

section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in the President by the following provisions of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) (the “Act”): sections 102(g) [22 U.S.C. 287e note], 161(c) [22 U.S.C. 2651a note], 401(b) [108 Stat. 446], 407(a) [22 U.S.C. 287b note], 409 [22 U.S.C. 287e note], 431(b) [108 Stat. 459], 514(b) [22 U.S.C. 1928 note], 523 [108 Stat. 473], 527(e) and (g) [22 U.S.C. 2370a(e), (g)], 528 [108 Stat. 477], 532(a) [108 Stat. 480], 574 [22 U.S.C. 2656 note], 583(b)(1) and (b)(6) [108 Stat. 489, 490], 733 [22 U.S.C. 2779a] and 735(d) [22 U.S.C. 2797b-1].

The functions under section 407(a) of the Act [22 U.S.C. 287b note] shall be exercised in coordination with the Secretary of Defense.

The functions under section 527(e) and (g) of the Act [22 U.S.C. 2370a(e), (g)] shall be exercised in consultation with the Secretary of the Treasury and the heads of other departments and agencies, as appropriate.

Any reference in this memorandum to any act, order, determination, or delegation of authority shall be deemed to be a reference to such act, order, determination, or delegation of authority as amended from time to time.

The functions delegated by this memorandum may be redelegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Jan. 4, 1995, 60 F.R. 3335, provided:

Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of the Treasury the functions under section 527(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) [22 U.S.C. 2370a(b)].

Any reference in this memorandum to any Act, order, determination, or delegation of authority shall be deemed to be a reference to such Act, order, determination, or delegation of authority as amended.

The functions delegated by this memorandum may be redelegated within the Department of the Treasury.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 2370b. Humanitarian assistance code of conduct

(a) In general

None of the funds made available for foreign operations, export financing, and related programs under the headings “Migration and Refugee Assistance”, “United States Emergency Refugee and Migration Assistance Fund”, “International Disaster and Famine Assistance”, or “Transition Initiatives” may be obligated to an organization that fails to adopt a code of conduct that provides for the protection of beneficiaries of assistance under any such heading from sexual exploitation and abuse in humanitarian relief operations.

(b) Consistency with United Nations principles

The code of conduct referred to in subsection (a) shall, to the maximum extent practicable, be consistent with the six core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises.

(c) Reports

Not later than 180 days after May 11, 2005, and not later than one year after May 11, 2005, the

President shall transmit to the appropriate congressional committees a report on the implementation of this section.

(d) Effective Date

This section shall take effect 60 days after May 11, 2005, and shall apply to funds obligated after such date for fiscal year 2005 and any subsequent fiscal year.

(Pub. L. 109-13, div. A, title II, §2110, May 11, 2005, 119 Stat. 268.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

Executive Documents

ASSIGNMENT OF FUNCTIONS RELATING TO THE REPORT TO THE CONGRESS ON IMPLEMENTATION OF HUMANITARIAN ASSISTANCE CODE OF CONDUCT

Memorandum of President of the United States, May 12, 2006, 71 F.R. 30549, provided:

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3, United States Code, the functions of the President under section 2110(c) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (title II of Public Law 109-13) (22 U.S.C. 2370b), are assigned to the Secretary of State.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 2370c. Definitions

In sections 2370c to 2370c-2 of this title:

(1) Appropriate congressional committees

The term “appropriate congressional committees” means—

- (A) the Committee on Foreign Relations of the Senate;
- (B) the Committee on Appropriations of the Senate;
- (C) the Committee on Foreign Affairs of the House of Representatives; and
- (D) the Committee on Appropriations of the House of Representatives.

(2) Child soldier

Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term “child soldier”—

(A) means—

- (i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces, police, or other security forces;
- (ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces, police, or other security forces;
- (iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces, police, or other security forces; or

(iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(B) includes any person described in clause (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

(Pub. L. 110-457, title IV, § 402, Dec. 23, 2008, 122 Stat. 5088; Pub. L. 115-425, title II, § 212(a), Jan. 8, 2019, 132 Stat. 5485.)

