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# Fiscal Year 2005 Security Assistance Legislation

By

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## Introduction

Each year, the *Defense Institute of Security Assistance Management (DISAM) Journal* publishes a summary and analysis of the legislation that impacts U.S. security assistance. In this issue, we present the twenty-first in a series of annual studies of the major pieces of legislation with references to security assistance and related programs. This report is intended to alert all security assistance community members to the collective changes in legislation that will influence program planning and implementation for the coming year. As has been done in the past, the report is in outline form, with key topics highlighted to facilitate locating specific statutory references. This report will also include tables showing the levels of funding for the affected countries and programs. This is possible because of the timely receipt of the security assistance funding portions of the Department of State (DoS) report for the allocation of foreign operations funding submitted to Congress on February 8, 2005 in accordance with Section 653(a), *Foreign Assistance Act (FAA)*. This report is to be provided to Congress no later than thirty days after enactment of the annual foreign operations appropriation act which was enacted on December 8, 2004 as public law (P.L.) 108-447. The one month delay for the fiscal year (FY) 2005 allocations report could be attributed to several factors including the November 2004 presidential and congressional elections and the resulting in the turnover of key leadership within both the Administration and Congress, Congress not being in session to receive the report, the transition from the 108th to the 109th Congress, and the ever-evolving U.S. foreign policy environment throughout the world especially in the Middle East and South Asia.

The FY 2005 appropriations season included three continuing resolutions (CRs) with the last one, P.L. 108-434, expiring at midnight, December 8, 2004; four annual appropriations; and one consolidated appropriation enacted on December 8. The four annual appropriations included P.L. 108-287 for Department of Defense (DoD), P.L. 108-324 for military construction, P.L. 180-334 for Homeland Security, and P.L. 108-335 for the District of Columbia. The remaining nine of the thirteen required appropriations were placed into one enormous appropriation, *Consolidated Appropriations Act, 2005*, P.L. 108-447, December 8, 2004. The *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005*, was placed within P.L. 108-447 as Division D. Refer to Table 1 for the initial security assistance appropriations for funding the FY 2005 programs listed below:

- Economic Support Fund (ESF);
- International Military Education and Training (IMET);
- Foreign Military Financing Program (FMFP); and
- Peacekeeping Operations (PKO) provided within Division D.

Because of budgetary considerations, FY 2005 is the third year in a row that a last minute across-the-board rescission (or reduction) was applied. Exempting the earlier enacted appropriations for DoD, military construction, and Homeland Security plus any enacted supplemental appropriation for FY 2005; Section 122, Division J, P.L. 108-447, rescinded 0.80 percent of already enacted FY 2005 appropriations to be applied proportionately to each discretionary account and each item of budget authority described in such subsection; and within each such account and item, to each program, project, and activity. This affected the FY 2005 security assistance programs with an overall reduction of \$60,426,000 see Table 2.

**Table 1**  
**Fiscal Year 2005 Security Assistance Funding**  
(\$ in millions)

<u>Program</u>	<u>Budget Request</u>	<u>House H.R. 4812 Proposal</u>	<u>Senate S. Rpt. 2812 Proposal</u>	<u>Initial P.L. 108-447 Appropriation</u>
FMFP	\$4,957.500	\$4,777.500	\$4,777.500	\$4,783.500
IMET	89.730	89.730	89.730	89.730
ESF	2,520.000	2,468.500	2,470.000	2,501.000
PKO	104.000	104.000	104.000	179.000
<b>Total</b>	<b>\$7,671.230</b>	<b>\$7,439.730</b>	<b>\$7,441.230</b>	<b>\$7,553.230</b>

**Note:** Does not include the directed 0.80 percent rescission of \$60,426,000.

While the foreign operations appropriations for FY 2005 were passed and enacted during the first quarter of the fiscal year, the funding for the fourth year in a row was not generally available by allocation until the second quarter of the affected fiscal year. FY 2005 also marks the fourth year in a row that an emergency supplemental appropriation was enacted. Titles IX and X of *Department of Defense Appropriations Act, 2005*, P.L. 108-287, August 5, 2004, provided about \$25,000,000,000 in emergency funding mostly for continuing DoD military operations and security cooperation programs in Southwest Asia and limited DoS assistance authorities both in the Middle East and the Darfur region of Sudan. The Administration and the 109th Congress are presently working on a second emergency supplemental for FY 2005 in excess of \$80,000,000,000 contained within H.R. 1268.

**Table 2**  
**Fiscal Year 2005 Security Assistance Appropriations and Rescissions (P.L. 108-447)**

<u>Program</u>	<u>Initial Appropriation</u>	<u>Rescission</u>	<u>Final Appropriation</u>
FMFP	\$4,783,500,000	\$38,268,000	\$4,745,232,000
IMET	89,730,000	718,000	89,012,000
ESF	2,501,000,000	20,008,000	2,480,992,000
PKO	179,000,000	1,432,000	177,568,000
<b>Total</b>	<b>\$7,553,230,000</b>	<b>\$60,426,000</b>	<b>\$7,492,804,000</b>

The FY 2005 security assistance program, for the second year in a row, experienced a gap in funding authorization legislation. Division B of S. 2144, *Foreign Assistance Authorization Act*, FY 2005, was reported out of the 108th Congress Senate Foreign Relations Committee (SFRC), but no further action was taken. There was no similar action in the House. The 109<sup>th</sup> Congress SFRC has already reported out S. 600, *Foreign Affairs Authorization Act*, Fiscal Years 2006 and 2007, with S. Rpt. 109-035, March 10, 2005, with Division B including security assistance authorizations. FY 2005 program and funding authorization language was provided within P.L. 108-447 appropriation act. The following six pieces of legislation are to be further analyzed in this article as they relate to the U.S. security assistance, security cooperation, and other international programs.

- *Foreign Operations, Export Financing, and Related Programs Appropriations Act*, 2004, Division D, P.L. 108-447, December 8, 2004.
- *Department of Defense Appropriations Act, 2005*, P.L. 108-287, August 5, 2004.

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- *Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005*, P.L. 108-375, October 28, 2004.
  - *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act*, 2005, Division B, P.L. 108-447, December 8, 2004.
  - *Intelligence Reform and Terrorism Prevention Act* (IRTPA) of 2004, P.L. 108-458, December 17, 2004.
  - *Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act*, 2005, P.L. 108-324, October 13, 2004.

### Reference Sources

The following abbreviated titles will assist in identifying principal sources of information used in this article. The laws and associated congressional reports can be viewed at the Library of Congress “Thomas” web page located at <http://thomas.loc.gov>.

- *Foreign Assistance Act of 1961* (FAA), as amended, Public Law (P.L.) 87-195, September 4, 1961.
- P.L. 87-510: *Migration and Refugee Act of 1962*, P.L. 87-510, June 28, 1962.
- *Arms Export Control Act* (AECA), as amended, P.L. 94-329, 30 June 1976.
- P.L. 91-672, *Foreign Military Sales Act Amendments*, 1971, P.L. 91-672, January 12, 1971.
- P.L. 96-8: *Taiwan Relations Act*, P.L. 96-8, April 10, 1979.
- P.L. 96-533: *International Security and Development Cooperation Act of 1980*, P.L. 96-533, December 16, 1980.
- P.L. 96-533: *Peace Corps Act*, Title VI, P.L. 96-533, December 16, 1980.
- P.L. 99-177: *Balanced Budget and Emergency Deficit Control Act*, P.L. 99-177, December 12, 1985.
- P.L. 99-239: *Compact of Free Association*, P.L. 99-239, January 14, 1986.
- P.L. 99-415: *Anglo-Irish Agreement Support Act of 1986*, P.L. 99-415, September 19, 1986.
- P.L. 101-179: *Support for East European Democracy (SEED) Act of 1989*, P.L. 101-179, September 28, 1989.
- P.L. 101-508: *Omnibus Budget Reconciliation Act of 1990*, P.L. 101-508, November 5, 1990.
- P.L. 101-513: *Iraq Sanction Act of 1990*, P.L. 101-513, November 5, 1990.
- P.L. 102-511: *Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act (FSA) of 1992*, P.L. 102-511, October 14, 1992.
- P.L. 103-87: *Foreign Operations, Export Financing, and Related Programs Appropriations Act*, 1994, P.L. 103-87, September 30, 1993.
- P.L. 104-106: *National Defense Authorization Act, Fiscal Year 1996*, P.L. 104-106, February 10, 1996.
- P.L. 104-164: To amend the *Foreign Assistance Act of 1961* and the *Arms Export Control Act*, to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes, P.L.104-164, July 21, 1996.
- P.L. 105-85: *National Defense Authorization Act Fiscal Year 1998*, P.L. 105-85, November 18, 1997.

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- P.L. 105-261: *Strom Thurmond National Defense Authorization Act, Fiscal Year 1999*, P.L. 105-261, October 17, 1998.
  - P.L. 107-38: *2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States*, P.L. 107-38, September 18, 2001.
  - P.L. 107-57: *An Act to Authorize the President to Exercise Waivers for Foreign Assistance Restrictions with Respect to Pakistan through September 30, 2003, and for Other Purposes*, P.L. 107-57, October 27, 2001.
  - P.L. 107-115: *Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002*, P.L. 107-115, January 10, 2002.
  - P.L. 107-117: *Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002*, P.L. 107-117, January 10, 2002.
  - P.L. 107-187: *Gerald B.H. Solomon Consolidation Act of 2002*, P.L. 107-187, June 10, 2002.
  - P.L. 107-206: *2002 Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States*, P.L. 107-206, August 2, 2002.
  - P.L. 107-206: *American Service-Members' Protection Act of 2002 (ASPA), Title II*, P.L. 107-206, August 2, 2002.
  - P.L. 107-228: *Foreign Relations Authorization Act, Fiscal Year 2003*, P.L. 107-228, September 30, 2002.
  - P.L. 107-228: *Department of State Authorization Act, Fiscal Year 2003, Division A*, P.L. 107-228, September 30, 2002.
  - P.L. 107-228: *Security Assistance Act of 2002, Division B*, P.L. 107-228, September 30, 2002.
  - P.L. 107-240: *Continuing Appropriations for the Fiscal Year 2004, and for Other Purposes*, P.L. 107-240, October 11, 2002.
  - P.L. 107-245: *Sudan Peace Act*, P.L. 107-245, October 21, 2002.
  - P.L. 107-248: *Department of Defense Appropriations Act, 2003*, P.L. 107-248, October 23, 2002.
  - P.L. 107-306: *Intelligence Authorization Act for Fiscal Year 2003*, P.L. 107-306, November 27, 2002.
  - P.L. 107-314: *Bob Stump National Defense Authorization Act for Fiscal Year 2003*, P.L. 107-314, December 2, 2002.
  - P.L. 107-327: *Afghanistan Freedom Support Act of 2002*, P.L. 107-327, December 4, 2002.
  - PP.L. 108-7: *Consolidated Appropriations Resolution, 2003*, P.L. 108-7, February 20, 2003.
  - P.L. 108-7: *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003, Division E*, P.L. 108-7, February 20, 2003.
  - P.L. 108-11: *Emergency Wartime Supplemental Appropriations Act, 2003*, P.L. 108-11, April 16, 2003.
  - P.L. 108-84: *Continuing Appropriations for the Fiscal Year 2004, and for Other Purposes*, P.L. 108-84, September 30, 2003.
  - P.L. 108-87: *Department of Defense Appropriations Act, 2004*, P.L. 108-87, September 30, 2003.

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- P.L. 108-106: *Emergency Supplemental Appropriations Act for Defense and the Reconstruction of Iraq and Afghanistan*, 2004, P.L. 108-106, November 6, 2003.
  - P.L. 108-132: *Military Construction Appropriations Act 2004*, P.L. 108-132, November 22, 2003.
  - P.L. 108-136: *National Defense Authorization Act, Fiscal Year 2004*, P.L. 108-136, November 24, 2003.
  - P.L. 108-199: *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004*, Division B, P.L. 108-199, January 23, 2004.
  - P.L. 108-199: *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004*, Division D, P.L. 108-199, January 23, 2004.
  - P.L. 108-287: *Department of Defense Appropriations Act, 2005*, P.L. 108-287, August 5, 2004.
  - P.L. 108-309: *Making Continuing Appropriations for the Fiscal Year 2005, and for Other Purposes*, P.L. 108-309, September 30, 2004.
  - P.L. 108-324: *Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005*, P.L. 108-324, October 13, 2004.
  - P.L. 108-334: *Department of Homeland Security Appropriations Act, 2005*, P.L. 108-334, October 18, 2004.
  - P.L. 108-335: *District of Columbia Appropriations Act, 2005*, P.L. 108-335, October 18, 2004.
  - P.L. 108-375: *Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005*, P.L. 108-375, October 28, 2004.
  - P.L. 108-447: *Consolidated Appropriations Act, 2005*, P.L. 108-447, December 8, 2004.
  - P.L. 108-447: *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005*, Division B, P.L. 108-447, December 8, 2004.
  - P.L. 108-447: *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005*, Division D, P.L. 108-447, December 8, 2004.
  - P.L. 108-458: *Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA)*, P.L. 108-458, December 17, 2004.
  - P.L. 108-458: *9/11 Commission Implementation Act of 2004*, Title VII, P.L. 108-458, December 17, 2004.
  - P.L. 108-458: *Afghanistan Freedom Support Act Amendments of 2004*, Section 7104, P.L. 108-458, December 17, 2004.

#### **Legislation for Fiscal Year 2005**

#### ***Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005, Division D, P.L. 108-447, 8 December 2004***

- Enacted as Division D of the *Consolidated Appropriations Act, 2005*, P.L. 108-477, December 8, 2004. Originally reported out the House and Senate Appropriations Committees as H.R. 4818, H.R. 108-599, July 9, 2004, and S. 2812, S. Rpt. 108-346, September 15, 2004, respectively. The House and Senate passed their bills on July 15, 2004 and September 23, 2004, respectively. No conference for these foreign operations bills was specifically convened until the consolidation action of the nine remaining outstanding appropriations bills for FY 2005 was completed and reported out as a considerably broadened H.R. 4818 (H.R. 108-792, November 20, 2004). Both Houses approved the consolidated bill also on November 20, 2004 before the

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Thanksgiving recess. Table Two displays the funding initially appropriated within Division D for the four traditional security assistance programs, FMFP, IMET, ESF and PKO, amounting to a total of \$7,553,230,000.

- However, Division J, Section 122, of the same P.L. 108-447 directed an across-the-board rescission of 0.80 percent to discretionary accounts provided in FY 2005 regular appropriations acts. Excluded from this directed rescission were any FY 2005 supplemental appropriations act and three of the four previously enacted FY 2005 appropriations were the following:

- *Department of Defense Appropriations Act, 2005*, P.L. 108-287, August 5, 2004;
- *Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005*, P.L. 108-324, October 13, 2004;

- *Department of Homeland Security Appropriations Act, 2005*, P.L. 108-334, October 18, 2004.

- The fourth earlier enacted appropriation not exempted from the rescission action is the *District of Columbia Appropriations Act, 2005*, P.L. 108-335, October 18, 2004;

- Similar to prior fiscal years, the rescission is to be applied proportionately to each discretionary account and each item of budget authority described in such subsection and within each account and item, to each program, project, and activity. The FY 2005 rescission of 0.80 percent can be compared to the FY 2004 rescission of 0.59 percent and the FY 2003 rescission of 0.65 percent; and

- Table Two displays the total rescission of \$60,426,000 for the four FY 2005-appropriated security assistance programs reducing the total appropriation to \$7,492,804,000.

### **Title III, Military Assistance, Foreign Military Financing Program**

- Initially appropriated \$4,783,500,000 as FMFP grant assistance to carry out the provisions of Section 23, AECA. The 0.80 percent rescission amounted to \$38,268,000 reducing the entire program to \$4,745,232,000 available for country or program allocation.

- The Administration's FY 2005 FMFP request was \$4,957,500,000 with both House and Senate proposals being \$4,777,500,000.

- Both versions additionally authorized up to \$150,000,000 for Pakistan being transferred from prior years' unobligated and unearmarked FMFP and ESF appropriations. This transfer authority was enacted with Pakistan receiving an initial FMFP allocation of \$148,800,000.

- The two legislated earmarks for FMFP funding included:

- Not less than \$2,220,000,000 for Israel to be disbursed within thirty (30) days of the enactment of this Act.

- After rescission, Israel was allocated \$2,202,240,000.

- This is the seventh year of a ten-year plan in which Israel's FMFP assistance is to increase by \$60,000,000 annually to coincide with an annual decrease \$120,000,000 in ESF assistance towards achieving Israel's goal of receiving no ESF from the U.S. beginning in FY 2009.

- As in prior years, to the extent Israel requests that funds be used for such purposes, funds made available to Israel shall, as agreed upon by Israel and the U.S., be available for advanced weapons systems, of which not less than \$580,000,000 shall be available for procurement in Israel of defense articles and services, to include research and development. This is \$12,000,000 greater than authorized for FY 2004.

- Not less than \$1,300,000,000 for **Egypt**.

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- After the rescission, Egypt was allocated \$1,289,600,000.
  - As was with past authorities, any FMFP funds outlayed for Egypt during the year shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within thirty (30) days of the enactment of this Act.
  - Before the rescission and not including the Pakistan carry forward authority, the two earmarks totaled \$3,520,000,000 or just in excess of 73 percent of the initial appropriation leaving \$1,263,500,000 for other FY 2005 FMFP programs. For comparison, the FY 2004 earmark percentage of initial appropriations was nearly 81 percent with \$834,000,000 being available for other programs.
  - While no other earmarking language was used in the Act or its conference report, H. Rpt. 108-792, the conference report did indicate how the funds are to be allocated with any reprogramming of FMFP, et al., to be done in accordance with Section 634A, FAA. This includes a fifteen day notification to the two congressional appropriations committees (HAC and SAC) and the Senate Foreign Relations (SFRC) and House International Relations Committees (HIRC) in advance of obligation whenever the reprogramming exceeds \$1,000,000 and the total amount to be obligated by the country exceeds by more than \$5,000,000 the amount initially notified to Congress for allocation in accordance with Section 653(a), FAA.
  - \$206,000,000 should be made available for **Jordan**. After the rescission, Jordan was allocated \$204,352,000.
  - Not more than \$2,000,000 may be made available for **Uganda** but only for non-lethal military equipment and if the Secretary of State determines an reports that the government of Uganda has made significant progress in:
    - The protection of human rights, especially preventing acts of torture;
    - The protection of civilians in northern and eastern Uganda; and
    - The professionalization of the Ugandan armed forces.
  - No FY 2005 FMFP funding for **Sudan and Guatemala**. Last year's prohibition also included Liberia, which was initially allocated \$2,976,000 for FY 2005.
  - No FMFP funding may be made available for **Haiti** except pursuant to regular notification procedures to the two appropriations committees. After the rescission, Haiti was initially allocated \$298,000.
  - FMFP may be used for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through non-governmental and international organizations.
  - As in prior years, only those countries for which was justified for FMFP in FY 1989 congressional presentation for security assistance may use FY 2005 FMFP funds for procurement of defense articles and services or design and construction services that are not sold by the U.S. government under the AECA.
    - This includes the countries of **Israel, Egypt, Jordan, Morocco, Tunisia, Turkey, Portugal, Pakistan, Yemen, and Greece** being able to use FMFP using the Direct Commercial Sales (DCS) process. Of these countries, Portugal and Greece were not initially allocated any FY 2005 FMFP funding. Refer to DoD 5105.38-M, *Security Assistance Management Manual* (SAMM), Sections C9.7.4 and C9.7.4.1 for further information.
  - Not more than \$40,000,000 may be obligated for necessary expense, including the purchase of passenger vehicles for replacement only for use outside the U.S., for general costs of administering military assistance and sales. After rescission, \$39,680,000 was initially allocated, the FY 2004 initial authorization for these purposes was \$40,500,000.
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- Not more than \$367,000,000 of the non-appropriated **FMS administrative fund** may be obligated for expenses incurred by DoD during FY 2005 pursuant to Section 43(b), AECA. This ceiling may be exceeded only through regular notification procedures of the two appropriations committees. The authorized ceiling for FY 2004 was \$361,000,000.

- Table 3 provides the FY 2005 FMFP allocations which were notified to Congress on February 8, 2005 in accordance with Section 653(a), FAA. This report is normally required not later than thirty (30) days after the enactment of the appropriations act. For comparison, the final allocations for FY 2004 and the Administration's FY 2005 requests are also included.

