle disputes peacefully;
- (5) cooperate in seeking peaceful resolution of ethnic and regional conflicts;
- (6) implement responsible security policies, including—
 - (A) adhering to arms control obligations derived from agreements signed by the former Soviet Union;
 - (B) reducing military forces and expenditures to a level consistent with legitimate defense requirements;
 - (C) not proliferating nuclear, biological, or chemical weapons, their delivery systems, or related technologies; and
 - (D) restraining conventional weapons transfers;
- (7) take constructive actions to protect the international environment, prevent significant transborder pollution, and promote sustainable use of natural resources;
- (8) deny support for acts of international terrorism;
- (9) accept responsibility for paying an equitable portion of the indebtedness to United

States firms incurred by the former Soviet Union;

(10) cooperate with the United States Government in uncovering all evidence regarding Americans listed as prisoners-of-war, or otherwise missing during American operations, who were detained in the former Soviet Union during the Cold War; and

(11) terminate support for the communist regime in Cuba, including removal of troops, closing military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos, and ceasing trade subsidies and economic, nuclear, and other assistance.

(b) Ineligibility for assistance

The President shall not provide assistance under this part—

(1) for the government of any independent state that the President determines is engaged in a consistent pattern of gross violations of internationally recognized human rights or of international law;

(2) for the government of any independent state that the President determines has failed to take constructive actions to facilitate the effective implementation of applicable arms control obligations derived from agreements signed by the former Soviet Union;

(3) for the government of any independent state that the President determines has, on or after October 24, 1992, knowingly transferred to another country—

(A) missiles or missile technology inconsistent with the guidelines and parameters of the Missile Technology Control Regime; or

(B) any material, equipment, or technology that would contribute significantly to the ability of such country to manufacture any weapon of mass destruction (including nuclear, chemical, and biological weapons) if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapon;

(4) for the government of any independent state that is prohibited from receiving such assistance by section 2799aa or 2799aa-1 of this title or sections 5604(a)(1) and 5605 of this title;

(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 2295b(k)(3) of this title) with, the Cuban Government; or

(6) for the Government of Russia if it has failed to make significant progress on the removal of Russian or Commonwealth of Independent States troops from Estonia, Latvia, and Lithuania or if it has failed to undertake good faith efforts, such as negotiations, to end other military practices that violate the sovereignty of the Baltics¹ states.

¹ So in original. Probably should be “Baltic”.

(c) Exceptions to ineligibility

Assistance prohibited by subsection (b) or any similar provision of law, other than assistance prohibited by the provisions referred to in subsection (b)(4), may be furnished under any of the following circumstances:

(1) The President determines that furnishing such assistance is important to the national interest of the United States.

(2) The President determines that furnishing such assistance will foster respect for internationally recognized human rights and the rule of law or the development of institutions of democratic governance.

(3) The assistance is furnished for the alleviation of suffering resulting from a natural or man-made disaster.

(4) The assistance is provided under the secondary school exchange program administered by the United States Information Agency.

The President shall immediately report to the Congress any determination under paragraph (1) or (2) or any decision to provide assistance under paragraph (3).

(d) Reduction in assistance for support of intelligence facilities in Cuba**(1) Reduction in assistance**

Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after March 12, 1996, for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided on or after March 12, 1996, by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

(2) Waiver

(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

(B) At the time of a certification made with respect to Russia under subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

(C) The report required by subparagraph (B) may be submitted in classified form.

(D) For purposes of this paragraph, the term “appropriate congressional committees” includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(3) Exceptions to reductions in assistance

The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) technical assistance for safety upgrades of civilian nuclear power plants;

(D) the creation of private sector or non-governmental organizations that are independent of government control;

(E) the development of a free market economic system;

(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160) [22 U.S.C. 5951 et seq.].

(Pub. L. 87-195, pt. I, §498A, as added Pub. L. 102-511, title II, §201, Oct. 24, 1992, 106 Stat. 3326; amended Pub. L. 103-236, title VIII, §826(c), Apr. 30, 1994, 108 Stat. 519; Pub. L. 104-114, title I, §106(b), (c)(1), (3), (d)(2), Mar. 12, 1996, 110 Stat. 795-797.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), 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 Cooperative Threat Reduction Act of 1993, referred to in subsec. (d)(3)(G), is title XII of div. A of Pub. L. 103-160, Nov. 30, 1993, 107 Stat. 1777, which is classified generally to chapter 68A (§5951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5951 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(11). Pub. L. 104-114, §106(b), substituted “military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos” for “of military facilities”.

Subsec. (b)(5), (6). Pub. L. 104-114, §106(c)(1), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(4). Pub. L. 104-114, §106(c)(3), added par. (4).

