

“(2) the Committee on Appropriations and the Committee on Foreign Relations of the Senate.”

§ 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 information that such unit has committed a gross violation of human rights.

(b) Exception

The prohibition in subsection (a) shall not apply if the Secretary determines and reports to the appropriate congressional committees that the government of such country is taking effective steps to bring the responsible members of the security forces unit to justice.

(c) Duty to inform

(1) If assistance to a foreign security force is provided in a manner in which the recipient unit or units cannot be identified prior to the transfer of assistance, the Secretary of State shall regularly provide a list of units prohibited from receiving assistance pursuant to this section to the recipient government and the appropriate congressional committees and, effective December 31, 2022, such assistance shall only be made available subject to a written agreement that the recipient government will comply with such prohibition.

(2) If the recipient government withholds assistance from a unit pursuant to this section, the Secretary shall inform the appropriate congressional committees and shall, to the maximum extent practicable, assist the foreign government in bringing the responsible members of the unit to justice.

(d) Credible information

The Secretary shall establish, and periodically update, procedures to—

(1) ensure that for each country the Department of State has a current list of all security force units receiving United States training, equipment, or other types of assistance;

(2) facilitate receipt by the Department of State and United States embassies of information from individuals and organizations outside the United States Government about gross violations of human rights by security force units;

(3) routinely request and obtain such information from the Department of Defense, the Central Intelligence Agency, and other United States Government sources;

(4) ensure that such information is evaluated and preserved;

(5) ensure that when an individual is designated to receive United States training, equipment, or other types of assistance the individual's unit is vetted as well as the individual;

(6) seek to identify the unit involved when credible information of a gross violation exists but the identity of the unit is lacking; and

(7) make publicly available, to the maximum extent practicable, the identity of those units

for which no assistance shall be furnished pursuant to subsection (a).

(e) Definitions

(1) For the purposes of subsection (d)(7), the term “to the maximum extent practicable” means that the identity of such units shall be made publicly available unless the Secretary of State, on a case-by-case basis, determines and reports to the appropriate congressional committees that public disclosure is not in the national security interest of the United States and provides a detailed justification for such determination, which may be submitted in classified form.

(2) For the purposes of this section, “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(Pub. L. 87-195, pt. III, § 620M, formerly § 620J, as added Pub. L. 110-161, div. J, title VI, § 651, Dec. 26, 2007, 121 Stat. 2341; renumbered § 620M and amended Pub. L. 112-74, div. I, title VII, § 7034(k), Dec. 23, 2011, 125 Stat. 1216; Pub. L. 113-76, div. K, title VII, § 7034(l), Jan. 17, 2014, 128 Stat. 515; Pub. L. 117-103, div. K, title VII, § 7035(b)(6), Mar. 15, 2022, 136 Stat. 629.)

Editorial Notes

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.

AMENDMENTS

2022—Subsec. (b). Pub. L. 117-103, § 7035(b)(6)(A), substituted “appropriate congressional committees” for “Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations”.

Subsec. (c). Pub. L. 117-103, § 7035(b)(6)(B), added pars. (1) and (2) and struck out text of former subsec. (c) which read as follows: “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.”

Subsec. (e). Pub. L. 117-103, § 7035(b)(6)(C), added subsec. (e).

2014—Subsec. (d)(5). Pub. L. 113-76 substituted “an individual is designated to receive United States training, equipment, or other types of assistance the individual's unit is vetted as well as the individual;” for “when vetting an individual for eligibility to receive United States training the individual's unit is also vetted;”.

2011—Subsec. (a). Pub. L. 112-74, § 7034(k)(2), substituted “information” for “evidence” and “a gross violation” for “gross violations”.

Subsec. (b). Pub. L. 112-74, § 7034(k)(3), substituted “steps” for “measures”.

Subsec. (d). Pub. L. 112-74, §7034(k)(4), added subsec. (d).

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

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,

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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.

Statutory Notes and Related Subsidiaries

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