- It must be noted that the FY 2004 funding column includes **Afghanistan** emergency supplemental funding of \$287,000,000 originally appropriated by P.L.108-106 , November 6, 2003, and the Afghanistan Emergency Response Fund (ERF) of \$77,000,000 originally appropriated by P.L.107-38, September 18, 2001.

- Additionally, the FY 2004 funding column does not reflect the authorized but not used and now expired \$550,000,000 FMFP direct loan to the **Czech Republic** for the purpose of purchasing aircraft from the U.S. or the support of purchased U.S.-origin aircraft. This was authorized by H.J. Res. 69, P.L. 108-84, September 30, 2003.

**Table 3**  
**Foreign Military Financing Program**  
**Fiscal Year 2005 Funding Allocations**  
**(\$ in millions)**

<u>Country/Program by Geographical Region</u>	<u>FY 2004 Actual FMFP Allocation</u>	<u>FY 2005 Budget Justification Request</u>	<u>FY 2005 Initial FMFP Allocation</u>
<b>Near East</b>			
Bahrain	\$24.682	\$20.000	\$18.848
Egypt	1,292.330	1,300.000	1,289.600
Israel	2,147.256	2,220.000	2,202.240
Jordan	204.785	206.000	204.352
Morocco	9.940	20.000	15.128
Oman	24.850	25.000	19.840
Tunisia	9.827	10.000	9.920
Yemen	14.910	15.000	9.920
<b>Sub Total</b>	<b>\$3,728.580</b>	<b>\$3,816.000</b>	<b>\$3,769.848</b>
<b>Europe and Eurasia</b>			
Albania	\$5.000	\$3.000	\$2.976
Armenia	2.485	2.000	7.936
Azerbaijan	2.485	8.000	7.936
Bosnia and Herzegovina	18.400	2.500	2.480
Bulgaria	8.450	7.000	6.944
Czech Republic	7.869	6.000	5.952
Estonia	5.979	5.000	4.960
Georgia	12.000	12.000	11.904
Hungary	6.938	6.000	5.952
Kazakhstan	2.980	6.000	4.960
Kyrgyz Republic	4.075	3.000	1.984
Latvia	6.496	5.000	4.960
Lithuania	6.389	5.500	5.456
Macedonia	7.950	6.500	5.208
Moldova	0.990	0.800	0.446

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Poland	32.500	66.000	65.472
Romania	8.950	11.000	10.912
Slovakia	6.603	6.000	4.960
Slovenia	1.974	2.000	1.488
Tajikistan	1.995	0.700	0.496
Turkey	35.000	34.000	33.728
Turkmenistan	0.500	0.700	0.694
Ukraine	5.000	6.500	2.976
Uzbekistan	<u>0.000</u>	<u>12.000</u>	<u>10.912</u>
<b>Sub Total</b>	<b>\$191.008</b>	<b>\$217.200</b>	<b>\$211.692</b>
<b>Western Hemisphere</b>			
Argentina	\$0.000	\$1.000	\$0.992
Bahamas	0.099	0.100	0.099
Belize	0.191	0.200	0.198
Bolivia	3.976	3.000	1.984
Chile	0.347	0.500	0.496
Colombia	98.450	108.000	99.200
Dominican Republic	2.000	1.500	0.992
Ecuador	0.000	2.000	0.992
El Salvador	5.000	2.750	1.488
Guyana	0.095	0.100	0.099
Haiti	0.295	0.300	0.298
Honduras	2.375	1.500	0.992
Jamaica	0.597	0.600	0.595
Nicaragua	0.938	0.500	0.496
Panama	2.000	1.500	0.992
Peru	0.000	1.000	0.992
Suriname	0.114	0.100	0.099
Uruguay	0.000	0.500	0.397
Eastern Caribbean	<u>3.137</u>	<u>1.350</u>	<u>0.993</u>
<b>Sub Total</b>	<b>\$119.614</b>	<b>\$126.500</b>	<b>\$112.394</b>
<b>Africa</b>			
African Coastal and Border Security	\$0.000	\$4.000	\$3.968
Botswana	0.500	0.500	0.496
Djibouti	6.378	4.000	3.968
Eritrea	0.000	0.500	0.496
Ethiopia	2.480	2.000	1.984
Ghana	0.737	0.500	0.496
Kenya	6.635	7.000	6.944
Liberia	0.000	0.000	2.976
Nigeria	0.000	1.000	0.496
Senegal	0.737	0.500	0.496
Uganda	1.990	0.000	1.984
Military Health Affairs	<u>1.490</u>	<u>2.000</u>	<u>1.984</u>
<b>Sub Total</b>	<b>\$20.947</b>	<b>\$22.000</b>	<b>\$26.288</b>
<b>East Asia and Pacific</b>			
Cambodia	\$0.000	\$0.000	\$0.992
East Timor	2.420	1.000	0.992
Fiji	0.000	0.000	0.248
Indonesia	0.000	0.000	0.992
Mongolia	0.995	0.500	0.992

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Philippines	19.880	30.000	29.760
Thailand	0.881	0.500	1.488
Tonga	<u>0.500</u>	<u>0.000</u>	<u>0.248</u>
<b>Sub Total</b>	<b>\$24.676</b>	<b>\$32.000</b>	<b>\$35.712</b>
<b>South Asia</b>			
Afghanistan	\$49.705	\$400.000	\$396.800
Supplemental*	287.000	.000	.000
ERF**	77.000	.000	.000
Bangladesh	0.000	0.000	0.248
Nepal	3.975	1.000	1.488
Pakistan	74.560	300.000	148.800
Sri Lanka	<u>2.495</u>	<u>0.500</u>	<u>0.496</u>
<b>Sub Total</b>	<b>\$494.735</b>	<b>\$701.500</b>	<b>\$547.832</b>
<b>Global</b>			
EIPC***	\$1.990	\$1.800	\$1.786
FMFP Administrative Costs	40.260	40.500	39.680
Sub Total	\$42.250	\$42.300	\$41.466
Total Allocation	\$4,621.810	\$4,957.500	\$4,745.232
Rescission	<u>\$25.335</u>	<u>.000</u>	<u>\$38.268</u>
<b>Total Appropriation</b>	<b>\$4,647.145</b>	<b>\$4,957.500</b>	<b>\$4,783.500</b>

**Notes:**

\* Enhanced International Peacekeeping Capabilities (EIPC).

\*\* Afghanistan emergency supplemental funding was appropriated by P.L.108-106, November 6, 2003.

\*\*\* Afghanistan Emergency Response Fund (ERF) was originally appropriated by P.L.107-38, September 18, 2001.

### **Title III, Military Assistance, International Military Education and Training**

- Initially appropriated \$89,730,000 as IMET grant assistance to carry out the provisions of Section 541, FAA, of which \$3,000,000 may remain available until expended. The mandated rescission of 0.80 percent amounted to \$718,000 reducing the total grant program for the year to \$89,012,000.
- The original Administration IMET request was \$89,730,000 and agreed upon by both the House and the Senate.
- As in the past years, civilian personnel for whom IMET funding may be provided may include civilians who are not members of a government who participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights.
- The IMET funding for **Guatemala** may only be available for Expanded IMET (E-IMET). IMET funds for **Haiti, the Democratic Republic of the Congo, and Nigeria** may only be provided through the regular notification procedures of the congressional appropriations committees. Haiti and the Democratic Republic of the Congo were not in this notification category last year. This year, Algeria and Cambodia are no longer in the notification category.
- The House initially proposed that **Greece** receive \$2,000,000 in IMET funding and the Senate did not address the matter. The conference report requested the Secretary of State to consider providing up to this amount for Greece. The Administration's original request was \$600,000 for Greece with an initial allocation of \$1,000,000.
- The conference report also supported additional IMET funding for **Egypt** to increase cooperation in the war on international terrorism. The Administration's original request and initial allocation for Egypt was \$1,200,000.

- The House committee report encouraged additional IMET support to U.S. allies in the war on international terrorism, to include the **Philippines, Georgia, and Mongolia**. The Senate committee report and the conference report were silent on the matter. The Administration requested and allocated \$3,000,000 to the Philippines; requested and allocated \$1,200,000 to Georgia; and requested and allocated \$850,000 to Mongolia.

- Table 4 provides the FY 2005 IMET allocations which were notified to Congress on 8 February 2005. The table also includes the final funding levels allocated during FY 2004 and the funding requested by the Administration for FY 2005.

**Table 4**  
**International Military Education and Training (IMET)**  
**FY 2005 Funding Allocations**  
**(\$ in thousands)**

<u>Country/Program by Geographical Region</u>	<u>FY 2004 Actual IMET Allocation</u>	<u>FY 2005 Budget Justification Request</u>	<u>FY 2005 Initial IMET Allocation</u>
<b>Near East</b>			
Algeria	\$722	\$850	\$850
Bahrain	568	650	650
Egypt	1,369	1,200	1,200
Jordan	3,225	3,000	3,000
Lebanon	700	700	700
Morocco	1,997	1,875	1,875
Oman	825	1,100	1,100
Saudi Arabia	24	25	25
Tunisia	1,899	1,875	1,875
Yemen	886	1,100	1,100
<b>Sub Total</b>	<b>\$12,215</b>	<b>\$12,375</b>	<b>\$12,375</b>
<b>Europe and Eurasia</b>			
Albania	\$1,198	\$900	\$900
Armenia	869	750	750
Azerbaijan	1,084	750	750
Bosnia and Herzegovina	991	900	900
Bulgaria	1,463	1,395	1,395
Croatia	0	50	50
Czech Republic	2,276	1,900	1,900
Estonia	1,408	1,200	1,200
Georgia	1,228	1,200	1,200
Greece	568	600	1,000
Hungary	2,044	1,900	1,900
Kazakhstan	1,233	1,000	1,000
Kyrgyz Republic	1,047	1,100	1,100
Latvia	1,337	1,200	1,200
Lithuania	1,343	1,200	1,200
Macedonia	858	650	650
Malta	0	125	0
Moldova	1,225	900	900
Poland	2,283	2,000	2,000
Portugal	752	850	850
Romania	1,529	1,500	1,500

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Russia	778	800	800
Serbia and Montenegro	0	250	50
Slovakia	1,075	950	950
Slovenia	950	950	950
Tajikistan	351	350	350
Turkey	5,000	4,000	4,000
Turkmenistan	40	450	450
Ukraine	1,834	1,700	1,700
Uzbekistan	484	1,200	800
<b>Sub Total</b>	<b>\$35,548</b>	<b>\$32,720</b>	<b>\$32,395</b>
<b>Western Hemisphere</b>			
Argentina	\$1,087	\$1,100	\$825
Bahamas	165	240	240
Belize	277	100	200
Bolivia	589	800	800
Brazil	00	50	00
Chile	600	600	600
Colombia	1,676	1,700	1,700
Costa Rica	0	50	0
Dominican Republic	973	1,100	1,100
Ecuador	0	300	300
Eastern Caribbean	719	800	800
El Salvador	,480	1,600	1,600
Guatemala	504	300	350
Guyana	359	300	300
Haiti	235	150	150
Honduras	1,309	1,100	1,100
Jamaica	700	700	700
Mexico	1,275	1,250	1,250
Nicaragua	779	600	600
Panama	558	600	600
Paraguay	00	250	250
Peru	00	300	300
Suriname	151	150	150
Trinidad and Tobago	0	50	0
Uruguay	0	150	150
Venezuela	0	50	0
<b>Sub Total</b>	<b>\$13,436</b>	<b>\$14,390</b>	<b>\$14,065</b>
<b>Africa</b>			
African Union	0	0	50
Angola	300	300	300
Benin	00	250	250
Botswana	922	700	700
Burkina Faso	115	50	100
Burundi	0	50	50
Cameroon	361	225	225
Cape Verde	200	120	120
Central African Republic	00	110	50
Chad	574	225	245
Comoros	121	50	80
Cotê d'Ivoire	0	50	0
Democratic Rep. of the Congo	332	50	157

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Djibouti	406	325	325
ECOWAS*	0	100	100
Equatorial Guinea	0	50	0
Eritrea	42	450	450
Ethiopia	542	600	600
Gabon	283	210	210
Gambia	183	75	75
Ghana	921	575	595
Guinea	482	350	350
Guinea-Bissau	0	100	100
Kenya	638	650	650
Lesotho	0	50	50
Madagascar	333	200	200
Malawi	415	360	360
Mali	0	175	175
Mauritania	234	130	130
Mauritius	144	125	125
Mozambique	243	215	215
Namibia	0	100	100
Niger	0	100	100
Nigeria	0	800	800
Republic of the Congo	27	110	110
Rwanda	298	225	225
São Tomé and Príncipe	188	200	200
Senegal	1,188	1,100	1,100
Seychelles	98	100	100
Sierra Leone	416	300	300
South Africa	0	50	50
Swaziland	131	100	100
Tanzania	0	100	0
Togo	204	120	120
Uganda	371	225	240
Zambia	461	225	225
<b>Sub Total</b>	<b>\$11,173</b>	<b>\$10,775</b>	<b>\$10,807</b>
<b>East Asia and Pacific</b>			
Cambodia	0	50	0
East Timor	159	300	300
Fiji	229	250	250
Indonesia	599	600	600
Laos	0	100	50
Malaysia	939	1,100	1,100
Mongolia	872	850	850
Papua New Guinea	292	300	300
Philippines	2,700	3,000	3,000
Samoa	0	50	50
Solomon Islands	45	150	150
Thailand	2,572	2,500	2,500
Tonga	136	135	135
Vanuatu	100	110	110
Vietnam	0	50	50
<b>Sub Total</b>	<b>\$8,643</b>	<b>\$9,545</b>	<b>\$9,445</b>

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<b>South Asia</b>			
Afghanistan	\$674	\$800	\$800
Bangladesh	862	900	900
India	1,366	1,400	1,400
Maldives	181	175	175
Nepal	546	650	650
Pakistan	1,384	2,000	2,000
Sri Lanka	553	500	500
Sub Total	\$5,566	\$6,425	\$6,425
<b>Global</b>			
E-IMET**	\$3,360	\$3,000	\$3,000
IMET general costs***	650	500	500
No-Year/Carry forward	718	0	0
<b>Sub Total</b>	<b>\$4,578</b>	<b>\$3,500</b>	<b>\$3,500</b>
<b>Total Allocation</b>	<b>\$91,159</b>	<b>\$89,730</b>	<b>\$89,012</b>
Rescission	\$541	00	\$718
<b>Total Appropriation</b>	<b>\$91,700</b>	<b>\$89,730</b>	<b>\$89,730</b>

**Notes:**

\* ECOWAS is Economic Community of West African States.

\*\* E-IMET\*\*

\*\*\* P.L.108-199, 23 January 2004, provided authority for \$3 million of FY 2004 IMET funding to remain available (or carried forward) until expended. This same authority is provided for the FY 2005 IMET program.

## **Title II, Other Bilateral Economic Assistance, Economic Support Fund**

- Initially appropriated \$2,482,500,000 as an ESF grant assistance, to remain available until September 30, 2006, to carry out provisions of Chapter 4, Part II, of the FAA. A second ESF appropriation of \$18,500,000 in grant funding is also provided for the International Fund for Ireland to be made available in accordance with the *Anglo-Irish Agreement Support Act of 1986*, P.L. 99-415, September 19, 1986. The overall ESF total of \$2,501,000,000 is reduced by \$20,008,000 as mandated by the 0.80 percent rescission to a final total of \$2,480,992,000 available for allocation.

- The ten legislated earmarks, which include the terms “shall,” “should,” or “may” in determining appropriated funding usage, for FY 2005 ESF appropriations include:

- Not less than \$360,000,000 for Israel to be disbursed within thirty days of the enactment of this Act.

- After the rescission, Israel received an initial allocation of \$357,120,000.

- As previously noted in the FMFP funding for Israel discussion, this is the seventh year of a ten-year plan to phase out the Israeli ESF program before FY 2009 by decreasing the program by \$120,000,000 annually and increasing the Israeli FMFP funding by \$60,000,000 annually.

- Not less than \$535,000,000 for **Egypt** of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which \$200,000,000 should be provided as Commodity Import Program assistance.

- The language for the Commodity Import Program for FY 2005 was modified from prior years in that not less than \$200,000,000 shall be provided was not used.

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••• The conference report does not include the Senate proposed language that assistance be provided for Egypt with the understanding that the government of Egypt will undertake significant political reforms in addition to those undertaken in previous years.

••• The conference agreement, however, includes the Senate proposal that democracy and governance activities shall not be subject to the prior approval of the government of Egypt. The conference managers intended for this language to include non-governmental organizations and other segments of civil society that may not be registered with, or officially recognized by, the government of Egypt. However, the managers understand that government of Egypt should be kept informed of funding provided pursuant to these activities.

••• After the rescission, Egypt received an initial allocation of \$530,720,000.

•• Not less than \$250,000,000 should be available for Jordan. The Senate proposal used the term shall.

••• After the rescission, Jordan received an initial allocation of \$248,000,000.

••• The conference agreement did not include the Senate proposal for providing assistance to the Rosary Sisters Hospital in Jordan. The managers expressed understanding the concerns of the government of Jordan regarding the impact of this proposed activity would have on the assistance program for Jordan and recommend that United States Agency for International Development (USAID) and the DoS review a proposal from the Hospital for possible funding from other sources within this Act.

•• \$13,500,000 should be available for **Cyprus** to be used only for scholarships, administrative support of the scholarship program, bicomunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

••• After the rescission, the Cyprus program was initially allocated \$13,392,000.

•• \$35,000,000 should be available for **Lebanon** of which not less than \$4,000,000 shall be for scholarships and direct support of American educational institutions in Lebanon.

••• After rescission, the Lebanon program was initially allocated \$34,720,000.

•• Not more than \$200,000,000 of ESF appropriations may be used for the costs of modifying direct loans and guarantees for **Pakistan**.

••• The Administration requested \$300,000,000 for Pakistan and, after rescission, \$297,600,000 was allocated.

••• The funding made available for the costs of modifying direct loans guarantees shall not be considered assistance for the purposes of provisions of law limiting assistance to Pakistan.

•• Not less than \$22,000,000 shall be made available to the **Democratic Republic of Timor-Leste** of which up to \$1,000,000 may be available for administrative expenses of the USAID.

••• The Administration requested \$13,500,000 for Timor-Leste and, after the rescission \$21,824,000 was allocated.

•• Of any ESF funding made available for Indonesia, \$3,000,000 should be made available to promote freedom of the media in Indonesia.

••• The Administration requested \$70,000,000 for **Indonesia** and, after the rescission \$64,480,000 was allocated.

••• The conference agreement did not include the Senate proposal that \$2,000,000 shall be available for economic development programs conducted by Indonesian universities; however, the managers expected funding should be provided for this purpose.

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••• The managers expect USAID to provide sufficient funding for democracy building in Indonesia and request USAID to consult with the appropriations committees on this matter.

••• The managers also expect currently unobligated funds for police training in Indonesia to be fully used for FY 2005 ESF resources are used for this purpose.

•• \$5,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries. The Senate originally proposed \$10,000,000.

••• The Administration did not request funding for wheelchairs and, after the rescission, \$4,960,000 was allocated.

•• \$18,500,000 shall be made available as the U.S. contribution to the International Fund for **Ireland** in accordance with P.L. 99-415.

••• The Administration requested \$8,500,000 in FY 2005 ESF funding for this international fund, and after rescission, \$18,352,000 was initially allocated. Additionally, the Administration requested \$3,500,000 in ESF for the Irish Visa Program and, after rescission, \$3,472,000 was allocated.

•• \$1,442,000,000 of FY 2005 funding appropriated for ESF was earmarked. This amounted to about 58 percent of the \$2,501,000,000 appropriated for the program.

••• An unspecified amount of ESF funding may be used to provide assistance to the **National Democratic Alliance of Sudan** to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardments by the Sudanese government forces and its militia allies. This funding shall be subject to the regular notification procedures of the congressional appropriations committees.

••• This assistance is specifically defined to include non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, on-military vehicles, tents, and shoes.

••• The Administration requested \$20,000,000 for Sudan and, after the rescission \$19,840,000 was allocated.

• Any ESF funding made available for a Middle East Financing Facility, Middle East Enterprise, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the congressional appropriations committees.

• With respect to FY 2005 ESF funding and prior fiscal years' ESF, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State. This responsibility shall not be delegated.

• The conference agreement did not include the House proposal of \$50,000,000 in ESF for **Haiti**. However, the agreement did provide for \$85,000,000 in total FY 2005 assistance for Haiti as specified in later Section 549 of this Act, which provides that \$40,000,000 in ESF should be made available for Haiti for judicial reform programs, police training, and activities in support of national elections.

