

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 550(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (FOAA)(Public Law 109-102), as amended by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234), sections 620K(e) and 620L(b)(4) of the Foreign Assistance Act [of 1961], as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109-446), and section 301 of title 3, United States Code, I hereby certify and report that:

With respect to the provision of assistance for the administrative and personal security costs of the Office of the President of the Palestinian Authority; for the activities of the President of the Palestinian Authority to promote democracy, peaceful resolution of the Israeli-Palestinian conflict, and the rule of law and to fulfill his duties as President, including, among other things, to maintain control of the management and security of border crossings and to foster the Middle East peace process; and, with respect to independent agencies:

- it is in the national security interest of the United States to provide such assistance;
- as the case may be, the President of the Palestinian Authority, the President's party, and independent agencies and any members thereof, including any individual or entity for which assistance is proposed to be provided, are not members of, appointed by, or effectively controlled by Hamas or any other foreign terrorist organization; and
- such assistance provided hereunder will not be transferred or retransferred to any member of Hamas or other foreign terrorist organization or to any entity effectively controlled by Hamas or other foreign terrorist organization.

Accordingly, I hereby waive section 550(a) of the FOAA, as amended, and section 620K(a) of the Foreign Assistance Act, as amended, with respect to such assistance, and authorize such assistance for the above purposes.

Furthermore, I hereby determine that, with respect to assistance to nongovernmental organizations for the West Bank and Gaza other than assistance covered by paragraphs (b)(1), (2), and (3) of section 620L of the Foreign Assistance Act, as amended, it is in the national security interest of the United States to provide such assistance as the Secretary of State deems appropriate, and assign to the Secretary of State the functions under section 620L(b)(4)(B) regarding the specific programs, projects, and activities to be carried out using such assistance.

I also hereby assign the functions of the President under section 550(b) and (c) of the FOAA, as amended and as carried forward under the Revised Continuing Appropriations Resolution, 2007 (Public Law 110-5), to the Secretary of State.

You are hereby authorized and directed to report this determination to the Congress and publish it in the Federal Register.

GEORGE W. BUSH.

§ 2378c. Limitation on assistance for the West Bank and Gaza

(a) Limitation

Assistance may be provided under this chapter to nongovernmental organizations for the West Bank and Gaza only during a period for which a certification described in section 2378b(b) of this title is in effect with respect to the Palestinian Authority.

(b) Exceptions

Subsection (a) shall not apply with respect to the following:

(1) Assistance to meet basic human needs

Assistance to meet food, water, medicine, health, or sanitation needs, or other assistance to meet basic human needs.

(2) Assistance to promote democracy

Assistance to promote democracy, human rights, freedom of the press, non-violence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or any other foreign terrorist organization.

(3) Assistance for individual members of the Palestinian Legislative Council

Assistance, other than funding of salaries or salary supplements, to individual members of the Palestinian Legislative Council who the President determines are not members of Hamas or any other foreign terrorist organization, for the purposes of facilitating the attendance of such members in programs for the development of institutions of democratic governance, including enhancing the transparent and accountable operations of such institutions, and providing support for the Middle East peace process.

(4) Other types of assistance

Any other type of assistance if the President—

(A) determines that the provision of such assistance is in the national security interest of the United States; and

(B) not less than 30 days prior to the obligation of amounts for the provision of such assistance—

(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A).

(c) Marking requirement

Assistance provided under this chapter to nongovernmental organizations for the West Bank and Gaza shall be marked as assistance from the American people or the United States Government unless the Secretary of State or, as appropriate, the Administrator of the United States Agency for International Development, determines that such marking will endanger the lives or safety of persons delivering such assistance or would have an adverse effect on the implementation of that assistance.

(d) Congressional notification

Assistance made available under this chapter to nongovernmental organizations for the West Bank and Gaza may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 2394-1(a) of this title.

(e) Definitions

In this section:

(1) Appropriate congressional committees

the¹ term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) Foreign terrorist organization

The term “foreign terrorist organization” means an organization designated as a foreign terrorist organization by the Secretary of 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.)

Editorial Notes

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, 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.

Statutory Notes and Related Subsidiaries

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.

Executive Documents

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.

§ 2378c-1. Limitation on assistance to the West Bank and Gaza**(a) Limitation****(1) In general**

Funds authorized to be appropriated or otherwise made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to Economic Support Fund) and available for assistance for the West Bank and Gaza that directly benefits the Palestinian Authority may only be made available for such purpose if, except as provided in subsection (d), not later than 30 days after March 23, 2018, and every 180 days thereafter, the Secretary of State certifies in writing to the appropriate congressional committees that the Palestinian Authority, the Palestine Liberation Organization, and any successor or affiliated organizations—

(A) are taking credible steps to end acts of violence against Israeli citizens and United States citizens that are perpetrated or materially assisted by individuals under their jurisdictional control, such as the March 2016 attack that killed former United States Army officer Taylor Force, a veteran of the wars in Iraq and Afghanistan;

(B) have terminated payments for acts of terrorism against Israeli citizens and United States citizens to any individual, after being fairly tried, who has been imprisoned for such acts of terrorism and to any individual who died committing such acts of terrorism, including to a family member of such individuals;

(C) have revoked any law, decree, regulation, or document authorizing or implementing a system of compensation for imprisoned individuals that uses the sentence or period of incarceration of an individual imprisoned for an act of terrorism to determine the level of compensation paid, or have taken comparable action that has the effect of invalidating any such law, decree, regulation, or document; and

(D) are publicly condemning such acts of violence and are taking steps to investigate or are cooperating in investigations of such acts to bring the perpetrators to justice.

(2) Additional certification requirement

The Secretary of State shall include in the certification required under paragraph (1) the definition of “acts of terrorism” that the Secretary used for purposes of making the determination in subparagraph (B) of such paragraph.

(b) Exception**(1) In general**

Subject to paragraph (2), the limitation on assistance under subsection (a) shall not apply to—

(A) payments made to the East Jerusalem Hospital Network;

(B) assistance for wastewater projects not exceeding \$5,000,000 in any one fiscal year; and

(C) assistance for any other program, project, or activity that provides vaccinations to children not exceeding \$500,000 in any one fiscal year.

(2) Notification

The Secretary of State shall notify in writing the appropriate congressional committees not later than 15 days prior to making funds available for assistance under subparagraph (A), (B), or (C) of paragraph (1).

(c) Rule of construction

Funds withheld pursuant to this section—

(1) shall be deemed to satisfy any similar withholding or reduction required under any other provision of law relating to the Palestinian Authority’s payments for acts of terrorism; and

(2) shall be in an amount that is not less than the total amount required by such other provision of law.

¹ So in original. Probably should be capitalized.