Subsec. (d). Pub. L. 104-114, §106(d)(2), added subsec. (d).

1994—Subsec. (b)(4). Pub. L. 103-236 substituted “section 2799aa or 2799aa-1” for “section 2429 or 2429a”.

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.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to

Secretary of State, see sections 6531 and 6532 of this title.

INELIGIBILITY FOR ASSISTANCE OF INSTITUTIONS WITHHOLDING CERTAIN DOCUMENTS OF UNITED STATES NATIONALS

Pub. L. 102-511, title II, §202, Oct. 24, 1992, 106 Stat. 3331, provided that:

“(a) PROHIBITION.—Except as provided in subsections (b) and (c), an agency, instrumentality, or other governmental entity of an independent state of the former Soviet Union shall not be eligible to receive assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] if—

“(1) on the date of enactment of this Act [Oct. 24, 1992], there is outstanding a final judgment by a court of competent jurisdiction in that independent state that that governmental entity is withholding unlawfully books or other documents of religious or historical significance that are the property of United States persons; and

“(2) within 90 days of a request by such United States persons, the Secretary of State determines that execution of the court’s judgment is blocked as the result of extrajudicial causes such as any of the following:

“(A) A declared refusal of the defendant to comply.

“(B) The unwillingness or failure of local authorities to enforce compliance.

“(C) The issuance of an administrative decree nullifying a court’s judgment or forbidding compliance.

“(D) The passage of legislation, after a court’s judgment, nullifying that judgment or forbidding compliance with that judgment.

“(b) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—The prohibition contained in subsection (a) shall not apply to the provision of assistance to alleviate suffering resulting from a natural or man-made disaster.

“(c) WAIVER AUTHORITY.—The Secretary of State may waive the application of subsection (a) whenever the Secretary finds that—

“(1) the court’s judgment has been executed; or

“(2) it is important to the national interest of the United States to do so.

“(d) REPORT.—Nine months after the date of enactment of this Act [Oct. 24, 1992], the Secretary of State shall report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the status of final judgments described in subsection (a)(1).

“(e) UNITED STATES PERSON.—For purposes of this section, the term ‘United States person’ means—

“(1) any citizen, national, or permanent resident alien of the United States; and

“(2) any corporation, partnership, or other juridical entity which is 50 percent or more beneficially owned by individuals described in paragraph (1).”

Executive Documents

CHANGE OF NAME

The Conference on Security and Cooperation in Europe to be called the Organization for Security and Cooperation in Europe effective Jan. 1, 1995, pursuant to Ex. Ord. No. 13029, Dec. 3, 1996, 61 F.R. 64591.

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.

Functions of President under subsecs. (a) and (c)(2) of this section delegated to Coordinator by section 2(c), (d) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, set out as a note under section 5812 of this title.

Functions of President under subsecs. (b)(1)–(3), (5), and (c)(1) of this section delegated to Secretary of State by section 1(2), (3) of Ex. Ord. No. 12884.

Functions of President under subsec. (c)(3) of this section and requirement to make reports under this section regarding determinations under subsec. (c)(3) delegated to Secretary of State by section 3(c) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended.

§ 2295b. Authorities relating to assistance and other provisions

(a) Assistance through governments and non-governmental organizations

Assistance under this part may be provided to governments or through nongovernmental organizations.

(b) Technical and managerial assistance

Technical assistance under this part shall, to the maximum extent feasible, be provided on a long term, on-site basis and shall emphasize the provision of practical, management and other problem-solving advice, particularly advice on private enterprise provided by United States business volunteers.

(c) Enterprise funds

Activities supported pursuant to this part may include the establishment of and the provision of support for one or more enterprise funds for the independent states of the former Soviet Union. If the President determines that an enterprise fund should be established and supported under this part, the provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5421] (excluding the authorizations of appropriations provided in subsection (b) of that section) shall be deemed to apply with respect to such enterprise fund and to funds made available to such enterprise fund pursuant to this part.

(d) Cooperative development and research projects

Assistance under this part may include support for cooperative development projects, including cooperative development research projects, among the United States, other countries, and independent states of the former Soviet Union.

(e) Administration of justice programs

In order to strengthen the administration of justice in the independent states of the former Soviet Union under paragraph (2)(J) of section 2295 of this title, the President may exercise the same authorities as are available under section 2346c of this title, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

(f) Use of economic support funds

Any funds that have been allocated under part 4 of subchapter II of this chapter for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this part.

(g) Use of SEED agency funds and administrative authorities

The President may authorize any agency of the United States Government that has authority to conduct activities under the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5401 et seq.] to use—