•• The Administration did not request any FY 2005 ESF assistance for Haiti; however, after the rescission \$39,680,000 was initially allocated.

• The conference agreement did not include the Senate proposed language that would have authorized up to \$4,500,000 for **scholarship programs** for students from countries with significant Muslim populations at accredited American institutions of higher learning. The managers expressed that sufficient authority already exists to fund such scholarships. The managers direct the DoS to review such a proposal. Based on this review, as a part of the FY

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2006 budget request, recommend how such a program (to also include elementary and secondary school students) could be effectively funded and managed by the U.S. government.

- The conference agreement did not include \$2,500,000 for technical assistance to implement the **Kimberly Process Certification Scheme**. However, the agreement indicates that \$1,750,000 should be made available for this purpose.

- In response to U.N. Security Council resolutions regarding the control of conflict diamonds mined and sold to finance government overthrows, terrorism, and any related human rights violations on the world market place, the 107th Congress originally introduced H.R. 2722, *Clean Diamond Trade Act*, to financially support countries in stopping the trade in conflict diamonds. H.R. 2722 was never passed. It was not until FY 2003 that ESF assistance of \$2,000,000 was appropriated by Division E, P.L. 108-7, for the expressed support of the Kimberly Process. The FY 2004 ESF appropriation, Division D, P.L. 108-199, for this program was \$1,500,000.

- The Administration did not request FY 2005 ESF for this program; however, after rescission, \$1,736,000 was initially allocated.

- The conference agreement did not include the Senate proposal of providing ESF for environment initiatives in the East Asia and Pacific; however, the agreement did indicate that \$1,750,000 should be made available for these initiatives.

- The Administration did not request FY 2005 ESF funding for the initiatives; however, after the rescission, \$1,736,000 was allocated.

- The conference agreement did not include the Senate proposed language for specified ESF funding levels for **Kenya** and **Liberia**; however, the report did provide for ESF to the two countries.

- The Administration requested \$8,000,000 and \$25,000,000 for Kenya and Liberia respectively. After rescission, the countries were initially allocated \$8,928,000 and \$24,800,000 respectively.

- The conference agreement did not include a Senate provision that not less than \$500,000 should be available for the Commission to **Investigate Illegal Groups and Clandestine Security Apparatus in Guatemala (CICIACS)**. However, the managers intend that once the commission is established, not less than \$500,000 should be made available as support. There was no initial allocation of ESF funding for this purpose.

- The conference agreement did not include the Senate proposed language to provide funding for the **Foundation for Security and Sustainability**, with the managers indicating that \$3,000,000 should be provided.

- The Administration did not request FY 2005 funding for this program however, after rescission, \$2,976,000 was initially allocated.

- Table 5 provides the FY 2005 ESF allocations which were notified to Congress on February 8, 2005. For comparison, the final allocations for FY 2004 and the Administration's FY 2005 requests are also included.

- It must be noted that the FY 2004 funding column includes **Afghanistan** Emergency Response Fund (ERF) of \$153,000,000 originally appropriated by P.L. 107-38, September 18, 2001. Likewise, FY 2004 funding includes \$100,000,000, \$672,000,000, and \$200,000,000 as emergency supplemental funding for **Jordan**, **Afghanistan**, and **Pakistan**, respectively, as appropriated by P.L. 108-106, November 6, 2003.

**Table 5**  
**Economic Support Fund**  
**FY 2005 Funding Allocations**  
(\$ in thousands)

<b>Country/Program by Geographical Region</b>	<b>FY 2004 ESF Allocation</b>	<b>FY 2005 Budget Request</b>	<b>FY 2005 ESF Allocation</b>
<b>Near East</b>			
Egypt	\$571,608	\$535,000	\$530,720
Israel	477,168	360,000	357,120
Jordan	248,525	250,000	248,000
Supplemental	100,000	0	0
Lebanon	34,794	32,000	34,720
Morocco	00	20,000	19,840
Yemen	11,432	20,000	14,880
Middle East Multilaterals	00	2,000	1,984
Middle East Partnership Initiative	89,469	150,000	74,400
Middle East Regional Cooperation	5,467	5,000	4,960
NED Muslim Democracy	3,479	0	3,968
West Bank/Gaza	<u>74,558</u>	<u>75,000</u>	<u>74,400</u>
<b>Sub Total</b>	<b>\$1,616,500</b>	<b>\$1,449,000</b>	<b>\$1,364,992</b>
<b>Europe and Eurasia</b>			
Cyprus	\$38,420	\$13,500	\$13,392
Turkey	10,000	50,000	0
International Fund for Ireland	18,391	8,500	18,352
Irish Visa Program	<u>3,479</u>	<u>3,500</u>	<u>3,472</u>
<b>Sub Total</b>	<b>\$70,290</b>	<b>\$75,500</b>	<b>\$35,216</b>
<b>Western Hemisphere</b>			
Bolivia	\$8,000	\$8,000	\$7,936
Brazil	750	0	0
Cuba	21,369	9,000	8,928
Dominican Republic	3,682	3,000	2,976
Ecuador	10,473	13,000	12,896
Guatemala	4,971	4,000	5,952
Haiti	54,982	00	39,680
Mexico	11,432	11,500	13,392
Nicaragua	00	2,500	3,472
Panama	1,000	3,000	2,976
Paraguay	2,982	3,000	2,976
Peru	7,453	8,000	7,936
Venezuela	1,497	500	496
Administration of Justice	4,424	0	0
Hemispheric Cooperation	6,941	0	0
Peru-Ecuador Peace	3,976	4,000	2,976
Regional Anticorruption Initiatives	00	3,000	2,976
Summit of the Americas Support	00	2,000	1,488
Third Border Initiative	4,976	9,000	8,928
Trade Capacity Building	<u>0</u>	<u>8,500</u>	<u>19,840</u>
<b>Sub Total</b>	<b>\$148,908</b>	<b>\$92,000</b>	<b>\$145,824</b>
<b>Africa</b>			
Angola	\$3,479	\$3,000	\$2,976
Burundi	3,479	3,250	3,224

Democratic Republic of Congo	4,971	5,000	4,960
Djibouti	0	2,000	1,984
Ethiopia	3,971	5,000	4,960
Kenya	7,953	8,000	8,928
Liberia	00	25,000	24,800
Nigeria	4,971	5,000	4,960
Sierra Leone	4,971	5,000	5,952
South Africa	1,988	1,000	992
Sudan	10,941	20,000	19,840
Zimbabwe	2,982	2,000	1,984
Africa Regional Fund	11,929	11,000	8,928
Kimberley Process	1,491	0	1,736
NED Democracy Programs	2,982	0	3,472
Regional Organizations	2,982	1,000	992
Safe Skies	<u>4,971</u>	<u>5,000</u>	<u>3,472</u>
<b>Sub Total</b>	<b>\$74,061</b>	<b>\$101,250</b>	<b>\$104,160</b>
<b>East Asia and Pacific</b>			
Burma	\$12,923	\$7,000	\$7,936
Cambodia	16,900	17,000	16,864
East Timor	22,367	13,500	21,824
Indonesia	49,705	70,000	64,480
Mongolia	9,941	10,000	9,920
Philippines	17,645	35,000	34,720
Thailand	0	0	992
ASEAN*	994	2,500	744
Environmental Programs	1,740	00	1,736
National Endowment for Democracy	2,982	00	3,968
Regional Security Fund	00	250	248
Regional Women's Issues	1,988	1,000	992
South Pacific Fisheries	17,894	18,000	17,856
Tibet	<u>3,976</u>	<u>0</u>	<u>4,216</u>
<b>Sub Total</b>	<b>\$159,055</b>	<b>\$174,250</b>	<b>\$186,496</b>
<b>South Asia</b>			
Afghanistan	\$74,558	\$225,000	\$223,200
ERF**	153,000	0	0
Supplemental***	672,000	0	0
Bangladesh	4,971	5,000	4,960
India	14,912	15,000	14,880
Nepal	4,971	5,000	4,960
Pakistan	00	300,000	297,600
Supplemental	200,000	0	0
Sri Lanka	11,929	12,000	9,920
South Asia Regional Fund	<u>1,988</u>	<u>2,000</u>	<u>992</u>
<b>Sub Total</b>	<b>\$1,138,329</b>	<b>\$564,000</b>	<b>\$556,512</b>
<b>Global</b>			
Disability Programs	0	0	\$2,480
Human Rights and Democracy Fund	34,296	27,000	36,704
Muslim Outreach	0	20,000	0
Oceans, Environment, and Science Initiative	3,976	3,000	2,480
Other Programs	12,426	0	0
Partnership to Eliminate Sweatshops	1,988	2,000	1,984

Reconciliation Programs	7,953	0	11,904
Security and Sustainability Programs	2,982	0	2,976
Trafficking in Persons	12,427	12,000	24,304
Wheelchairs	4,971	0	4,960
Sub Total	\$81,019	\$64,000	\$87,792
<b>Total Allocation</b>	<b>\$3,288,162</b>	<b>\$2,520,000</b>	<b>\$2,480,992</b>
Rescission	\$12,691	0	\$20,008
<b>Total Appropriation</b>	<b>\$3,300,853</b>	<b>\$2,520,000</b>	<b>\$2,501,000</b>

**Notes:**

\* ASEAN is Association of Southeast Asian Nations with ten member countries to include Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam. The U.S. is one of many countries designated as dialogue partners.

\*\* Afghanistan Emergency Response Fund (ERF) was originally appropriated by P.L.107-38, 18 September 2001.

\*\*\* Afghanistan, Jordan, and Pakistan emergency supplemental funding was appropriated by P.L.108-106, 6 November 2003.

**Title III, Military Assistance, Peacekeeping Operations**

- Initially appropriated \$104,000,000 as PKO grant assistance for necessary expenses to carry out the provisions of Section 551 of the FAA, to be obligated or expended except as provided through regular notification procedures of the congressional appropriations committees. Later Section 569(g) of this Act appropriated an additional \$75,000,000 as PKO specifically to support peace and humanitarian intervention operations for Sudan. Total initial FY 2005 PKO appropriations amounts to \$179,000,000. However, the mandated 0.80 percent rescission amounted to \$1,432,000 reducing the program total for initial allocation to \$177,568,000.

- Overall, the Administration's original request for FY 2005 PKO funding of \$104,000,000 was mutually agreed upon by both the House and the Senate.

- The conference agreement did not include the Senate provision authorizing the transfer of DoD funding to the DoS for military or security assistance to enhance the capability of countries to participate in international peacekeeping or peace enforcement operations.

- Table 6 provides the FY 2005 PKO funding allocations which were notified to Congress on February 8, 2005. For comparison, the final allocations for FY 2004 and the Administration's FY 2005 requests are also included.

- It must be noted that \$50,000,000 in emergency supplemental FY 2004 PKO was also provided by P.L. 108-106, November 6, 2003. This was allocated among the countries of Sudan, Mongolia, Philippines, Thailand, Ukraine, Yemen, and Afghanistan.

**Table 6**  
**Peacekeeping Operations (PKO)**  
**FY 2005 Funding Allocations**  
**(\$ in thousands)**

<b>Country/Program by Geographical Region</b>	<b>FY 2004 PKO Allocation</b>	<b>FY 2005 Budget Request</b>	<b>FY 2005 PKO Allocation</b>
<b>Africa</b>			
Africa Regional	\$9,761	\$45,000	\$43,912
ACOTA*	15,410	15,000	14,880
Sudan	0	0	74,400
Supplemental	<u>5,000</u>	<u>0</u>	<u>0</u>
<b>Sub Total</b>	<b>\$30,171</b>	<b>\$60,000</b>	<b>\$133,192</b>

<b>East Asia and Pacific</b>			
East Timor	\$1,050	0	0
Mongolia Supplemental	1,000	0	0
Philippines Supplemental	15,000	0	0
Thailand Supplemental	<u>500</u>	<u>0</u>	<u>0</u>
<b>Sub Total</b>	<b>\$17,550</b>	<b>\$0</b>	<b>\$0</b>
<b>Europe and Eurasia</b>			
OSCE Bosnia***	\$11,500	\$00	\$0
OSCE Croatia	1,800	0	0
OSCE Kosovo	7,000	0	0
OSCE Regional	8,014	2,500	2,400
Georgia	3,000	0	0
Ukraine Supplemental	<u>3,500</u>	<u>0</u>	<u>0</u>
<b>Sub Total</b>	<b>\$34,814</b>	<b>\$2,500</b>	<b>\$2,400</b>
<b>Near East</b>			
Multinational Force and Observers Sisali	\$16,213	\$16,500	\$16,456
Yemen Supplemental	<u>5,000</u>	<u>0</u>	<u>0</u>
<b>Sub Total</b>	<b>\$21,213</b>	<b>\$16,500</b>	<b>\$16,456</b>
<b>South Asia</b>			
Afghanistan	\$00	\$24,000	\$23,800
Supplemental	20,000	0	0
Sri Lanka	<u>0</u>	<u>1,000</u>	<u>720</u>
<b>Sub Total</b>	<b>\$20,000</b>	<b>\$25,000</b>	<b>\$24,520</b>
<b>Western Hemisphere</b>			
Haiti	\$210	0	0
Nicaragua	500	0	0
<b>Sub Total</b>	<b>\$710</b>	<b>0</b>	<b>0</b>
<b>Total Allocation</b>	<b>\$124,458</b>	<b>\$104,000</b>	<b>\$177,568</b>
Rescission	\$442	0	\$1,432
<b>Total Appropriation</b>	<b>\$124,900</b>	<b>\$104,000</b>	<b>\$179,000</b>

**Notes:**

\* ACOTA is African Contingency Operations Training and Assistance.

\*\* OSCE is Organization for Security and Cooperation in Europe.

\*\*\* Emergency supplemental funding for peacekeeping operations was appropriated by P.L.108-106, 6 November 2003.

**Other Division D, P.L. 108-447, Assistance Programs for Fiscal Year 2005**

The following includes FY 2005 appropriations for assistance programs funded by Division D, P.L. 108-447. Unless noted otherwise, the funding for each program does not include the directed 0.80 percent rescission. When possible, specific country and program allocation tables are included.

**Title II, Bilateral Assistance, Development Assistance**

- \$1,460,000,000 for development assistance to remain available until September 30, 2006.

**International Disaster and Famine Assistance**

- \$335,500,000 for international disaster relief, rehabilitation, and reconstruction assistance to remain available until expended. An additional \$34,500,000 to remain available until expended for necessary expenses for assistance for famine prevention and relief, including the mitigation of the effects of famine.

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- Later Section 569(g) of this Act appropriates an additional amount of \$18,000,000 for humanitarian assistance and related activities in the **Sudan**.

#### **Transition Initiatives**

- \$49,000,000 to remain available until expended to support transition to democracy and to long-term development of countries in crisis, pursuant to Section 491, FAA.
- With a presidential U.S. national determination that additional funding is needed for transition assistance pursuant to Section 491 of the FAA, up to \$15,000,000 of funding appropriated by this Act for Part I of the FAA, programs may be used for the purpose of transition assistance.

#### **Capital Investment Fund**

- \$59,000,000 to remain available until expended for USAID overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments pursuant to Section 667 of the FAA.

#### **Assistance for Eastern Europe and the Baltic States**

- \$396,600,000 to remain available until 30 September 2006 to carry out the provisions of the FAA and the SEED Act of 1989, P.L. 101-179, 28 September 1989. Applying the mandated 0.80 percent rescission reduces the amount by \$3,173,000 bringing the total available for allocation to \$393,427,000.

- \$2,000,000 of these funds should be used to enhance safety at nuclear power plants in **Bulgaria**.

- These funds shall be considered economic assistance for purposes of making available the administrative authorities contained in the FAA for the use of economic assistance.

- Table 7 provides the initial FY 2005 allocations in support of the SEED Act assistance. For comparison, the FY 2004 final allocations and the Administration's FY 2005 request for SEED Act assistance funding are also provided.

#### **Assistance for the Independent States of the Former Soviet Union**

- \$560,000,000 will remain available until September 30, 2006 to carry out the provisions of the *Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act (FSA) of 1992*, P.L. 102-511, 24 October 1992. Applying the mandated 0.80 percent rescission reduces the amount by \$4,480,000 bringing the total available for allocation to \$555,520,000.

- Funds made available for the southern **Caucasus** region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabakh.

- \$3,859,000 should be made available only to meet the health and other assistance needs of victims of trafficking in persons.

- \$17,500,000 shall only be made available solely for assistance in the **Russian Far East**.

- The funds under this heading in this Act and prior acts that are made available pursuant to Section, P.L. 102-511, shall be subject to a six percent ceiling on administrative expenses.

- Of the funds made available under this heading to the Ukraine, not less than \$5,000,000 should be made available for nuclear reactor safety initiatives and not less than \$1,500,000 shall be made available for coal mine safety programs.

**Table 7**  
**Assistance for Eastern Europe and the Baltic States**  
**FY 2005 Funding Allocations**  
**(\$ in millions)**

<u>Country/Program</u>	<u>FY 2004 Actual Allocation</u>	<u>FY 2005 Budget Justification Request</u>	<u>FY 2005 Initial Allocation</u>
Albania	\$28.235	\$28.000	\$28.000
Bosnia and Herzegovina	44.735	41.000	41.000
Bulgaria	27.835	27.000	27.000
Croatia	24.853	20.000	20.000
Kosovo	78.534	72.000	75.000
Macedonia	38.770	34.000	34.000
Romania	27.835	27.000	27.000
Serbia and Montenegro*	133.803	102.000	93.600
Regional SEED**	37.775	59.000	47.827
<b>Total Allocation</b>	<b>\$442.375</b>	<b>\$410.000</b>	<b>\$393.427</b>
Rescission	\$2.625	0	\$3.173
<b>Total Appropriations</b>	<b>\$445.000</b>	<b>\$410.000</b>	<b>396.600</b>

**Notes:**

\* For FY 2005, Serbia is allocated \$73,600,000 and Montenegro is allocated \$20,000,000.

\*\* SEED is Support for East European Democracy Act of 1989, P.L.101-179, 28 September 1989.

- Of the funds made available under this heading, not less than \$55,000,000 should be made available, in addition to other funds, for assistance for child survival, environmental and reproductive health, and to combat human immunodeficiency virus and acquired immunodeficiency syndrome (HIV/AIDS), tuberculosis and other infectious diseases, and for related activities.

- Of the funds made available under this heading that are allocated to the government of the Russian Federation, sixty percent shall be withheld from obligation until the President determines and certifies in writing to the congressional committees for appropriations that the government of the **Russian Federation** has proven the following:

- Terminate implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

- Providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

- Withholding of funding assistance shall not apply to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; or activities authorized under Title V of the FSA regarding Nonproliferation and Disarmament.

- Table 8 provides for the FY 2005 initial allocation of funding assistance authorized by the FSA. FY 2004 final allocations and the Administration's FY 2005 request for funding are also provided for comparison.

**Table 8**  
**Assistance for the Independent States of the Former Soviet Union**  
**Fiscal Year 2005 Funding Allocations**  
(\$ in millions)

<b>Country/Program</b>	<b>FY 2004 Actual Allocation</b>	<b>FY 2005 Budget Justification Request</b>	<b>FY 2005 Initial Allocation</b>
Armenia	\$74.558	\$62.000	\$74.400
Azerbaijan	38.782	38.000	37.355
Belarus	8.055	6.500	6.500
Georgia	71.701	90.000	86.000
Kazakhstan	33.342	28.000	26.690
Kyrgyz Republic	36.238	33.000	31.000
Moldova	22.543	17.500	17.350
Russia	96.350	79.500	85.000
Tajikistan	24.451	25.000	27.000
Turkmenistan	5.700	6.000	6.505
Ukraine	94.283	79.500	79.000
Uzbekistan	35.888	36.000	33.500
Regional FSA*	42.646	49.000	45.220
<b>Total Allocation</b>	<b><u>\$584.537</u></b>	<b><u>\$550.000</u></b>	<b><u>\$555,520</u></b>
Rescission	\$2.463	0	\$4.480
<b>Total Appropriations</b>	<b><u>\$587.000</u></b>	<b><u>\$550.000</u></b>	<b><u>\$560.000</u></b>

**Note:**

\*FSA is the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, P.L.102-511, 24 October 1992.

**Title II, Independent Agencies, Inter-America Foundation**

- \$18,000,000 will remain available until September 30, 2006 to carry out functions of the Foundation in accordance with the provisions of Section 401 of the FAA.

**African Development Foundation**

- \$19,000,000 to remain available until September 30, 2006 for the Foundation to carry out Title V, *International Security and Development Cooperation Act of 1980*, P.L. 96-533, December 16, 1980.