Editorial Notes

REFERENCES IN TEXT

Sections 2370c to 2370c-2 of this title, referred to in text, was in the original “this title”, meaning title IV of Pub. L. 110-457, Dec. 23, 2008, 122 Stat. 5087, known as the Child Soldiers Prevention Act of 2008, which is classified principally to sections 2370c to 2370c-2 of this title. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Child Soldiers Prevention Act of 2008, and also as part of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2019—Par. (2)(A)(i) to (iii). Pub. L. 115-425, § 212(a)(1), inserted “, police, or other security forces” after “governmental armed forces”.

Par. (2)(B). Pub. L. 115-425, § 212(a)(2), substituted “clause” for “clauses”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 110-457, title IV, § 407, Dec. 23, 2008, 122 Stat. 5091, provided that: “This title [enacting this section and sections 2370c-1 and 2370c-2 of this title, amending section 4028 of this title, and enacting provisions set out as a note under section 2151 of this title], and the amendments made by this title, shall take effect 180 days after the date of the enactment of this Act [Dec. 23, 2008].”

FINDINGS

Pub. L. 115-425, title II, § 211, Jan. 8, 2019, 132 Stat. 5485, provided that: “Congress finds the following:

“(1) The recruitment or use of children in armed conflict is unacceptable for any government or government-supported entity receiving United States assistance.

“(2) The recruitment or use of children in armed conflict, including direct combat, support roles, and sexual slavery, occurred during 2016 or 2017 in Afghanistan, Iran, Mali, Niger, South Sudan, Sudan, Burma, the Democratic Republic of the Congo, Iraq, Nigeria, Rwanda, Somalia, Syria, and Yemen.

“(3) Entities of the Government of Afghanistan, particularly the Afghan Local Police and Afghan National Police, continue to recruit children to serve as combatants or as servants, including as sex slaves.

“(4) Police forces of the Government of Afghanistan participate in counterterrorism operations, direct and indirect combat, security operations, fight alongside regular armies, and are targeted for violence by the Taliban and other opposition groups.

“(5) In February 2016, a 10-year-old boy was assassinated by the Taliban after he had been publicly honored by Afghan local police forces for his assistance in combat operations against the Taliban.

“(6) Recruitment and use of children in armed conflict by government forces has continued in South Sudan with the return to hostilities.

“(7) At least 19,000 children have been recruited since South Sudan’s civil war began in 2013.”

§ 2370c-1. Prohibition

(a) In general

Subject to subsections (b) through (f), the authorities contained in sections 2321j, 2347, and 2348 of this title or section 2763 of this title may not be used to provide assistance to, and no licenses for direct commercial sales of military equipment may be issued to, the government of a country that is clearly identified, pursuant to subsection (b), for the most recent year preceding the fiscal year in which the authorities or license would have been used or issued in the absence of a violation of sections 2370c to 2370c-2 of this title, as having governmental armed forces, police, or other security forces, or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(b) Identification and notification to countries in violation of standards

(1) Publication of list of foreign governments

The Secretary of State shall include a list of the foreign governments that have violated the standards under sections 2370c to 2370c-2 of this title and are subject to the prohibition in subsection (a) in the report required under section 7107(b) of this title.

(2) Notification

(A) In general

Not later than 45 days after the date on which each report is submitted under section 7107(b) of this title, the Secretary of State shall formally notify each government included in the list under paragraph (1) that such government is included in such list.

(B) Congressional notification

As soon as practicable after making all of the notifications required under subparagraph (A) with respect to a report, the Secretary of State shall notify the appropriate congressional committees that the requirements of subparagraph (A) have been met.

(c) National interest waiver

(1) Waiver

The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the United States and certifies to the appropriate congressional committees that the government of such country is taking effective and continuing steps to address the problem of child soldiers.

(2) Publication and notification

Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver and the justification for granting such waiver.

(d) Reinstatement of assistance

The President may provide to a country assistance otherwise prohibited under subsection