**Peace Corps**

- \$320,000,000 to remain available until September 30, 2006 to carry out the provisions of the *Peace Corps Act*, Title VI, P.L. 96-533, December 16, 1980.

**Millennium Challenge Corporation**

- \$1,500,000,000 to remain available until expended for necessary expenses for the Corporation of which up to \$50,000,000 may be available for administrative expenses.
  - It should be noted that this year's appropriation more than doubles that of FY 2004 which was initially \$650,000,000.

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## Title II, Department of State, Global Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome Initiative

- \$1,385,000,000 to remain available until expended for the prevention, treatment, and control of, and research on, HIV/AIDS.
  - Not more than \$8,818,000 may be made available for administrative expenses of the Office of the Coordinator of U.S. Activities to Combat HIV/AIDS Globally.
  - Not less than \$27,000,000 should be made available for a U.S. contribution to United Nations Acquired Immunodeficiency Syndrome (UNAIDS).
  - It should be noted that this year's appropriation nearly triples that of FY 2004 which was initially \$491,000,000.

### International Narcotics Control and Law Enforcement

- \$328,820,000 to remain available until September 30, 2007 for necessary expenses to carry out Section 481. FAA, International Narcotics Control and Law Enforcement (INC/LE). Applying the mandated 0.80 percent rescission reduces the amount by \$2,631,000 bringing the total available for initial allocation to \$326,189,000.
  - Not less than \$11,900,000 should be made available for training programs and activities of the International Law Enforcement Academies.
  - Not less than \$4,000,000 should be made available for assistance to the Philippines for police training and other related activities.
    - \$10,000,000 shall be made available for demand reduction programs.
    - \$40,000,000 should be made available for assistance to **Mexico**.
    - \$10,500,000 should be made available for countries and programs in **Africa**.
    - \$3,000,000 shall be made available for assistance to the government of **Malta** for the purchase of helicopters to enhance its ability to control its borders and deter terrorists.
    - Not more than \$30,300,000 may be made available to administrative expenses.
- During FY 2005, the Department of State may use the authority of Section 608, FAA, without regard to its restrictions, to receive excess property from an agency of the U.S. government for the purpose of providing it to a foreign country under Part I, Chapter 8 of the FAA, subject to the regular notification procedures of the congressional appropriations committees.
  - Table 9 provides the initial allocation for FY 2005. For comparison, FY 2004 final allocations and the Administration's request for FY 2005 are also provided.
    - It should be noted that **Afghanistan** received two additional funding allocations during FY 2004. The first was \$50,000,000 originally appropriated by P.L. 107-38, September 18, 2001. The second was \$170,000,000 appropriated by P.L. 108-106, November 6, 2003.

**Table 9**  
**International Narcotics Control and Law Enforcement**  
**FY 2005 Funding Allocations**  
 (\$ in millions)

<u>Country/Program</u>	<u>FY 2004 Actual Allocation</u>	<u>FY 2005 Budget Justification Request</u>	<u>FY 2005 Initial Allocation</u>
<b>Near East</b>			
Morocco	\$000	\$6.000	\$2.992
<b>Sub Total</b>	<b>\$000</b>	<b>\$6.000</b>	<b>\$2.992</b>

<b>Europe and Eurasia</b>			
Malta	<u>\$0.00</u>	<u>\$000</u>	<u>\$2.976</u>
<b>Sub Total</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2.976</b>
<b>Western Hemisphere</b>			
Bahamas	\$1.000	\$1.000	\$ .992
Guatemala	3.000	2.820	2.820
Jamaica	1.500	1.500	1.488
Mexico	37.000	40.000	39.680
Latin America Regional	<u>4.850</u>	<u>3.250</u>	<u>3.224</u>
<b>Sub Total</b>	<b>\$47.350</b>	<b>\$48.570</b>	<b>\$45.384</b>
<b>Africa</b>			
Liberia	\$0.00	\$5.000	\$5.000
Nigeria	2.250	2.250	2.232
South Africa	1.770	1.770	1.756
Africa Regional	<u>2.830</u>	<u>1.480</u>	<u>1.512</u>
<b>Sub Total</b>	<b>\$6.850</b>	<b>\$10.500</b>	<b>\$10.500</b>
<b>East Asia and the Pacific</b>			
Indonesia	\$0.000	\$10.000	\$0.00
Laos	\$2.000	2.000	\$1.984
Philippines	2.000	2.000	3.968
Thailand	<u>2.000</u>	<u>2.000</u>	<u>1.608</u>
<b>Sub Total</b>	<b>\$6.000</b>	<b>\$16.000</b>	<b>\$7.560</b>
<b>South Asia</b>			
Afghanistan	\$0.00	\$90.000	\$89.280
ERF*	.000	.000	50.000
Supplemental**	170.000	.000	.000
Pakistan	<u>31.500</u>	<u>40.000</u>	<u>32.150</u>
<b>Sub Total</b>	<b>\$251.500</b>	<b>\$130.000</b>	<b>\$121.430</b>
<b>Global</b>			
Anticorruption/Rule of Law	\$0.000	\$9.000	\$6.746
Asia Regional	1.000	1.000	0.496
Civilian Police Program	2.700	2.700	2.678
Demand Reduction	5.000	4.200	9.920
International Anticrime Programs	11.324	10.000	8.333
International Narcotics Control and Law Enforcement	14.500	14.500	12.734
International Organizations	12.200	12.000	5.000
Interregional Aviation Support	70.000	70.000	66.620
Program Development and Support	13.850	13.850	13.850
Systems Support and Upgrades	5.000	4.500	0.694
Trafficking in Persons	12.000	5.000	4.960
U.N. Crime Center	<u>1.000</u>	<u>1.000</u>	<u>0.496</u>
<b>Sub Total</b>	<b>\$148.574</b>	<b>\$147.750</b>	<b>\$135.347</b>
<b>Total Allocation</b>	<b>\$460.274</b>	<b>\$358.820</b>	<b>\$326.189</b>
Rescission	<u>\$1.426</u>	<u>.000</u>	<u>\$2.631</u>
<b>Total Appropriations</b>	<b>\$461.700</b>	<b>\$358.820</b>	<b>\$328.820</b>

**Notes:**

\* Afghanistan Emergency Response Fund (ERF) was originally appropriated by P.L.107-38, September 18, 2001.

\*\* Afghanistan emergency supplemental funding was appropriated by P.L.108-106, November 6, 2003.

### **Andean Counterdrug Initiative**

- \$731,000,000 to remain available until 30 September 2007 for necessary expenses to carry out Section 481, FAA, to support counterdrug activities in the Andean region of South

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America. Applying the mandated 0.80 percent rescission reduces the amount by \$5,848,000 bringing the total available for allocation to \$725,152,000.

- Not less than \$264,600,000 shall be made available for alternative development/institution building of which \$237,000,000 shall be apportioned directly to USAID including \$125,700,000 for assistance for **Colombia**.

- For the funds apportioned to USAID, the responsibility for policy decisions for the use of such funds, including what activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of the Administrator of USAID in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs.

- Not less than \$6,000,000 should be made available for judicial reform programs in Colombia.

- Not less than \$6,000,000 shall be made available to USAID for organizations and programs to protect human rights.

- Funds made available in this Act for demobilization/reintegration of members of foreign terrorist organizations in Colombia shall be subject to prior consultation with, and the regular notification procedures of, the congressional appropriations committees.

- \$2,000,000 should be made available through non-governmental organizations for programs to protect biodiversity and indigenous reserves in Colombia.

- Not more than \$16,285,000 may be available for administrative expenses of the Department of State and not more than \$7,800,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of USAID.

- No **U.S. armed forces personnel** or U.S. civilian contractor employed by the U.S. will participate in any combat operation in connection with assistance made available by this Act for Colombia.

- Table 10 provides the FY 2005 initial allocations for the Andean Counterdrug Initiative appropriation. For comparison, FY 2004 final allocations and the Administration's request FY 2005 are also provided.

### **Migration and Refugee Assistance**

- \$770,000,000 to remain available until expended for expenses, not otherwise provided for and as authorized by law, for the Secretary of State to provide to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the U.N. High Commissioner for Refugees, and other related activities to meet refugee and migration needs the following:

- Not more than \$22,000,000 may be available for administrative expenses;

- Not less than \$50,000,000 shall be made available for the former Soviet Union and Eastern Europe and other refugees resettling in **Israel**.

- These funds may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines with a report to the appropriate congressional committees that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

### **U.S. Emergency Refugee and Migration Assistant Fund**

- \$30,000,000 to remain available until expended to carry out the provisions of Section 2(c) of the *Migration and Refugee Act of 1962*, P.L. 87-510, 28 June 1962.

**Table 10**  
**Andean Counterdrug Initiative**  
**FY 2005 Funding Allocations**  
(\$ in millions)

<b>Country/Program</b>	<b>FY 2004 Actual Allocation</b>	<b>FY 2005 Budget Justification Request</b>	<b>FY 2005 Initial Allocation</b>
<b>Bolivia - Total</b>	<b>\$91.000</b>	<b>\$91.000</b>	<b>\$90.272</b>
Alternative Development and Institution Building	41.752	42.000	41.664
Interdiction	49.248	49.000	48.608
<b>Brazil - Total</b>	<b>10.200</b>	<b>9.000</b>	<b>8.928</b>
<b>Colombia - Total</b>	<b>473.900</b>	<b>463.000</b>	<b>462.767</b>
Alternative Development and Institution Building	149.279	150.000	124.694
Interdiction	324.621	313.000	310.694
Rule of Law	0.000	0.000	27.379
<b>Ecuador - Total</b>	<b>35.000</b>	<b>26.000</b>	<b>25.792</b>
Alternative Development and Institution Building	14.912	15.000	14.880
Interdiction	20.088	11.000	10.912
<b>Guatemala - Total</b>	<b>.000</b>	<b>.000</b>	<b>.992</b>
<b>Nicaragua - Total</b>	<b>.000</b>	<b>.000</b>	<b>.992</b>
<b>Panama - Total</b>	<b>6.487</b>	<b>6.000</b>	<b>5.952</b>
<b>Peru - Total</b>	<b>116.000</b>	<b>112.000</b>	<b>115.370</b>
Alternative Development and Institution Building	49.705	50.000	53.866
Interdiction	66.295	62.000	61.504
<b>Venezuela - Total</b>	<b>5.000</b>	<b>3.000</b>	<b>2.976</b>
<b>Air Bridge Denial Total</b>	<b>.000</b>	<b>21.000</b>	<b>11.111</b>
<b>Total Allocation</b>	<b>\$737.587</b>	<b>\$731.000</b>	<b>\$725.152</b>
Rescission	.000	.000	5.848
<b>Total Appropriations</b>	<b>\$737.587</b>	<b>\$731.000</b>	<b>\$731.000</b>

**Notes:**

- Afghanistan emergency supplemental funding was appropriated by P.L.108-106, November 6, 2003.
- Afghanistan Emergency Response Fund (ERF) was originally appropriated by P.L.107-38, September 18, 2001.

**Nonproliferation, Anti-Terrorism, Demining and Related Programs**

- \$402,000,000 for necessary expenses for the Nonproliferation, Anti-Terrorism, Demining, and Related (NADR) programs in carrying out provisions of Part II,
  - Chapters 8 and 9 of the FAA;
  - Section 504 of the FSA; and
  - Section 23 of the AECA;
  - The FAA for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provisions of law, including activities implemented through non-governmental and international organizations, and Section 301 of the FAA for a voluntary contribution to the International Atomic Energy Agency (IAEA);

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- A U.S. contribution to the Comprehensive Nuclear Test Ban Treaty (CTBT) Preparatory Commission.

- After the mandated 0.80 percent rescission, this amount was reduced by \$3,216,000 to a total of \$398,784,000 for FY 2005 initial allocation.

- Not less than \$32,000,000 to remain available until expended for the Nonproliferation and Disarmament to promote bilateral and multilateral activities related to nonproliferation and disarmament.

- Of the funds made available for demining and related activities, not to exceed \$690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program.

- On 29 March 2005, a Department of State press release announced that the Bureau of Political-Military Affairs, Office of Weapons Removal and Abatement (PM/WRA) was issuing a new request for applications for grants to advance humanitarian mine action with total grant funding of \$2,000,000 being available for projects ranging from \$20,000 to \$500,000. The projects can include, in addition to demining and mine risk education, the abatement of small arms, light weapons and man-portable air defense (MANPAD) systems. All applications must be received by midnight (local), 2 May 2005.

- This funding may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the U.S. national security interest to do so.

- Funding may be made available to the IAEA only if the Secretary of State determines and reports to Congress that Israel is not being denied its right to participate in the activities of the IAEA.

- The funding available during FY 2005 for a contribution to the CTBT Preparatory Commission and that are not necessary to make the U.S. contribution to the Commission in the amount assessed for FY 2005 shall be made available for a voluntary contribution to the IAEA and to remain available until September 30, 2006.

- Funds appropriated under this heading that are available for Anti-Terrorism Assistance and Export Control and Border Security shall remain available until September 30, 2006.

- Table 11 provides the initial NADR allocations for FY 2005 as indicated in the 8 February 2005 report to Congress. For comparison, the FY 2004 final allocations and the Administration's request for FY 2005 are also provided.

- It must be noted that the FY 2004 Anti-Terrorism programs also include two additional allocations of \$10,000,000 from the Emergency Response Fund (ERF) appropriated by P.L.107-38, September 18, 2001 and \$35,000,000 from the emergency supplemental appropriation by P.L. P.L.108-106, November 6, 2003.

## **Title V, General Provisions**

### **Limitation on Representational Allowances (Section 505)**

- Of the FMFP funding appropriated for general costs of administering military assistance and sales by this Act, not more than \$4,000 shall be available for entertainment allowances and not more than \$130,000 shall be available for representational allowances.

- The FY 2004 ceilings were \$2,000 and \$120,000, respectively.

- Of the IMET funding made available by this Act, not more than \$50,000 shall be available for entertainment allowances.

- The FY 2004 ceiling was \$55,000.

## Prohibition on Taxation of U.S. Assistance (Section 506)

- None of the funds appropriated by this Act may be made available to provide assistance to a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that U.S. assistance shall be exempt from taxation, or reimbursed, by the foreign government. The Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform to this requirement.

**Table 11**  
**Nonproliferation, Anti-Terrorism, Demining, and Related Programs**  
**FY 2005 Funding Allocations**  
**(\$ in millions)**

<b>Program</b>	<b>FY 2004 Actual Allocation</b>	<b>FY 2005 Budget Justification Request</b>	<b>FY 2005 Initial Allocation</b>
<b>Non-Proliferation Programs</b>			
Nonproliferation and Disarmament Fund	\$29.823	\$34.500	\$31.744
Export Control and Related Border Security Assistance	35.788	38.000	37.696
Science Centers and Biological Redirection	50.202	.000	.000
Non-proliferation of Weapons of Mass Destruction Expertise	.000	50.500	50.096
IAEA Voluntary Contribution*	52.687	53.000	52.576
CTBT International Monitoring System**	18.888	19.000	18.848
<b>Sub Total</b>	<b>187.388</b>	<b>195.000</b>	<b>190.960</b>
<b>Anti-Terrorism Programs</b>			
Anti-terrorism Assistance	96.428	128.300	117.800
Emergency Response Fund***	10.000	.000	.000
Supplemental****	35.000	.000	.000
Terrorist Interdiction Program	4.971	5.000	4.960
Counterterrorism Engagement with Allies	.000	.500	1.984
Counterterrorism Financing	.000	7.500	7.192
<b>Sub Total</b>	<b>146.399</b>	<b>141.300</b>	<b>131.936</b>
<b>Regional Stability and Humanitarian Assistance</b>			
Humanitarian Demining Program	48.705	59.900	59.024
International Trust Fund	9.941	10.000	9.920
Small Arms and Light Weapons Destruction	3.982	9.000	6.944
<b>Sub Total</b>	<b>62.628</b>	<b>78.900</b>	<b>75.888</b>
Total Allocation	396.415	415.200	398.784
Rescission	2.085	.000	3.216
<b>Total Appropriations</b>	<b>\$398.500</b>	<b>\$415.200</b>	<b>\$402.000</b>

**Notes:**

\* IAEA is the International Atomic Energy Agency.

\*\* Comprehensive Nuclear Test Ban Treaty.

\*\*\* Emergency Response Fund (ERF) was originally appropriated by P.L.107-38, 18 September 2001.

\*\*\*\* Emergency supplemental funding was appropriated by P.L.108-106, 6 November 2003.

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- An amount equivalent to 200 percent of the total taxes assessed during FY 2005 by a foreign government or entity against commodities financed under U.S. assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors, and subcontractors, as of the date of enactment of this Act, shall be withheld from obligation from funds appropriated for assistance for FY 2006 and allocated for the central government of that country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the congressional committees on appropriations that such taxes have not been reimbursed to the U.S. government.

- Foreign taxes of a de minimus nature [so insignificant or minimal that a court may overlook it in deciding an issue or case] are not subject to these reimbursement provisions.

- Funds withheld from obligation for each country or entity shall be reprogrammed for assistance to countries which do not assess taxes on U.S. assistance or which have an effective arrangement that is providing substantial reimbursement of such taxes.

- The provisions of this Section shall not apply to any country or entity the Secretary of State determines does not assess taxes on U.S. assistance or has an effective arrangement that is providing substantial reimbursement of such taxes, or U.S. foreign policy interests outweigh the policy of this Section.

- The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of U.S. assistance.

- Defense Security Cooperation Agency Policy Memo 04-32, 21 August 2004, Subject: Prohibition on Taxation of U.S. Assistance, was published as a *Security Assistance Management Manual* (SAMM) E-Change 19 to the DoD 5105.38-M, *Security Assistance Management Manual* providing a mandatory prohibition note for foreign military sales (FMS) case letter of offer and acceptance (LOA), amendments and modifications financed with any type of U.S. assistance funding. This same memo also provided a sample contract clause to be used for direct commercial sales (DCS) contracts that are financed with U.S. assistance.

- The terms taxes and taxation refer to value added taxes and customs duties imposed on commodities financed with U.S. assistance for programs for which funds are appropriated by this Act.

#### **Prohibition against Direct Funding for Certain Countries (Section 507)**

- None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to finance directly any assistance or reparations to **Cuba, Libya, North Korea, Iran, or Syria**. This shall include direct loans, credits, insurance, and guarantees of the Export-Import Bank or its agents.

- Section 507, Division D, P.L. 108-199 did not include Iraq on this prohibition list for FY 2004. *Presidential Determination 2004-52 (PD)*, 24 September 2004, provided the certification necessary for not designating Iraq as a state sponsor of terrorism.

#### **Military Coups (Section 508)**

- None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup.

- Pursuant to Section 1(b) of the *Pakistan Waiver Act*, P.L. 107-57, 27 October 2001, as amended by Section 534(n) of this Act, Presidential Determination (PD) 2005-21, 15 February 2005 waives this prohibition for furnishing assistance to **Pakistan** during FY 2005.

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- Assistance may be resumed to such government if the President determines and certifies to the congressional committees on appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

- The provisions of this Section shall not apply to assistance to promote democratic elections or public participation in democratic processes.

- Any funding made available pursuant to the provisos of this Section shall be subject to the regular notification procedures of the congressional committees on appropriations.

#### **Commercial Leasing of Defense Articles (Section 510)**

- The last several years, notwithstanding any other provision of law, and subject to the regular notification procedures of the congressional committees on appropriations, FMFP may be used to provide financing to Israel, Egypt, North Atlantic Treaty Organization (NATO), and major non-NATO allies for the procurement by leasing, including leasing with an option to purchase, of defense articles from U.S. commercial suppliers. This is not to include MDE, other than helicopters and other types of aircraft having possible civilian application, if the President determines that there is compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale.

#### **Availability of Funds (Section 511)**

- No funding appropriated in this Act shall remain available for obligation after this fiscal year unless expressly so provided in this Act.

- Funds appropriated for the purposes, inter alia shall remain available for an additional four years from the date of which the availability of such funds would otherwise have expired.

- International Narcotics Control;

- Support for the Economic and Democratic Development of the Independent states of the former Soviet Union;

- Support for the Economic and Political Independence of the Countries of the South Caucasus and Central Asia;

- Economic Support Fund;

- Foreign Military Financing Program; and

- Assistance for Eastern Europe and the Baltic States;

- Notwithstanding any other provision of this Act, any funds made available for the purposes of ESF which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

#### **Limitation on Assistance to Countries in Default (Section 512)**

- No part of any appropriation in this Act shall be used to furnish assistance to a government which is in default during a period in excess of one calendar year in payment to the U.S. of principal or interest on any loan made to that pursuant to a program for which funds are appropriated under this Act unless the President determines the following consultations with the congressional appropriations committees, that assistance to such country is in the national interest of the U.S.

- Pursuant to Section 1(b) of the *Pakistan Waiver Act*, P.L. 107-57, 27 October 2001, as amended by Section 534(n) of this Act, Presidential Determination (PD) 2005-21, February 15, 2005, waives this prohibition for furnishing assistance to **Pakistan** during FY 2005.

- Additionally, on December 18, 2004, the Secretary of State determined and waived Dominican Republic from this twelve-month arrearage and the Section 620(q) of the FAA, [six-month arrearage] which was published in the *Federal Register* on February 24, 2005 as Public Notice 5001.

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- Also referred to as the **Brooke-Alexander Amendment**.

#### **Notification Requirements (Section 515)**

- For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for, inter alia, International Narcotics Control and Law Enforcement, Andean Counterdrug Initiative, Assistance for Eastern Europe and the Baltic States, Assistance for the Independent States of the former Soviet Union, Economic Support Fund, Peacekeeping Operations, Nonproliferation, Anti-terrorism, Demining and Related Programs, Foreign Military Financing Program, and International Military Education and Training shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operations not justified or in excess of the amount justified to the congressional appropriations committees for obligation under any of these specific headings unless the same committees are previously notified fifteen days in advance.

- The President shall not enter into any commitment of FMFP funds for the provision of MDE, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress, or twenty percent in excess of the quantities justified to Congress unless the congressional committees on appropriations are notified fifteen days in advance of such commitment.

- These advance notification periods can be waived in the case substantial risk to human health or welfare. In this situation, the congressional notification shall be provided as early as practicable but in no event later than three days after taking the emergency action.

#### **Special Notification Requirements (Section 520)**

- None of the funds appropriated by this Act shall be obligated or expended for Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or Cambodia, except as provided through the regular notifications procedures of the congressional committees on appropriations.

- This same provision in the FY 2004 legislation also applied to the same countries except that the Democratic Republic of the Congo is no longer on this restriction.

#### **Afghanistan (Section 523)**

- Of the funds appropriated by this Act, \$908,000,000 should be made available for humanitarian and reconstruction assistance for **Afghanistan**.

- Not less than \$2,000,000 of the funds available pursuant to this Section should be made available for reforestation activities. This funding should be matched to the maximum extent possible with contributions from American and Afghan businesses.

- Not less than \$2,000,000 of the funds available pursuant to this Section should be made available for the Afghan Independent Human Rights Commission and other Afghan human rights organizations.

- To the maximum extent practicable, members of the Afghan National Army should be vetted for involvement in terrorism, human rights violations, and drug trafficking.

- Not less than \$50,000,000 of the funds available pursuant to this Act and other acts making appropriations for foreign operations, export financing, and related programs for FY 2005, should be made available to support programs to address the needs of Afghan women and girls of which not less than \$7,500,000 shall be available for small grants to support training and equipment to improve the capacity of women-led Afghan non-governmental organizations and to support the activities of such organizations.

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### **Notification of Excess Defense Equipment (Section 524)**

- Prior to providing EDA in accordance with Section 516(a) of the FAA, the DoD shall notify the congressional committees on appropriations to the same extent and under the same conditions as are other committees pursuant to Section 516(f), FAA.

- Before issuing a LOA to sell EDA under the AECA the DoD shall notify the congressional committees on appropriations in accordance with the regular notification procedures of such committees if the defense articles are SME or valued at \$7,000,000 or more, or if the notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such EDA. The notification is to include the original acquisition cost of such defense articles.

### **Democracy Programs Section 526 (a)**

- Not less than \$19,000,000 of FY 2004 ESF funding shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the People's Republic of China and Hong Kong.

- FY 2005 ESF funding should be made available for assistance for **Taiwan** for the purposes of furthering political and legal reforms.

- Such funds shall only be made available to the extent they are matched from sources other than the U.S. government.

- Any funds made available pursuant to this subsection shall be subject to regular notification procedures of the congressional committees on appropriations.

### **Section 526(b)**

- Not less than \$15,000,000 of FY 2005 ESF funding shall be made available for programs and activities to foster democracy, human rights, civic education, women's development, press freedoms, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to U.S. efforts to respond to, deter, or prevent acts of international terrorism.

- Funds made available by the authority of this subsection should support new initiatives or bolster and activities in those countries.

- Not less than \$3,000,000 should be made available for programs and activities that provide professional training for journalists.

- Notwithstanding any other provision of law, funds appropriated pursuant to this subsection may be available for democracy, human rights, and rule of law programs for Syria.

- In addition to the funds available under this Section, not less than \$4,500,000 in FY 2005 ESF funding shall be made available for programs and activities of the National Endowment Democracy (NED) to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries of the **sub-Saharan Africa**.

- Notwithstanding any other provision of law, not to exceed \$3,000,000 of such funds may be used to making grants to educational, humanitarian and non-governmental organizations and individuals inside Iran to support the advancement of democracy and human rights in **Iran**.

- Likewise, any funds made available pursuant to this subsection shall be subject to the regular notification procedures of the congressional committees on appropriations.

### **Section 526(c)**

- Not less than \$15,000,000 of the funding in subsection 526(a) and not less than \$11,000,000 of the funding in subsection 526(b) shall be made available for the Human Rights and Democracy Fund of the State Department's Bureau of Democracy, Human Rights and Labor to support the activities in subsections 526(a) and (b).

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- Up to \$1,200,000 may be used for the Reagan/Rascell Democracy Fellows program.
  - The total amount of funds made available by this Act under Economic Support Fund for activities of the Bureau of Democracy, Human Rights and Labor, Department of State, including funds available in this Section shall not be less than \$37,000,000.

#### **Section 526(d)**

- Not less than \$4,000,000 of the funding in subsection 526(a) and not less than \$4,000,000 of the funding in subsection 526(b) shall be made available for the National Endowment for Democracy to support the activities in subsections 526(b).
- The Secretary of State shall provide a report to the congressional committees on appropriations within 120 days of the enactment of this Act on the status of the allocation, obligation, and expenditures of such funds.

#### **Prohibition on Bilateral Assistance to Terrorist Countries (Section 527)**

- Funds appropriated for bilateral assistance under any heading in this Act and funds appropriated under any such heading in laws previously enacted shall not be made available to any country which the President determines grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism or otherwise supports international terrorism.
- This prohibition may be waived by the President if he determines that national security or humanitarian reasons justify such a waiver. The waiver shall be published in the *Federal Register*. At least fifteen days before the waiver takes effect, the President shall notify the congressional committees on appropriations of the waiver to include the justification.

#### **Burma (Section 531)**

- The Secretary of the Treasury shall instruct the U.S. executive director to each appropriate international financial institution I which the U.S. participates, to oppose and vote against the extension by such institution of any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for **Burma**.
- Not less than \$8,000,000 in ESF funding shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma's border.
- \$4,000,000 shall be allocated to USAID for humanitarian assistance for displaced Burmese and host communities in Thailand. This is to be in addition to any assistance provided under the heading Migration and Refugee Assistance under this Act.
- The President shall include amounts expended by the Global Fund to Fight AIDS, Tuberculosis and Malaria to the State Peace and Development Council in Burma, directly or through groups or organizations affiliated with the Global Fund, in making determinations regarding the amount to be withheld by the U.S. from its contribution to the Global Fund.

#### **Special Authorities (Section 534)**

- Per Section 534(a), funds appropriated by this Act for **Afghanistan** may be made available notwithstanding Section 512 of this Act (the Brooke-Alexander Amendment) and Section 660, FAA (the prohibition of police training).
- Funds appropriated by Titles I and II of this Act that are made available for **Lebanon, Montenegro, and Pakistan** for victims of war, displaced children, and displaced **Burmese**, and to assist victims of trafficking in persons and, subject to the regular notifications procedures of the congressional appropriations committees, to combat such trafficking, may be available notwithstanding any other provision of law.

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- Subject to Sections 116 and 502B, FAA, (consistent and gross human rights violations prohibitions) and Section 620A, FAA, (prohibition of assistance to governments supporting international terrorism); funds appropriated by this Act to carry out Sections 103 through 106 and Part II, Chapter 4, FAA, may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions.

- During FY 2005, the President may use up to \$45,000,000 (vice \$25,000,000) made available to carry out any provision the FAA; other than funds appropriated for Part I, Chapter 1 of the FAA; in order to provide for any unanticipated contingencies assistance authorized by Part I of the FAA.

- In providing assistance with funds appropriated by this Act under Section 660(b)(6), FAA, (reconstituting a civilian police authority), support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other subnational entity emerging instability, as well as a nation emerging from instability.

- Per Section 534(n), Section 1(b) [Military Coup Prohibition Waiver], Section 3(2) [Brooke-Alexander Amendment Waiver], and Section 6 [MTCR and *Export Administration Act* waivers, and waiver of advance notification periods for drawdown and grant EDA], P.L. 107-57, October 27, 2001, are amended to continue authorized assistance to **Pakistan** during FY 2005.

- Presidential Determination (PD) 2005-21, February 15, 2005, provides for these waivers for FY 2005.

- Section 117, Making Continuing Appropriations for the FY 2005, and for Other Purposes, P.L. 108-309, September 30, 2004, authorized this same waiver authority but only through November 20, 2004. No executive action was taken on this temporary authority.

- Section 7103(c), *9/11 Commission Implementation Act of 2004*, Title VII, P.L. 108-458, December 17, 2004, likewise authorizes this same waiver but to also include FY 2006. No executive action has been taken this specific authority.

- Per Section 534(p), Title I, Chapter 5, *Emergency Wartime Supplemental Appropriations Act, 2003*, P.L. 108-11, 16 April 2003, under the heading Loan Guarantees for Israel, which authorized ESF loan guarantees not to exceed \$9,000,000,000 for **Israel**, is amended by extending the period for the loan guarantee to be made available until September 30, 2007 (vice 2005) and amending that if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2007 [vice 2005], the authority to issue the balance of such guarantees shall extend to the subsequent fiscal year.

#### **Ceilings and Earmarks (Section 538)**

- Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs. Earmarks or minimum funding requirements contained in any other act shall not be applicable to funds appropriated by this Act.

#### **Non-governmental Organization - Documentation (Section 541)**

- No funds appropriated or made available by this Act shall be available to a non-governmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the U.S. AID.

#### **Prohibition on Assistance to Foreign Governments that Export Lethal Military Equipment to Countries Supporting International Terrorism (Section 542)**

- None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government

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of which the Secretary of State has determined is a terrorist government for the purposes of Section 6(j), *Export Administration Act*. This prohibition shall terminate twelve months after that government ceases to provide such military equipment. This Section applies with respect to lethal equipment provided under a contract entered into after 1 October 1997.

- The prohibition may be waived if the President determines that such assistance is important to the U.S. national interest. When exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance detailing the assistance to be provided, including the estimated dollar amount of the assistance, and an explanation of how the assistance furthers U.S. national interests.

#### **Withholding of Assistance for Parking Fines and Real Property Taxes Owed by Foreign Countries (Section 543)**

- Of the funds appropriated by this Act and made available for assistance for a country, an amount of 110 percent of the total amount of unpaid fully adjudicated parking fines and penalties and unpaid property taxes owed by the central government of such country shall be withheld from obligation for assistance until the Secretary of State submits a certification to the appropriate congressional committees stating that such parking fines and penalties and unpaid property taxes are fully paid.

- The withheld funds may be made available for other programs or activities funded by this Act, after consultation with and subject to the regular notification procedures of the appropriate congressional committees.

- The Secretary of State may waive the withholding requirements for parking fines no sooner than sixty days from the date of the enactment of this Act if determined to be in the national interests of the U.S. The Secretary may waive the withholding requirements for unpaid property taxes if determined to be in the national interest of the U.S.

- Not later than six months of these waivers, the Secretary, after consultations with the Mayor of New York City, shall submit a report to the congressional appropriations committees describing a strategy, including a timetable and steps currently taken to collect the parking fines and penalties and unpaid property taxes and interest owed by the affected country.

- Parking fines and penalties are defined to those owed to the District of Columbia or New York, New York and incurred during April 1, 1997 through September 30, 2004.

- Unpaid property taxes are defined to those plus interest determined owed by a country on real property in the District of Columbia and the City of New York in a court order or judgment entered against the country by a court of the U.S., any State, or subdivision thereof.

- This so-called Meter Maid Diplomacy was originally included as Section 574, P.L. 103-87, September 30, 1993 with a similarly worded version within each subsequent appropriation act. Both Senator Jesse Helms and Representative David Obey were initially identified as the primary sponsors of this legislation. It originally only applied to parking fines in the District of Columbia and later was expanded to include New York. The withholding of country funds did not become significant until FY 2004. The authority to withhold owed property taxes was not included until FY 2005.

#### **War Crimes Tribunals Drawdown (Section 545)**

- As in prior years, authorizes the drawdown of commodities and services of up to \$30,000,000 for the U.N. War Crimes Tribunal with regard to the former Yugoslavia or such other tribunals or commissions as the U.N. Security Council may establish or authorize to deal with such violations.

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- Any funds made available for such tribunals other than **Yugoslavia, Rwanda** or the **Special Court for Sierra Leone** shall be made available subject to the regular notification procedures of the congressional appropriations committees.

#### **Landmines (Section 546)**

- As in prior years, authorizes **demining equipment** made available to USAID and the DoS and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes to be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

#### **Prohibition of Payment of Certain Expenses (Section 548)**

- As in prior years, none of the funding appropriated or otherwise made available by this Act under the headings, inter alia, IMET or FMFP **Informational Program (IP)** activities or under ESF may be obligated or expended to pay for:

- Alcoholic beverages or
- Entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

#### **Haiti (Section 549)**

- Not less than the following funds appropriated for FY 2005 shall be made available for Haiti:

- \$20,000,000 from Child Survival and Health Programs Fund.
- \$25,000,000 from ‘Development Assistance’ of which funds should be made available for poverty reduction, agriculture, environment, and basic education programs.
- \$40,000,000 from Economic Support Fund of which funds should be made available for judicial reform programs, police training, and activities in support for national elections.

- The Government of Haiti shall be eligible to purchase defense articles and services under the AECA for the Coast Guard.

#### **Limitation on Assistance to Security Forces (Section 551)**

- As in previous years, none of the funding made available by this Act may be provided to any **security forces unit** of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the congressional committees on appropriations that the country is taking effective measures to bring the responsible members of that unit to justice.

- Nothing in this Section shall be construed to withhold funds made available by this Act from any security forces unit of that country not credibly alleged to be involved in gross violations of human rights.

- In the event funds are withheld from any unit pursuant to this Section, the Secretary shall promptly inform the affected government of that country of the basis for this action and shall, to the maximum extent practicable, assist the government in taking effective measures to bring the responsible members of that unit to justice.

- Similar prohibition language is also included in Section 8076, *Defense Department Appropriations Act, 2005*, P.L. 108-287, August 5, 2004.

- This Section is often referred to as the **Leahy Amendment**.

#### **Foreign Military Training Report (Section 552)**

- This annual report from the Secretary of State and Secretary of Defense shall be submitted in accordance with Section 656, FAA, which requires that report not later than January 31 each

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year. Unless a country (or countries) is requested for inclusion by one of the appropriations committees in writing at least ninety days in advance, the report is not required to include training for NATO countries, Japan, Australia, or New Zealand.

#### **Authorization Requirement (Section 553)**

- Except for funds appropriated under the headings of Trade and Development Agency, Millennium Challenge Corporation, Overseas Private Investment Corporation, and Global HIV/AIDS Initiative; funds appropriated by this Act may be obligated and expended notwithstanding Section 10, P.L. 91-672, January 12, 1971, and Section 15, *State Department Basic Authorities Act of 1956*.

#### **Cambodia (Section 554)**

- None of the funds appropriated by this Act may be made available for assistance for the central government of Cambodia.

- However, up to \$4,000,000 of FY 2005 ESF may be made available for activities to support democracy, including assistance for democratic political parties.

- FY 2005 IMET funding made be made available only if at least fifteen days prior to the obligation, the Secretary of State provides to the congressional committees for appropriations a list of those individuals who have been credibly alleged to have ordered or carried out extra-judicial and political killings that occurred during the March 1997 grenade attack against the Khmer Nation Party.

#### **Palestinian Statehood (Section 555)**

- None of the funds appropriated by this Act may be provided to support a **Palestinian state** unless the Secretary of State determines and certifies to the appropriated congressional committees that:

- A new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections.

- The elected governing entity has demonstrated a firm commitment to peaceful co-existence with Israel.

- Appropriate measures to counter terrorism and terrorism financing in the West Bank and Gaza, including the dismantling of terrorist infrastructure.

- Establish a new Palestinian security entity that is cooperative with appropriate Israeli and other appropriate security organizations.

- The Palestinian Authority or governing body of a new Palestinian state is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships.

- This can be waived by the President if determined to be vital to the national security interests of the U.S.

#### **Colombia (Section 556)**

- Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the **Colombian Armed Forces**, may be made available as follows:

- Up to 75 percent of such funds may be obligated prior to a determination and certification (detailed below) by the Secretary of State.

- Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

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••• The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

••• The Colombian Government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank who, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed found to have committed such violations of human rights or to have aided and abetted paramilitary organizations.

••• The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases to include providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information.

••• The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information.

••• The Colombian Armed Forces have made substantial progress in severing links; to include denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation; at the command, battalion, and brigade levels, with paramilitary organizations especially in regions where these organizations have a significant presence.

••• The Colombian Armed Forces are dismantling paramilitary leadership and financial networks by arresting commanders and financial backers especially in regions where these networks have a significant presence.

• The balance of the funding may be obligated after July 1, 2005 if the Secretary of State certifies and reports to the appropriate congressional committees after such date that the Colombian Armed Forces are continuing to meet the conditions contained in the above earlier report. This second report is to also include that the Colombian Armed Forces are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerilla organizations.

• Not later than sixty days after the enactment of this Act and every ninety days thereafter until September 30, 2006, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions outlined in the reports.

• Aided or abetted is defined to mean providing any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

• Paramilitary groups is defined to mean illegal self-defense groups and illegal security cooperative.

• This year's report and certification requirements are similar to the FY 2004 requirement.

#### **Illegal Armed Groups (Section 557)**

• The Secretary of State shall not issue a visa to any alien who the Secretary determines, bases on credible evidence who has:

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- Willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups.

- Committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

- The Secretary of State can waive this prohibition if determined and certified to the appropriate congressional committees, on a case-by-case basis, that the issuing of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

#### **West Bank and Gaza Program (Section 559)**

- For the FY 2005, thirty days before the obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate congressional committees that procedures have been established to ensure the U.S. Comptroller General will have access to the appropriate U.S. financial information in order to review the uses of U.S. assistance for the Program funded under ESF.

- Prior to the obligation of ESF funds, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary shall as appropriate establish vetting procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which has been determined to be involved in or advocating terrorist activity.

- Specifically, none of the funds appropriated by this Act for assistance under the West Bank and Gaza Program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed acts of terrorism.

#### **War Criminals (Section 561)**

- None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the U.S. executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance to the same aforementioned uncooperative country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the **International Criminal Tribunal for the former Yugoslavia** all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

- This Section shall not apply to humanitarian assistance or assistance for democratization.

- This Section shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are cooperating with the Tribunal including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, and are acting consistently with the Dayton Accords signed at Dayton 10 to 16 November 1995.

- The Secretary of State may waive the application of this restriction with respect to projects within a country, entity, or municipality upon written determination to the congressional committees on appropriations that such assistance directly supports the implementation of the Dayton Accord.

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- Country for this Section means **Bosnia, Herzegovina, Croatia, and Serbia**. Entity refers to the **Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska**. Municipality means a city, town or other subdivision within the above defined country or entity.

#### **Funding for Serbia (Section 563)**

- Funds in this Act made be made available for assistance for Serbia after May 31, 2005, if the President has made the determination and certification to the congressional committees on appropriations that the government of **Serbia and Montenegro** is:

- Cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension including making all practicable efforts to apprehend and transfer Ratko Mladic;

- Taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

- Taking steps to implement policies which reflect a respect for minority rights and the rule of law.

- After May 31, 2005, the Secretary of the Treasury should instruct the U.S. executive directors to the international financial institutions to support loans and assistance to the government of Serbia and Montenegro subject to the conditions in the above presidential determination and certification.

- The Section does not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy in municipalities.

#### **Community-Based Police Assistance (Section 564)**

- FY 2005 ESF funding may be used to enhance the effective and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict, respond to disasters, address gender-based violence, and foster improved police relations with the communities they serve.

#### **Reconciliation Programs (Section 568)**

- Not less than \$12,000,000 of the FY 2005 ESF funding shall be made available to support reconciliation programs and activities which bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.

#### **Sudan (Section 569)**

- Not less than \$311,000,000 of the funds appropriated by Title of this Act should be made available for assistance for Sudan.

- None of these funds may be made available for the government of Sudan.

- None of these funds may be made available for the cost of modifying loans and loan guarantees held by the government of Sudan including the cost of selling, reducing, or canceling amounts owed to the U.S. and modifying concessional loans, guarantees, and credit agreements.

- These prohibitions shall not apply if the Secretary of State determines and certifies to the congressional appropriations committees that the government of Sudan:

- Has taken significant steps to disarm and disband government-supported militia groups in the Darfur region.

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- Ensures all government-supported militia groups, are honoring their commitments made in the cease-fire agreement of April 8, 2004.

- Is allowing unimpeded access to Darfur to humanitarian aid organizations, the human rights investigation and U.N. humanitarian teams, including protection officers, and an international monitoring team that is based in Darfur and that has the support of the U.S.

- Likewise, these prohibitions shall not apply to humanitarian assistance and assistance for Darfur and for areas outside the control of the government of Sudan.

- Not more than \$45,000,000 of the funds appropriated by this Act under the headings of International Disaster and Famine Relief and Transition Initiatives may be made available for assistance for Sudan outside of the Darfur region unless written notice is provided to the congressional committees for appropriations five days prior to obligation.

- Section 569(g) appropriates an additional \$75,000,000 for **PKO** to support peace and humanitarian intervention operations for Sudan and appropriates an additional \$18,000,000 for International Disaster and Famine Assistance for humanitarian assistance and related activities in Sudan. The appropriation in this subsection is designated as an emergency requirement for budgetary purposes.

- On December 8, 2004, the President designated this amount of \$94,000,000 as emergency requirements in accordance with Section 251 of the *Balanced Budget and Emergency Deficit Control Act*, P.L. 99-177, December 12, 1985. This act is also referred to as *Gramm-Rudman-Hollings Act* as amended by the *Omnibus Budget Reconciliation Act of 1990*, P.L. 101-508, November 5, 1990.

#### **Excess Defense Articles for Central and South European Countries and Certain Other Countries (Section 571)**

- Notwithstanding Section 516(e), FAA, DoD funds may be expended during FY 2005 for crating, packing, handling, and **transportation of grant EDA** to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavian Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

- This authority was not included in FY 2004 legislation. Until then versions of the DoD-funded transportation authority had been annually available since 1996 when Section 105, P.L. 104-164, July 21, 1996, initially authorized the use of DoD funding for the transportation of grant EDA for the PFP and SEED Act countries.

#### **Indonesia (Section 572)**

- FY 2005 FMFP assistance may be made available for assistance for **Indonesia**. Additionally, export licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the Secretary of State certifies to the appropriate congressional committees that:

- The Armed Forces are taking steps to counter international terrorism, consistent with democratic principles and the rule of law, and in cooperation with countries in the region.

- The Indonesian government is prosecuting and punishing, in a manner proportional to the crime, those members of the Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violation of human rights, or to have aided or abetted militia groups.

- Through the direction of the President of Indonesia, the Armed Forces are cooperating with civilian prosecutors and judicial authorities and with international efforts to resolve cases of gross violations of human rights in East Timor and elsewhere.

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•• Through the direction of the President of Indonesia, the Armed Forces are implementing reforms to increase the transparency and accountability of their operations and financial management, including making publicly available audits of receipts and expenditures.

• FY 2005 IMET funding assistance may be made available to Indonesia if the Secretary of State determines and reports to the appropriate congressional committees that the Indonesian Government and the Armed Forces are cooperating with the FBI's investigation of the murders of two American citizens and one Indonesian citizen on August 31, 2002 in Timika, Indonesia.

•• A Department of State press conference on 26 February 2005 announced the Secretary of State has determined that Indonesia has satisfied these conditions and the full IMET program has been restarted.

•• This restriction shall not apply to E-IMET which may include English language training.

#### **Limitation on Economic Support Fund Assistance for Certain Foreign Governments that are Parties to the International Criminal Court (Section 574)**

• Section 2007, *American Service-Members' Protection Act of 2002 (ASPA)*, Title II, P.L. 107-206, August 2, 2002, prohibits grant EDA, IMET, drawdowns, and FMFP assistance to countries that are party to the International Criminal Court Rome Statute unless the President determines for U.S. national interests purposes to waive this prohibition, the country signs an Article 98 agreement waiving applicability to U.S. personnel, or the country is member of NATO, a major non-NATO ally, or Taiwan.

• FY 2005 ESF assistance is likewise prohibited to those countries which are party to the Rome Statute and not exempted or waived.

• The Presidential Determination (PD) 2005-20, 11 February 2005, provided the necessary waiver for Jordan for a period of six months to receive FY 2005 assistance.

#### **Prohibition against Direct Funding for Saudi Arabia (Section 575)**

• None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to finance any assistance to **Saudi Arabia**.

•• The President may waive this prohibition if certified to the congressional appropriations committees fifteen days prior to obligation that Saudi Arabia is cooperating with efforts to combat international terrorism and that the proposed assistance will help facilitate that effort.

#### **Uzbekistan (Section 577)**

• FY 2005 funding may be available for the central government of Uzbekistan only if the Secretary of State determines and reports to the congressional appropriations committees that the government is making substantial and continuing progress in meeting its commitments under the *Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America*, including respect for human rights, establishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media.

#### **Central Asia (Section 578)**

• Funds appropriated by this Act may be made available for assistance for the government of Kazakhstan only if the Secretary of State determines and reports to the congressional committees on appropriations that the government of Kazakhstan has made significant improvements in the protection of human rights during the preceding six months.

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•• This requirement may be waived by the Secretary if he determines and reports to the congressional committees on appropriations that such a waiver is in the U.S. national security interests.

• Not later than October 1, 2005, the Secretary of State shall submit a report to the congressional committees on appropriations and foreign relations describing the following:

•• The defense articles, defense services, and financial assistance provided by the U.S. to the countries of Central Asia during the six-month period ending thirty days prior to submission of each such report.

•• The use during such time of defense articles, defense services, and financial assistance provided by the U.S. by units of the armed forces, border guards, or any other security forces of such countries.

•• For the purposes of this report, countries of Central Asia include **Uzbekistan**, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

#### **Disability Programs (Section 579)**

• Not less than \$2,500,000 of FY 2005 ESF appropriations shall be made available for programs and activities to address the needs and protect the rights of people with disabilities in developing countries to be administered by USAID.

#### **Zimbabwe (Section 580)**

• The Secretary of the Treasury shall instruct the U.S. executive director to each international financial institution to vote against any extension by the respective institution of any loans, to the government of **Zimbabwe**, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the congressional committees on appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech, and association.

#### **Tibet (Section 581)**

• The Secretary of the Treasury should instruct the U.S. executive director to each international financial institution to use the voice and vote of the U.S. to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into **Tibet** or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

• Not less than \$4,000,000 of FY 2005 ESF funding shall be made available to non-governmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China and not less than \$250,000 should be made available to the National Endowment for Democracy for human rights and democracy programs relating to Tibet.

#### **Nigeria (Section 582)**

• The President shall submit a report to the congressional appropriations committees describing the involvement of the Nigerian Armed Forces in the incident in Benue State, the measures that are being taken to bring such individuals to justice, and whether any Nigerian Armed Forces units involved with the incident are receiving U.S. assistance.

#### **Central America (Section 584)**

• Not to exceed \$3,227,000 in prior year Military Assistance Program funds that are available for **Guatemala** may be made available for non-lethal defense items for Guatemala if

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the Secretary of State certifies to the congressional appropriations and foreign relations committees that:

- The role of the Guatemalan military has been limited, in doctrine and in practice, to substantially those activities in defense of Guatemala's sovereignty and territorial integrity that are permitted by the 1996 Peace Accords, and the government of Guatemala is taking steps to pass a new governing law of the Army (Ley Constitutiva del Ejercito).

- The Guatemalan military is cooperating with civilian judicial authorities, including providing full cooperation on access to witnesses, documents, and classified intelligence files, investigations and prosecutions of military personnel who have been implicated in human rights violations and other criminal activity.

- The government of Guatemala is working with the U.N. to resolve legal impediments to the establishment of the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (CICIAS), so that CICIAS can effectively accomplish its mission of investigating and bringing to justice illegal groups and members of clandestine security organizations.

- The government of Guatemala is continuing its efforts to make the military budget process transparent and accessible to civilian authorities and to the public, for both present and past expenditures.

- The government of Guatemala is working to facilitate the prompt establishment of an office in Guatemala of the U.N. High Commissioner for Human Rights with unimpeded authority to investigate and report on human rights in Guatemala.

- Finally, the government of Guatemala is taking steps to increase its efforts to combat narcotics trafficking and organized crime.

- This certification was completed on January 25, 2005 and published in the *Federal Register* on February 1, 2005 as Public Notice 4983.

#### **War Crimes in Africa (Section 585)**

- Funds appropriated by this Act including funds for debt restructuring may be available for assistance to the central government of a country in which individuals indicted by the International Criminal Tribunal for **Rwanda** (ICTR) and the Special Court for **Sierra Leone** (SCSL) are credibly alleged to be living, if the Secretary of State determines and reports to the congressional appropriations committees that such government is cooperating with the ICTR and SCSL including the surrender and transfer of indictees in a timely manner.

- This subsection shall not apply to assistance provided under Section 551, FAA, for PKO, or to project assistance under Title II of this Act.

- With a presidential U.S. national security interest determination on a country-by-country basis, this prohibition may be waived and reported to the congressional appropriations committees.

#### **Security in Asia (Section 590)**

- Notwithstanding Section 572 of this Act, FY 2005 FMFP funding may be made available for assistance for the **Indonesian Navy** if the Secretary of State reports to the congressional appropriations committees that the Indonesian Navy is not violating human rights and is cooperating with civilian judicial authorities on cases involving human rights violations. Any of this assistance to be provided to the Indonesian Navy may only be available for purposes of enhancing maritime security.

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- Notwithstanding Section 554 of this Act, FY 2005 FMFP funding may be made available for assistance for **Cambodia** subject to the regular notification procedures of the congressional appropriations committees.

- FY 2005 FMFP funding may be made available for assistance for **Nepal** if the Secretary of State reports to the congressional appropriations committees that the government of Nepal:

- Has determined the number of and is making substantial progress in complying with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders.

- Is cooperating with the National Human Rights Commission of Nepal to identify and resolve all security related cases involving individuals in government custody.

- Is granting the National Human Rights Commission of Nepal unimpeded access to all places of Detention.

- Is taking effective steps to end torture by security forces and to prosecute members of such forces who are responsible for gross violations of human rights.

- The Secretary may waive the compliance stipulations within the report if determined and reported that it would be in the U.S. national security interests.

#### **Compliance with the Algiers Agreements (Section 592)**

- None of the funds appropriated by this Act may be made available for assistance to the central governments of **Ethiopia or Eritrea** unless the Secretary of State certifies and reports to the congressional appropriations committees that the government is taking steps to comply with the terms of the Algiers Agreements.

- The Secretary may waive the compliance stipulation of this Section if determined to be in the U.S. national security interest.

- This determination for a waiver was provided by the Secretary on 24 January 2005 and published in the *Federal Register* on 2 February 2005 as Public Notice 4986.

- The funding prohibition of this Section shall not apply to democracy, rule of law, peacekeeping programs and activities, child survival and health, basic education, and agriculture programs.

#### **Joint Explanatory Statement (Section 595)**

- Funds provided in this Act shall be available for programs and countries in the amounts contained in the respective tables included in the joint explanatory statement (H. Rpt. 108-792, 20 November 2004) of the conference managers for this Act. This applies to the following accounts:

- Economic Support Fund;

- Assistance for Eastern Europe and the Baltic States;

- Assistance for Independent States of the Former Soviet Union;

- Andean Counterdrug Initiative;

- Nonproliferation, Anti-Terrorism, Demining, and Related Programs;

- Foreign Military Financing Program; and

- International Organizations and Programs.

- Any proposed increases or decreases to these amounts in the conference report shall be subject to the regular notification procedures of the congressional appropriations committees and Section 634A, FAA.

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### ***Department of Defense Appropriations Act, 2005, P.L. 108-287, August 5, 2004***

- Reported out of the House Appropriations Committee (HAC) as H.R. 4613 on June 16, 2004 with H. Rpt. 108-610, and passed by the House on June 22, 2004. S. 2559 reported out of the Senate Appropriations committee on June 22, 2004 with S. Rpt. 108-284, and passed by the Senate on June 24, 2004. The conference was held reporting out H.R. 4613 on July 20, 2004 with H. Rpt. 108-622. Both Houses passed H.R. 4613 on July 22, 2004 in time for the August recess and the national political conventions with enactment on August 5, 2004 as P.L. 108-287.

- The *FY 2005 DoD Appropriations Act* contained the normal annual appropriations for the DoD plus two additional sections, Title IX, Additional War-Related Appropriations, for military operations in Afghanistan and Iraq, and Title X, Other Matters, for the Departments of Commerce, Justice, State, Interior, Agriculture, and Labor.

- Also on August 5, 2004, the President designated the amount of \$25,856,000,000 appropriated within Titles IX and X of this Act as emergency requirements in accordance with Section 251, *Balanced Budget and Emergency Deficit Control Act*, P.L. 99-177, December 12, 1985, [also referred to as *Gramm-Rudman-Hollings Act*] as amended by the *Omnibus Budget Reconciliation Act of 1990*, P.L. 101-508, November 5, 1990.

- This DoD appropriation is not subject to the later-legislated 0.80 percent rescission.

#### **Title II, Operation and Maintenance Defense-Wide**

- Not more than \$25,000,000 for the **Combatant Commander Initiative Fund** authorized by 10 U.S.C. 166a.

- \$2,550,000 shall be available only for a Washington-based internship and immersion program to allow U.S. Asian-American Pacific Islander undergraduate college and university students from economically disadvantaged backgrounds to participate in academic and educational programs in the DoD and related federal defense agencies.

#### **Overseas Humanitarian, Disaster, and Civic Aid**

- \$59,000,000 to remain available until September 30 for expenses relating to DoD Overseas Humanitarian, Disaster, and Civic Aid programs.

#### **Former Soviet Union Threat Reduction Account**

- \$409,200,000 to remain available until September 30, 2007 for the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons. This is also for establishing programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise. This is also for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts. Of this amount, \$15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components and for transport and storage of nuclear warheads in the **Russian Far East**.

#### **Title VI, Other Department of Defense Health Programs**

- Not less than \$7,500,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in **African nations**.

- Amends Title VI, Defense Health Program, of the *DoD Appropriations Act, 2004*, P.L. 108-87, September 30, 2003, to read not less than \$4,250,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.”

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## Title VIII, General Provisions

- Section 8002, as in prior years, states that during FY 2005, provisions of prohibiting the payment of compensation to, or employment of, any person not a citizen of the U.S. shall not apply to personnel of the DoD.

- Salary increases granted to direct or indirect hire foreign national DoD employees funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for DoD civilians whose pay is computed under the provisions of 5 U.S.C. 5332, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher. This does not apply to DoD foreign national employees of the DoD in the **Republic of Turkey**. This also does not apply to DoD foreign service national employees serving at U.S. diplomatic missions whose pay is set by the DoS under the *Foreign Service Act of 1980*.

- Section 8009 authorizes the use of operation and maintenance funds to be obligated for humanitarian and civic assistance costs pursuant to 10 U.S.C. 401 and these obligations are to be reported to Congress as of 30 September of each year.

- These funds shall be available for providing humanitarian and similar assistance by using **Civic Action Teams in the Trust Territories of the Pacific Islands** (TTPI) and freely associated states of **Micronesia** pursuant to the Compact of Free Association as authorized by P.L. 99-239.

- Upon determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted by the Army medical facilities located in Hawaii, the Secretary may authorize the provision of medical services at such facilities and transportation to the facilities on a non-reimbursable basis for civilian patients from American Samoa, Commonwealth of the Northern Mariana Islands, Marshall Islands, Federated States of Micronesia, Palau, and Guam.

- Section 8026 authorizes DoD during FY 2005 to incur obligations not to exceed \$350,000,000 for purposes specified in 10 U.S.C. 2350j(c), in anticipation of receipt of contributions only from Kuwait to be credited to the appropriations or fund which incurred such obligations.

- Section 8051 states that none of the funds appropriated or otherwise made available by this Act, may be obligated or expended for assistance to the **Democratic People's Republic of North Korea** unless specifically appropriated for that purpose.

- Section 8064 states that none of the funds available for DoD during FY 2005 may be obligated or expended to transfer defense articles or services (other than intelligence services) to another nation or international organization for specified below activities unless the congressional defense committees, the Senate Foreign Relations Committee, and the House International Relations Committee are notified fifteen days in advance of the transfer.

- The specified activities include any international peacekeeping, peace-enforcement or humanitarian assistance operation.

- This notification shall include a description of the transfer, value of the transfer, a statement whether the inventory requirements of all elements of the Armed Forces for the type of transfer have been met, and whether the items to be transferred will have to be replaced. If replacement is required, how does the President propose to provide the funds for such a replacement?

- Section 8066 authorizes the Secretary of Defense to issue loan guarantees of up to \$15,000,000,000 in support of U.S. defense exports not otherwise provided for. The exposure fees charged and collected for guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the U.S. Section 1321, *Defense Authorization Act, Fiscal*

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*Year 1996*, P.L. 104-106, February 10, 1996, first authorized this program as the **Defense Export Loan Guarantee Program (DELG)**.

- Funds appropriated for DoD and for intelligence activities in this Act are available for **transfer to the DoS** as a remittance for a fee charged by the DoS for FY 2005 for the maintenance, upgrade, or construction of U.S. diplomatic facilities only to the extent that the amount of the fee so charged (when added to other amounts of such fees previously charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the departments and agencies funded by this Act during that fiscal year in providing goods and services to the DoS.

- Section 8074, as in prior years, states that **none of the funds made available in this Act may be used to approve or license the sales of the F-22** advanced tactical fighter to any foreign government.

- Section 8075 allows the Secretary of Defense, on a case-by-case basis, to waive with respect to a foreign country each limitation on the procurement of **defense items from foreign sources** provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate **cooperative programs** entered into between the DoD and the foreign country, or would invalidate **reciprocal trade agreements** for the procurement of defense items entered into under 10 U.S.C. 2531, and the country does not discriminate against the same or similar defense items produced in the U.S. for that country.

- This applies to contracts and subcontracts entered into on or after the date of enactment of this Act, and

- For options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under this Section.

- Section 8077 states that **none** of the funds made available by this Act may be used to support any training program involving a unit of the **security forces of a foreign country** if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

- The Secretary of Defense, in consultation with Secretary of State, shall ensure that prior to a decision to conduct any training program involving a security force unit, full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

- The Secretary of Defense, after consultation with the Secretary of State, may waive this prohibition if he determines that such a waiver is required by extraordinary circumstances. Not more than fifteen days after exercising such a waiver, the Secretary shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the U.S. and foreign security forces involved in the program, and the information relating to the human rights violations that necessitates the waiver.

- Section 8095 directs that \$155,290,000 of the funds appropriated under FY 2005 Research, Development, Test, and Evaluation, Defense-Wide shall be made available for the Arrow missile defense program. \$68,000,000 shall be available for producing Arrow missile components in the U.S. and Arrow missiles and components in Israel to meet Israel's defense requirements, consistent with each country's laws, regulations, and procedures.

- Section 8119 authorizes the use of \$20,000,000 appropriated under the heading Operations and Maintenance, Defense-Wide for the **Regional Defense Counter-Terrorism Fellowship Program**, to fund the education and training of foreign military officers, ministry of

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defense civilians, and other foreign security officials, to include U.S. military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

### **Title IX, Additional War-Related Appropriations**

#### **Department of Defense - Military Operation and Maintenance Iraqi Freedom Fund**

- \$3,800,000,000 to remain available until September 30, 2006 only to support operations in Iraq or Afghanistan and for classified activities.

#### **Other Department of Defense Programs**

##### **General Provisions, Title IX**

- Section 9006 authorizes the Secretary of Defense to use not more than \$500,000,000, with the concurrence of the Secretary State, **to train, equip, and provide related assistance only to the New Iraqi Army and the Afghan National Army** to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan.

- This assistance may include the providing of equipment, supplies, services, training, and funding.

- This authority is in addition to any other authority to provide assistance to foreign nations.

- Section 309, P.L. 108-324, October 13, 2004, later amends New Iraqi Army to read Iraqi Armed Forces so to include the Iraqi National Guard.

- Section 9007 authorizes the use of funding not to exceed \$300,000,000 for the **Commander's Emergency Response Program** for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

- Section 308, P.L. 108-324, October 13, 2004, later amends the ceiling to \$500,000,000.

- Section 9008 amends Section 202(b), P.L. 107-327, authorizing the drawdown ceiling of \$550,000,000 (vice \$450,000,000) in **defense articles, services and training to foreign nations for operations within Afghanistan.**

- The latest drawdown for Afghanistan was for \$88,500,000 in defense articles, services, and training authorized by Presidential Determination (PD) 2005-19, 27 January 2005.

- Section 9009 authorizes the use of DoD FY 2005 funding, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability **operations in Iraq and Afghanistan.**

### **Title X, Other Matters**

#### **Chapter 1, Department of State Administration of Foreign Affairs Diplomatic and Consular Programs**

\$665,300,000 to remain available until expended for costs associated with U.S. Mission operations, technological support, logistical support, and necessary security costs in Iraq.

##### **Embassy Security, Construction, and Maintenance**

- \$20,000,000 to remain available until expended for interim facilities for the U.S. Mission in Iraq.

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## **General Provisions**

- Section 11002 appropriates \$50,000,000 to remain available until September 30, 2005 for grants of \$25,000,000 each to the cities of **Boston and New York** to reimburse the state and local law enforcement entities for security and related costs, including overtime, associated with the 2004 Presidential Candidate Nominating Conventions.

## **Chapter 2, Bilateral Economic Assistance Funds Appropriated to the President**

### **U.S. AID, International Disaster and Famine Assistance**

- \$70,000,000 to remain available until expended to be available in response to humanitarian crisis in the **Darfur region of Sudan and in Chad**.

### **Department of State, Migration and Refugee Assistance**

- \$25,000,000 to remain available until expended to be available in respond to the humanitarian crisis in the **Darfur region of Sudan and in Chad**.

## **General Provisions**

- Section 12001 authorizes the President to transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with concurrence of the Secretary of State, any or all of the following items:

- Armor, artillery, automatic weapons ammunition, missiles, and other munitions that are obsolete or surplus, in the inventory of DoD, intended as reserve stocks in Israel, and are located in a stockpile in Israel.

- The value of concessions shall be at least equal to the fair market value of the items transferred. Concessions may include cash compensation, services, waiver of charges otherwise payable by the U.S., and other items of value.

- This transfer authority will expire two years after enactment of this Act.

- Section 12002(1) amends Section 514(b)(2)(A), FAA, authorizing up to \$100,000,000 of defense articles to be stockpiled in foreign countries for each FY 2004 and FY 2005.

- Section 12002(2) amends Section 514(b)(B), FAA, authorizing up to \$100,000,000 of defense articles to be stockpiled in **Israel** for a fiscal year removing the requirement for specific fiscal year authorities.

## **Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, P.L. 108-375, 28 October 2004**

- Reported out of the Senate Armed Services Committee (SASC) as S. 2400 on May 11, 2004 with S. Rpt. 108-260 and passed by the Senate on June 23, 2004. A separate bill was reported out of the House Armed Services Committee (HASC) as H.R. 4200 on May 20, 2004 with H. Rpt. 108-491 and passed by the House on the same date. A conference was held with H. Rpt. 108-767 being reported out on October 8, 2004. Both houses passed the legislation on October 9, 2004 and it was enacted on October 28, 2004 as P.L. 108-375.

## **Division A - Department of Defense Authorizations**

### **Title I - Procurement**

#### **Subtitle A - Authorization of Appropriations Operation and Maintenance Funding**

##### **(Section 301)**

- Authorizes the appropriation of \$59,000,000 for **Overseas Humanitarian, Disaster, and Civic Aid programs**.

- Authorizes the appropriation of \$409,200,000 for **Cooperative Threat Reduction programs**.

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### **Other Department of Defense Programs (Section 303)**

- Section 303(c) authorizes the appropriation of \$852,947,000 for Drug Interdiction and Counter-Drug Activities, Defense-Wide.

#### **Subtitle F - Other Matters**

#### **Reimbursement for Certain Protective, Safety, or Health Equipment Purchase by or for Members of the Armed Forces Deployed in Contingency Operations (Section 351)**

- The Secretary of Defense shall **reimburse a member of the armed forces** for the cost (including any shipping costs), to exceed \$1,100, of any protective, safety, or health equipment purchased by the member or by another person on behalf of the member for personal use in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom, provided:

- It is certified that the equipment was critical to the protection, safety, or health of the member.

- The member was not issued the equipment before engaging in operations in the areas of the forenamed Operations.

- The equipment was purchased by the member during the period September 11, 2001 to July 31, 2004.

#### **Title V - Military Personnel Policy**

#### **Subtitle A - Officer Personnel Policy Limitation on Number of Officers Frocked to Major General or Rear Admiral (Section 503)**

- Amends 10 U.S.C. 777(d) restricting the number of brigadier generals and rear admirals (lower half) to be **frocked to major general or rear admiral** to not exceed thirty. There was no restriction before on the frocking to the two-star rank.

#### **Authority to Redesignate the Naval Reserve as the Navy Reserve (Section 517)**

- The Secretary of the Navy with the approval of the President may redesignate the Naval Reserve as the **Navy Reserve**.

#### **Subtitle B - Bonuses and Special and Incentive Pays Revision of Authority to Provide Foreign Language Proficiency Pay (Section 620)**

- Amends 37 U.S.C. 316 to authorize the monthly **foreign language proficiency** payment not to exceed \$1,000. An annual payment not to exceed \$6,000 may be paid to a qualified reserve component member.

#### **Permanent Increase in Authorized Amounts for Imminent Danger Special Pay and Family Separation Allowance (Section 623)**

- Amends 37 U.S.C. 310(e) increasing **imminent danger pay** from \$150 to now \$225.

- Likewise amends 37 U.S.C. 427(e) increasing **family separation allowance** from \$100 to now \$250.

#### **Death Benefits Enhancement (Section 643)**

- Provides for the President to submit to Congress a report along with a request for appropriations and any required changes in legislation regarding any death **benefits enhancements** for members of the armed services to include the death gratuity, the Servicemen's Group Life Insurance (SLGI), and additional death benefits for in the line of duty deaths especially while exposed to hostile action.

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**Title VIII - Acquisition Policy, Acquisition Management, and Related Matters**  
**Subtitle C - United States Defense Industrial Base Provisions Defense Trade Reciprocity**  
**(Section 831)**

- The Secretary of Defense shall develop a comprehensive defense acquisition trade policy that provides the necessary guidance and incentives for the elimination of any adverse effects of **offset agreements** in defense trade.

- Likewise, the Secretary shall review and make necessary modifications to existing acquisition policies and strategies, and review and seek to make necessary modifications to existing memoranda of understanding, cooperative project agreements, or related agreements with foreign defense trade partners, to reflect this goal.

- Foreign defense trade partner is defined to mean a foreign country with respect to which there is a 10 U.S.C. 2531(a) memorandum of understanding or related agreement, or a Section 27, AECA, cooperative project agreement.

- Offset agreement is given the meaning as provided by Section 36(e), AECA.

- Defense articles and defense services have the meaning as provided by Section 47(7), AECA.

**Title X - General Provisions**

**Subtitle B - Naval Vessels and Shipyards Transfer of Naval Vessels to Certain Foreign Countries (Section 1013)**

- Under the authority of Section 516, FAA, by grant transfer, the following ships are authorized for transfer.

- U.S.S. O'Bannon (DD-987) to the government of **Chile**.

- U.S.S. George Philip (FFG-12) and U.S.S. Sides (FFG-14) to the government of Portugal.

- These grant transfers shall not be counted to the aggregate value ceiling for a fiscal year under Section 516(g), FAA.

- Under the authority of Section 21, AECA, by FMS sale, the following ships are authorized for transfer.

- U.S.S. Fletcher (DD-992) to the government of Chile; and

- U.S.S. Anchorage (LSD-36) to the **Taipei Economic and Cultural Representative Office (TECRO) of the United States**.

- Any expenses incurred by the U.S. in connection with the transfers are to be charged to the recipient.

- To maximum extent possible, any repair or refurbishment of the ships shall be completed at a shipyard located in the U.S., including a U.S. Navy shipyard.

- This authority for the ship transfers shall expire two years from enactment of this Act.

**Subtitle C - Counterdrug Matters Use of Funds for Unified Counterdrug and Counterterrorism Campaign in Colombia (Section 1021)**

- In FY 2005 and FY 2006, funds made available to DoD to provide assistance to the government of **Colombia** may be used to support a unified campaign by Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC). This authority includes actions to protect human health and welfare in emergency circumstances including the undertaking of rescue operations.

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•• The use of this funding shall be subject to Sections 556, 567, and 568, P.L. 107-115, 10 January 2002. Section 556 is the FY 2002 Leahy Amendment for vetting individuals and units before receiving U.S. assistance. Section 567 is the FY 2002 requirement for the Secretary of State to determine and certify to Congress several cooperative actions being complied with by the government and military of Colombia. Section 568 is the FY 2002 requirement prohibiting the issuance of visas to supporters of Colombian illegal armed groups unless the Secretary determines and certifies that the visa is necessary for the peace process or for humanitarian reasons.

•• Likewise, the use of this funding shall be subject to Section 8076, P.L. 108-287, 5 August 2004. This is the FY 2005 requirement for Leahy Amendment-like vetting before the Secretary of Defense uses DoD funds to support any training activity with a security force unit.

• U.S. military personnel assigned for temporary or permanent duty in Colombia in connection with support of Plan Colombia may not exceed 800.

• Likewise, the number of U.S. citizens retained as contractors in support of Plan Colombia may not exceed 600.

• Except for the purpose of acting in self-defense or of rescuing U.S. military, U.S. civilian employee, or civilian under contract to the U.S.; no U.S. military, U.S. civilian employee, or U.S. civilian contractor employed by the U.S. may participate in any combat operation in connection with assistance using funding authority by this Section.

Sense of Congress and Report Regarding Counterdrug Efforts in Afghanistan (Section 1022)

• The Secretaries of Defense and State shall jointly prepare a report that describes the progress made towards substantially reducing poppy cultivation and heroin production capabilities in **Afghanistan** and the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the government of Afghanistan.

## **Title XII - Matters Relating to Other Nations**

### **Subtitle A - Matters Relating to Iraq, Afghanistan, and Global War on Terrorism Commanders' Emergency Response Program (Section 1201)**

• Authorizes the FY 2005 appropriation not to exceed \$300,000,000 for this fund.

#### **Assistance to Iraq and Afghanistan Military and Security Forces (Section 1202)**

• Authorizes for FY 2005 the use of DoD operation and maintenance funding no to exceed \$500,000,000 for equipment, supplies, services, and training assistance to **Iraq and Afghanistan military and security forces**.

• The Secretary of Defense shall submit a notification to the congressional defense committees fifteen days before providing such assistance.

#### **Support of Military Operations to combat Terrorism (Section 1208)**

• The Secretary of Defense may expend up to \$25,000,000 in DoD operation and maintenance funding during any fiscal year to **provide support to foreign forces, irregular forces, groups, or individuals** engaging in supporting or facilitating ongoing military operations by U.S. special operations forces to combat terrorism.

•• The Secretary shall notify the congressional defense committees expeditiously, and in any event in not less than 48 hours, of the use of this authority.

•• This authority may not be delegated.

•• This authority is in effect during FY 2005 through FY 2007.

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## **Subtitle C - Other Matters**

### **Authority for Humanitarian Assistance for the Detection and Clearance of Landmines Extended to Include Other Explosive Remnants of War (Section 1221)**

- Amends 10 U.S.C. 401(e)(1) to include other explosive remnants of war.

### **Availability of Warsaw Initiative Funds for new NATO Members (Section 1224)**

- Authorizes the use of \$4,000,000 FY 2005 Operation and Maintenance, Defense-Wide Activities by DSCA for the **Warsaw Initiative Funds** for participation by the seven new NATO members in the exercises and programs of the PfP program of NATO.

### **Bilateral Exchanges and Trade in Defense Articles and Defense Services between the United States and the United Kingdom and Australia (Section 1225)**

- The Secretary of State shall ensure that any license application submitted for the export of defense articles or services to **Australia or the United Kingdom** is expeditiously processed by the Department, in consultation with the Department of Defense, without referral to any other federal department or agency, except where the item is classified or exceptional circumstances apply. The President shall ensure that regulations are prescribed to implement this Section.

### **Study on Missile Defense Cooperation (Section 1226)**

- The Secretary of Defense, in consultation with the Secretary of State, shall carry out a study to determine the advisability of authorizing or requiring the Secretary of State to establish procedures for considering technical assistance agreements and related amendments and munitions licenses applications for the **export of defense items related to missile defense** not later than thirty days after receipt of such applications, except where the Secretary of State determines more time is needed for review for foreign policy or national security reasons, to include concerns about the proliferation of ballistic missile technology.

- Likewise, the Secretary of Defense shall include in the study establishing procedures to increase the efficiency and transparency of the Defense Department review of such applications.

- This study shall include the feasibility of providing major project authorizations for programs related to missile defense similar to the comprehensive export authorization specified in 22 C.F.R. 126.14, the *International Traffic in Arms Regulation* (ITAR).

- This study shall be submitted not later 180 days after enactment of this Act to the congressional committees for armed services and foreign relations.

### **Title XIII - Cooperative Threat Reduction with States of the Former Soviet Union Funding Allocations (Section 1302)**

- Authorizes the FY 2005 appropriation of \$409,200,000 which is the amount appropriated by P.L. 108-287, August 5, 2004. Table 12 provides the authorized **Cooperative Threat Reduction** (CTR) programs for FY 2005 along with the authorities for FY 2004.

### **Title XV - Authorization for increased Costs due to Operation Iraqi Freedom and Operation Enduring Freedom Iraqi Freedom Fund (Section 1507)**

- Authorizes the appropriation of \$3,892,000,000.

### **Transfer Authority (Section 1511)**

- If determined necessary in the U.S. national interest, the Secretary of Defense may transfer amounts authorized under this Title for FY 2005 between any such authorizations. The funding transferred shall be merged with and be available for the same purposes as the authorization to which transferred. The total amount authorized for such transfers may not exceed \$1,500,000,000. The Secretary must consult with the chairmen and ranking members of

the congressional defense before the transfer and also notify the committees in writing of the proposed transfer not less than five days before the transfer is made.

**Table 12**  
**Cooperative Threat Reduction (CTR) Program Authorizations**  
**FY 2005 Funding**  
**(\$ in millions)**

<b>Program</b>	<b>FY 2004 P.L.108-136 Authority</b>	<b>FY 2005 P.L.108-375 Authority</b>
Strategic Offensive Arms Elimination in Russia	\$57.600	\$58.522
Strategic Nuclear Arms Elimination in Ukraine	3.900	0.000
Nuclear Weapons Transportation Security in Russia	23.200	26.300
Nuclear Weapons Storage Security in Russia	48.000	48.672
Activities Designated as other Assessments/Administrative Support	13.100	14.317
Defense and Military Contacts	11.100	8.000
Chemical Weapons Destruction in Russia	200.300	158.400
Biological Weapons Proliferation Prevention in the former Soviet Union	54.200	54.959
Weapons of Mass Destruction Proliferation in the States of the former Soviet Union	<u>39.400</u>	<u>40.030</u>
<b>Total CTR Program Authorization</b>	<b>\$450.800</b>	<b>\$409.200</b>

**Note:** Department of Defense Appropriations Act, 2005, Title II, P.L.108-287, 5 August 2004, earlier appropriated the later authorized \$409.200 million for CTR Program; however, \$15 million was earmarked to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

***Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005, Division B, P.L. 108-447, 8 December 2004***

- Enacted as Division B of the *Consolidated Appropriations Act, 2005*, P.L. 108-477, December 8, 2004. Originally reported out the House Appropriations Committee (HAC) as H.R. 4754 on 23 June 2004 with H. Rpt 108-576. The House passed the bill on 8 July 2004. The Senate version was S2809 reported out of committee on September 15, 2004 with S. Rpt. 108-344. The Senate never voted on their version; therefore, no conference was convened to iron out differences.

- The original H.R. 4754 was placed by the conference into the consolidated appropriations act as Division B of the enlarged H.R. 4818 for final action by both houses.

- This appropriation was included in the mandated 0.80 percent rescission.

- The Department of State portion of the bill is Title IV, with the other named departments and agencies of government having their own titles.

**Title IV - Department of State and Related Agency Department of State Administration of Foreign Affairs**

**Diplomatic and Consular Affairs**

- \$3,570,000,000 for necessary expenses of the Department and the Foreign Service not otherwise provided for, to include, inter alia:

- Not more than 71 permanent positions for the Bureau of Legislative Affairs.

- Not more than \$4,000,000 may be transferred to the Emergencies in the diplomatic and Consular Service account.

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- \$319,994,000 shall be available only for public diplomacy international information programs.

- \$3,000,000 shall be available only for the operations of the Office on Right-sizing the U.S. Government Overseas Presence.

- No funds shall be used for processing licenses for the export of U.S. origin satellites to include commercial satellites and components to the Peoples' Republic of China unless the congressional appropriations committees are notified fifteen days in advance of such proposed action.

- \$185,128,000 is for Near East Affairs.

- \$80,234,000 is for South Asian Affairs.

- \$251,706,000 is for African Affairs.

- \$2,000,000 shall be used for a grant to conduct an international conference on the human rights situation in North Korea.

- \$200,000 is for a grant to the Center for the Study of the Presidency.

- \$1,900,000 is for a grant to Shared Hope International to combat international sex tourism.

- \$658,702,000 to remain available until expended for the cost of worldwide security upgrades.

- \$5,000,000 is for the Center for Antiterrorism and Security Training.

- Beginning with FY 2005 and thereafter the Secretary of State is authorized to charge surcharges related to consular services in support of enhanced border security that are in addition to the passport and immigration visa fees in effect on 1 January 2004.

- These surcharges shall be \$12 for passport fees and \$45 on immigrant visa fees.

#### **Capital Investment Fund**

- \$52,149,000 to remain available until expended.

#### **Protection of Foreign Missions and Officials**

- \$9,894,000 to remain available until 30 September 2006.

#### **Embassy Security, Construction, and Maintenance**

- \$611,680,000 to remain available until expended of which not to exceed \$25,000 may be used for domestic and overseas representation as authorized.

- \$912,320,000 to remain available until expended for the costs of worldwide security upgrades, acquisition, and construction as authorized.

- Funds appropriated to this account in Title X, P.L. 108-287, 5 August 2004, which was \$20,000,000; may also be used for non-interim facilities for the U.S. mission in Iraq including associated planning, site preparation, and pre-construction activities.

#### **Emergencies in the Diplomatic and Consular Service**

- \$1,000,000 to remain available until expended.

#### **Payment to the American Institute in Taiwan**

- \$19,482,000 to carry out the *Taiwan Relations Act*, P.L. 96-8, 10 April 1979.

#### **Contributions to International Organizations**

- \$1,182,000,000 to remain available until expended of which:

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- Up to \$6,000,000 may be used for the cost of a direct loan to the U.N. for the cost of renovating its headquarters in New York. These funds are available to subsidize total loan principal of up to \$1,200,000,000.

- The Secretary of State shall notify the congressional appropriations committees at least fifteen days in advance of any U.N. action to increase funding in any program without identifying an offsetting decrease somewhere else in the budget to cause the U.N. exceed the adopted biennium 2004-2005 budget of \$3,160,860,000.

#### **Contributions for International Peacekeeping Activities**

- \$490,000,000 for international peacekeeping activities.
- None of these funds shall be obligated for any new or expanded U.N. peacekeeping mission until the appropriate congressional committees are notified at least fifteen days in advance of the U.N. voting on such action. The notification is to include the estimated cost, length of mission, the vital national interest to be served, and the exit strategy.
- None of this funding shall be used to pay the U.S. share of the cost of court monitoring that is a part of the U.N. peacekeeping mission.

#### **Other Payments to the Asia Foundation**

- \$13,000,000 to remain available until expended.

#### **Center for Middle Eastern-Western Dialogue**

- \$6,750,000 to remain available until expended. An additional \$250,000 for the Steering Committee.

#### **National Endowment for Democracy**

- \$60,000,000 to remain available until expended.

#### **General Provisions - Department of State and Related Agency**

- Section 404. The Senior Policy Operating Group on Trafficking in Persons established by Section 406, Division B, P.L. 108-7, February 20, 2003, shall coordinate all policies regarding international trafficking in persons.

- Section 409. The Secretary of State shall require each chief of mission to review, not less than once every five years, every staff element under the chief's authority, including staff from other departments or agencies of the U.S. and recommend approval or disapproval of each staff element. The review process was established by the President for determining appropriate staffing at diplomatic missions and overseas constituent posts by the *National Security Decision Directive* (NSDD) 38 of June 2, 1982.

#### ***Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, P.L. 108-458, 17 December 2004***

- To investigate and report to the Congress and the President the causes for, and recommendations for the prevention of future similar attacks, the September 9, 2001 terrorist attacks in New York, Washington D.C., and in Pennsylvania; Title VI, P.L. 107-306, November 27, 2002, established, tasked, and funded the National Commission on Terrorist Attacks Upon the United States, later referred to as the 9/11 Commission. Initially funded at \$3,000,000 from P.L. 107-248, October 23, 2002, this ten-member commission, subsequently chaired by former Governor Thomas H. Kean, was tasked to provide not later than eighteen months after enactment of P.L. 107-306 a report to the Congress and the President.

- In July 2004, the Commission released the widely distributed report launching a series of congressional hearings with the goal of improving the U.S. intelligence community.

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•• On August 27, 2004, the President, using constitutional and legislated authorities provided to his office, issued two executive orders entitled *Strengthened Management of the Intelligence Community* amending previous E.O. 12333 of December 4, 1981, and established the *National Counterterrorism Center*.

• S2845 to reform the U.S. intelligence community and for other purposes was introduced in the Senate to be later passed by the Senate on October 6, 2004. The bill with amendments was later passed by the House on October 16, 2004. There were no accompanying committee reports filed. A conference was convened and reported out December 7, 2004 with H. Rpt. 108-796. The House and the Senate passed the conference bill December 7 and 8 2004 respectively. S2845 was enacted December 17, 2004 as P.L. 108-458. In addition to reorganizing the intelligence community, the law contained several items affecting the U.S. and international security assistance and security cooperation communities.

### **Title III - Security Clearances (Section 3001)**

• The President shall, within ninety days after enactment of this Act, select a single department, agency or element of the executive branch to be responsible, inter alia, for directing the day-to-day oversight of **investigations and adjudications for personnel security clearances** throughout the U.S. government, ensuring reciprocal recognition of access to classified information, and the review and coordination of the development of tools and techniques for enhancing the conduct of investigations and granting of clearances.

• Not later than 180 days after enactment of this Act, a single agency of the executive branch shall be selected to conduct security clearance investigations of employees and contractor personnel of the U.S. government who require access to classified information and to provide and maintain all security clearances of all such employees and contractor personnel.

• All security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency shall be accepted by all agencies and be transferable.

• Not later than twelve months after enactment of this Act, the Office of Personnel Management (OPM) shall establish, operate, and maintain an integrated, secure, database into which appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or government contractor personnel shall be entered from all authorized investigative and adjudicative agencies.

• Section 3001(i) authorizes the FY 2005, and subsequent fiscal years thereafter, appropriation of funding necessary for the implementation, maintenance, and operation of the directed **OPM integrated database**.

### **Title IV - Transportation Security - Subtitle B - Aviation Security International Agreements to Allow Maximum Deployment of Federal Air Marshals (Section 4017)**

• The President is encouraged to pursue aggressively international agreements with foreign governments to allow the maximum deployment of Federal air marshals on international flights.

#### **Foreign Air Marshal Training (Section 4018)**

• The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate **air marshal training to law enforcement personnel of foreign countries**.

•• This training may only be provide after comparing the identifying information and records of the foreign personnel against all appropriate records in the consolidated and integrated terrorist watchlists maintained by the Federal government.

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•• Reasonable fees and charges to pay expenses for this training shall be established. Funds collected for this training shall be credited to the Treasury account from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.

#### **Improved Pilot Licenses (Section 4022)**

• Not later than one year after enactment of this Act, the FAA shall begin to issue **improved pilot licenses** consistent with the requirements of 49 USC and 14 CFR. These improved licenses shall:

- Be resistant to tampering, alterations, and counterfeiting;
- Include a photograph of the individual issued the license; and
- Be capable accommodating a digital photograph, a biometric identifier, or any other unique identifier.

• Methods shall be developed to determine or reveal whether any component or security feature of an issued license has been tampered, altered, or counterfeited.

#### **Prohibited Items List (Section 4025)**

• Not less than sixty days after enactment of this Act, the Transportation Security Administration (TSA) shall complete a review of the list of items prohibited from being carried on board a passenger aircraft and shall release a revised list that includes butane lighters and any other modification considered appropriate.

• This review was completed by February 28, 2005 and a press release and an announcement in the *Federal Register* were provided on March 1, 2005 to amend 49 CFR 1540. The banning of all lighters to include **butane lighters and Zippo lighters** within the airport sterile area, on any passenger's being, in any carry-on luggage, and in checked luggage began on April 14, 2005. Passengers are limited to four books of strike-on-cover matches. It was also announced that the banning of these allowed matches is being further studied for also being banned on aircraft.

#### **Man-Portable Air Defense Systems (Section 4026)**

• The President is encouraged to seek to enter into agreements with foreign governments that, at a minimum, would:

•• Prohibit the entry into force of a **man-portable air defense system (MANPADS) manufacturing license agreement** and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;

•• Prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any component, part, accessory, or attachment thereof, without an individual validated license; and

•• Prohibit the reexport or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third person organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.

• The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADS worldwide.

• Not less than 180 days after enactment of this Act, the President shall provide to the appropriate congressional committees a report of the status of diplomatic efforts to comply with the recommendations of the Government Accountability Office Report (GAO-04-519), entitled *Nonproliferation: Further Improvements Needed in U.S. Efforts to counter Threats from Man-*

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*Portable Air Defense Systems.* After the submission of this report, the Secretary of State shall annually brief the appropriate congressional committees on the status of the diplomatic and compliance efforts set forth.

- As soon as practicable, but not later than the date of completion of Phase II of Department of Homeland Security's **counter-MANPADS development and demonstration program**, the FAA shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. This process shall require a certification by the FAA that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

- The President is encouraged to pursue strong programs to reduce the number of MANPADS worldwide so that fewer MANPADS will be available for trade, proliferation, and sale. Funding is to be authorized for appropriation as may be necessary to carry out this program.

#### **Title V - Border Protection, Immigration and Visa Matters Subtitle B - Border and Immigration Enforcement**

##### **Increase in Full-Time Border Patrol Agents (Section 5202)**

- In each of FY 2006 through FY 2010, the Secretary of Homeland Security shall, subject to the appropriation of funding, increase by not less 2,000, the number of full-time **active duty border agents** above the previous fiscal year.

- In each of FY 2006 through FY 2010, in addition to the agents assigned along the northern border of the U.S. during the previous fiscal year, the Secretary shall assign a number of agents equal to not less than twenty percent of the net increase in agents during each fiscal year.

##### **Increase in Full-Time Immigration and Customs Enforcement Investigators (Section 5203)**

- In each of FY 2006 through FY 2010, the Secretary of Homeland Security shall, subject to available appropriations for such purposes, increase by not less than 800 the number of positions for full-time active duty immigration investigators above the number of such positions for which funds were made available during the preceding fiscal year.

#### **Subtitle C - Visa Requirements**

##### **Deportation of Aliens who have received Military-Type Training from Terrorist Organizations (Section 5402)**

- Amends Section 237(a)(4), *Immigration and Nationality Act* [also 8 USC 1227(a)(4)] so that any alien who has **received military-type training** from or on behalf of any organization that, at the time the training was received, was a terrorist organization is deportable.

- Military-type training is further defined to include training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm, or other weapon, including any weapon of mass destruction.

#### **Title VII - Implementation of 9/11 Commission Recommendations**

- This Title includes Sections 7001 through 7804 and is entitled *9/11 Commission Implementation Act of 2004*, Title VII, P.L. 108-458, December 17, 2004.

##### **United States Commitment to the future of Pakistan (Section 7103)**

- Section 7103(c) amends P.L. 107-57, 27 October 2001, providing the President the authority to waive certain AECA, FAA, and annual foreign operations appropriations act prohibitions through FY 2006 regarding assistance for **Pakistan**. See the earlier discussion for Section 534(n), Division D, P.L. 108-447, December 8, 2004, for additional details on this waiver authority.

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### **Assistance for Afghanistan (Section 7104)**

- This Section is also entitled the *Afghanistan Freedom Support Act Amendments of 2004*, Section 7104, P.L. 108-458, December 17, 2004. This Act amends certain provisions of the *Afghanistan Freedom Support Act of 2002*, P.L. 107-327, December 4, 2002.

- Section 104(c), P.L. 107-327, is amended requiring the presidentially-appointed coordinator, within the Department of State, for U.S. assistance to **Afghanistan** to provide annual assistance plans to Congress and work with the international community for assistance to Afghanistan.

- A new Section 207 is added to P.L. 107-327, providing the sense of Congress for more activity to reduce the poppy cultivation, heroin production, and the use of monies by terrorist groups from illegal drug activity in Afghanistan. The Secretaries of State and Defense are to submit an annual joint report to Congress regarding the progress in combating these activities.

- Section 7104(l) repeals Section 620D, FAA, prohibiting FAA-authorized funding assistance to Afghanistan.

- Section 7104(m) amends Section 108(a), P.L. 107-327, to authorize such funds as may be necessary for each FY 2005 and FY 2006.

### **The Relationship between the United States and Saudi Arabia (Section 7105)**

- Provides the sense of Congress that, while recognizing the increased counterterrorism cooperation between the U.S. and Saudi Arabia, there should be a more robust dialogue between the people and the government of the U.S. and the people and the government of **Saudi Arabia** in order to improve the relationship between the U.S. and Saudi Arabia.”

### **Case-Zablocki Act Requirements (Section 7121)**

- Amends 1 USC 112a requiring the Secretary of State to make available to the public through the Department of State internet website each **treaty or international agreement** proposed to be published in the compilation entitled *United States Treaties and Other International Agreements* not later than 180 days after the date on which the treaty or agreement enters into force.

- The Secretary of State shall annually submit to Congress an index of all international agreements, listed by country, date, title, and with a summary, that has been signed, proclaimed, or with reference to which any other final formality has been executed, or that has been extended or otherwise modified, during the preceding calendar year and has not been published or is not to be published in the directed new internet compilation. This report may be classified.

### **International Standards for Transliteration of Names into the Roman Alphabet for International Travel Documents and Named-Based Watchlist Systems (Section 7205)**

- Provides the sense of Congress, recognizing the lack of a single convention for **translating Arabic names** enabled some of the 9/11 hijackers to defeat name-based terrorist watchlist systems and making potential efforts difficult to locate them, that the President should seek an international agreement to modernize and improve standards for the transliteration of names into the Roman alphabet for international travel documents and named-based watchlist systems.

### **Travel Documents (Section 7209)**

- The Secretary of Homeland Security in consultation with the Secretary of State shall develop and implement a plan not later than January 1, 2008 to require a passport or other document deemed sufficient to denote identity and citizenship for all travel into the U.S. by U.S. citizens and by categories of individuals for whom documentation requirements have been previously waived under 8 USC 1182(d)(4)(B).

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- On 5 April 2005, the Departments of State and Homeland Security jointly announced the phased plan entitled the **Western Hemisphere Travel Initiative** (WHTI) for U.S. citizens and others who travel outside the U.S. and for later reentry into the U.S. While yet to be totally addressed for procedural use within the *Federal Register* for proposed rulemaking, the ultimate goal appears to be requiring a passport with imbedded electronic biometric data of all U.S. citizens traveling outside the U.S.

#### **Minimum Standards for Birth Certificates (Section 7211)**

- In the interest of combating terrorism, not later than one year of enactment of this Act, the Secretary of Health and Human Services shall publish regulations **establishing minimum standards for birth certificates** to be used by the States beginning two years later. This two year requirement can be extended by the Secretary for two more years if determined the State has made reasonable efforts to comply but was unable to do so.

- Additionally, the Secretary shall award grants to States to assist in computerizing birth and death records, develop a capability to match the records within and among the States, and noting the fact of death on birth certificates of deceased persons.

#### **Driver's Licenses and Personal Identification Cards (Section 7212)**

- Also in the combating of terrorism, not later than eighteen months after enactment of this Act, the Secretary of Transportation shall by regulation establish minimum issuance, verification, and data standards for **driver's licenses or personal identification cards issued by the States**. No Federal agency may accept, for any official purpose, a license or identification card newly issued by a State more than two years (extendable by two years) after the promulgation of the standardization regulations unless the license or identification card complies with the minimum standards.

- The Secretary shall proportionally award grants to States to assist in meeting the minimum standards.

#### **Social Security Cards and Numbers (Section 7213)**

- Not later than one year after enactment of this Act, the Commissioner of Social Security shall restrict the issuance of multiple replacement cards to any individual to three per year and ten for the life of the individual. The Commissioner is to also authorized to make reasonable exceptions on a case-by-case basis.

- The Commissioner is also to establish and implement minimum standards for verification of documents to establish eligibility for an original or a replacement **social security card**.

#### **Prohibition of the Display of Social Security Account Numbers on Driver's Licenses or Motor Vehicle Registrations (Section 7214)**

- For licenses, identification cards, or registrations issued one year after enactment of this Act, no **social security account number** may be displayed, to also include within a magnetic strip, bar code, or other means of communications which conveys this number.

#### ***Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, P.L. 108-324, October 13, 2004***

- H.R. 4837 was reported out of the House Appropriations Committee on 9 July 2004 with H. Rpt. 108-607 and passed by the House on July 22, 2004. The Senate version was S2674 reported out of committee on July 15, 2004 with S. Rpt. 108-309 and passed by the Senate on September 20, 2004. A conference was held and reported out on October 9, 2004 with H. Rpt 108-773. The House and Senate each passed H.R. 4837 on 9 and 11 October 2004 respectively. The bill was immediately enacted on 13 October 2004 as P.L. 108-324. While the primary

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purpose of P.L. 108-324 was to fund FY 2005 DoD construction, it contained a very limited number of items that affected the U.S. security assistance and security cooperation communities.

- Section 122, Division J, P.L. 108-447, December 8, 2004, exempted P.L. 108-324 from the mandated 0.80 percent across-the-board rescission.

- Division A is *Military Construction Appropriations Act, 2005*, providing funds and other legislation for DoD construction for FY 2005. Division B is the *Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005*, providing additional appropriations for the U.S. government assistance for recovery from the numerous destructive storms striking the Southeastern U.S. and the Caribbean during 2004. Division C is the *Alaska Natural Gas Pipeline Act*, containing no items related to security assistance or security cooperation.

#### **Division A - Military Construction Appropriations Act, 2005**

##### **North Atlantic Treaty Organization - Security Investment Program**

- Appropriates \$165,800,000 to remain available until expended as the U.S. share of the cost of the **NATO Security Investment Program** for the acquisition and construction of military facilities and installation and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by 10 U.S.C. 2806. Of the same funds appropriated by P.L. 108-132, November 22, 2003, for FY 2004; \$5,000,000 is rescinded.

##### **General Provisions**

- Section 109 provides that no funds available to DoD for military construction or family housing during FY 2005 may be used to pay real property taxes in any foreign nation.

- Section 111 provides that none of the funds made available by this Act may be obligated for architect and engineer contracts estimated to exceed \$500,000 for projects to be **accomplished in Japan, any NATO member country, or countries bordering the Arabian Sea**, unless the contracts are awarded to U.S. firms or U.S. firms in joint venture with host nations firms.

- Section 112 provides that none of the funds made available by this Act for military construction in the U.S. territories and possessions in the Pacific and on Kwajalein Atoll or in countries bordering the Arabian Sea, may be used to award any contract estimated to exceed \$1,000,000 to a foreign contractor.

- This does not apply to contract awards for which the lowest responsive and responsible bid of a U.S. contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than twenty percent.

- This shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

- Section 118 provides for the Secretary of Defense to provide an annual report by February 15 to the congressional appropriations committees containing details of the specific actions proposed to be taken by DoD during the current fiscal year to encourage other member nations of NATO, Japan, Korea, and U.S. allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the U.S.

- Section 121 provides that none of the funds provided by this Act may be obligated for **PfP** programs in the New Independent States (NIS) of the former Soviet Union.

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**Division B - Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005, Chapter 3, Department of Defense**

**General Provisions - Chapter 3**

- Section 308 amends Section 9007, P.L. 108-287, August 5, 2004, authorizing the use of funding not to exceed \$500,000,000 (vice \$300,000,000) for the FY 2005 **Commander's Emergency Response Program**.

- Section 309 amends Section 9006, P.L. 108-287, August 5, 2004, authorizing the use of funding not to exceed \$500,000,000 to train, equip, and provide related assistance only to the **New Iraqi Armed Forces** (vice New Iraqi Army) and the **Afghan National Army**. This is to allow assistance to also include the Iraqi National Guard.

**General Provisions - Chapter 5, Bilateral Economic Assistance Funds Appropriated to the President United States Agency for International Development**

- Appropriates an additional \$100,000,000 to remain available until 30 September 2005 for International Disaster and Famine Assistance to be available for respond to disasters caused by hurricanes and tropical storms in the **Caribbean region**.

**Conclusion**

This year's article includes the description and analysis of six pieces of legislation that impacted U.S. international programs to include the *Intelligence Reform and Terrorism Prevention Act of 2004*, P.L. 108-458, December 17, 2004. The timely receipt of the Section 653(a), FAA, allocation report to Congress has allowed for the first time additional funding allocation tables for other DoS foreign assistance programs funded by the *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005*, Division D, P.L. 108-447, December 8, 2004. These other funded programs are related to the overall U.S. security assistance and security cooperation effort and often implemented using security assistance procedures. Being no different from recent years, FY 2005 security assistance legislation process has experienced last minute continuing resolutions, consolidated appropriations, across-the-board rescissions, no authorization legislation, and most funding not being available until the second quarter of the fiscal year. Additionally, at the request of the Administration, there is a significant emergency supplemental appropriation currently being legislated by Congress as H.R. 1268 for enactment which as proposed will affect FY 2005 security assistance and security cooperation. This supplemental request of February 14, 2005 can be viewed at [http://www.whitehouse.gov/omb/budget/amendments/supplemental\\_2\\_14\\_05.pdf](http://www.whitehouse.gov/omb/budget/amendments/supplemental_2_14_05.pdf).

*Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005*, Division D, P.L. 108-447, December 8, 2004, initially appropriated \$7,553,230,000 for FY 2005 security assistance programs; however, Division J of the same P.L. 108-447, mandated an across-the-board rescission of 0.80 percent which amounted to \$60,426,000 causing the final appropriation for ESF, IMET, FMFP, and PKO available for initial allocation to be \$7,492,804,000. Other than an additional \$75,000,000 for peacekeeping operations in the Darfur region of Sudan, there were no significant differences among FY 2004 final funding, the Administration's request for funding, the Senate and House proposals, and the initial FY 2005 funding for each of the four programs.

The FY 2006 security assistance funding request includes \$3,036,375,000 for ESF, \$86,744,000 for IMET, \$4,588,600,000 for FMFP, and \$195,800,000 for PKO. Program and country-specific information for the FY 2006 request can be viewed at <http://www.state.gov/m/rm/rls/cbj/2006/>.

This year's legislation reinforces that security assistance programs continue to be a principal U.S. tool for building and reinforcing alliances and coalitions throughout the world. U.S. support

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of coalition operations in the Middle East and Southwest Asia continues to include the significant security assistance element of security cooperation to achieve U.S. foreign policy objectives and the success of U.S. ongoing and future military operations.

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This article has been placed on the DISAM web page for future reference. It is located at <http://www.disam.dsca.mil/pubs/USG/USGPubs.htm> along with other security assistance-related material to include the legislation articles from prior fiscal years.

### **About the Author**

Ken Martin has been at DISAM for over sixteen years as an associate professor for the management of security assistance. In addition to teaching, his duties include being the legislation and policy functional manager and the editor for the annually published DISAM green textbook, *The Management of Security Assistance*. He is a retired U.S. Navy surface warfare officer. His education includes an undergraduate degree in the field of economics from the Illinois Institute of Technology in Chicago and a Master's Degree in Administration from Central Michigan University.