

# Fiscal Year 2010 Security Cooperation Legislation

By

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**Please note that this summary is not legal advice and may not be relied on for official purposes. The reader should confer with one's assigned general counsel for any related legal analysis or advice.**

## Introduction

Each year, the *DISAM Journal* publishes a summary of the legislation that impacts U.S. security assistance, security cooperation, and other related international programs. This report is intended to alert all security assistance and security cooperation community members to the collective changes or continued requirements 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 article will not include the initial allocations figures for the FY 2010 security assistance programs since the required Department of State report for the allocation of foreign operations funding to Congress in accordance with Section 653(a), FAA, was not yet available. This report is normally to be completed no later than 30 days after enactment of the State Department and Foreign Operations Appropriations Act (S/FOAA) which for FY 2010 was enacted on 16 December 2009 as Division F, P.L.111-117. However, the State Department congressional budget justifications (CBJ) for FY 2011 provided the estimated allocations for FY 2010 along with estimated requests for FY 2011 and are used for the purpose of this article.

The FY 2010 appropriations season included two continuing resolutions (CRs) with the last one, P.L.111-88, lasting through midnight, 18 December 2009. For the first time in several years, the FY 2010 appropriations process did not require an across-the-board rescission of any type. However, as before, other than P.L.111-73 for Pakistan, no stand alone authorization act was provided for foreign relations or the S/FOAA. HR2410, *Foreign Relations Authorization Act, Fiscal Years 2010 and 2011*, was passed by the House on 10 June 2009 but never cleared the Senate.

The following four pieces of legislation are to be further summarized in this article as they related to U.S. security assistance and security cooperation. Certain highlights with the four laws are provided.

- *Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, (S/FOAA), Division F, P.L.111-117, 16 December 2009.*

- International Narcotics Control and Law Enforcement (INCLE) and Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR) are placed under the International Security Assistance heading along with Foreign Military Financing Program (FMFP), International Military Education and Training (IMET), and Peacekeeping Operations (PKO).
  - The law included significant reporting requirements and no funding for selected countries or programs until appropriations committees “regular notification procedures” are followed.
  - In addition to the historically large FMFP funding for Israel and Egypt, significant FY 2010 funding (in excess of \$100,000,000) is provided for Jordan, Lebanon, Pakistan, and Mexico. Limits the use of FMFP in support of the DoD “1206” program.
  - The IMET program continues its slow upward growth with \$108,000,000 provided for FY 2010 and \$110,000,000 being proposed for FY 2011.
  - Significant country recipients of FY 2010 Economic Support Fund (ESF) appropriations (in excess of \$100,000,000) include Liberia, Sudan, Egypt, Iraq, Jordan, Lebanon, West Bank and Gaza, Afghanistan, Pakistan, Colombia, and Haiti.
  - Significant country recipients of INCLE funding (in excess of \$100,000,000) include West Bank and Gaza, Afghanistan, Pakistan, Colombia, and Mexico.
- *Enhanced Partnership with Pakistan Act of 2009*, P.L.111-73, 15 October 2009.
    - Authorizes the appropriation of \$1,500,000,000 annually for FYs 2010 through 2014 for FAA authorized assistance to Pakistan.
    - A sense of Congress is expressed indicating subject to improvements in Pakistan political and economic climate, this annual \$1,500,000,000 FAA assistance should be extended through FY 2019.
    - Also authorizes the appropriation of such sums necessary for IMET and FMFP annually for FYs 2010 through 2014 with significant use for activities relating to counterinsurgency and counterterrorism operations.
    - No assistance is to be made available during a fiscal year until certain certifications are provided to Congress by the Secretary of State, under the direction of the President, regarding Pakistan’s continued cooperation with the U.S. and progress in countering al-Qaeda, the Taliban, and other terrorist organizations.
    - Any direct cash security-related assistance or non-assistance payments are only to be provided to the Pakistan civilian government.
    - A Pakistan Assistance Strategy Report and a comprehensive regional security strategy report in addition to semi-annual monitoring reports are to be made to the Congress.
  - *National Defense Authorization Act for Fiscal Year 2010*, P.L.111-84, 28 October 2009.
    - Required report assessing the possible transfer of retiring C-5s to U.S. flag carriers or coalition partners and the potential FMS transfer of F-22s.
    - Reorganization of the Office of the Secretary of Defense (OSD) authorizing only five deputy under secretaries and twelve assistant secretaries plus deleting the deputy under secretary for technology security policy position.

- Extends the following authorities through FY 2010:
    - Unified counter-drug and counterterrorism campaign in Colombia, Section 1021, NDAA, FY 2005,
    - Joint task force support to law enforcement agencies conducting counter-terrorism activities, Section 1022, NDAA, FY 2004,
    - Support for counter-drug activities of certain foreign governments, Section 1033, NDAA, FY 1998, and
    - Security and stabilization assistance, Section 1207, NDAA, FY 2006.
  - Increases the annual authority for support of special operations to combat terrorism, Section 1208, NDAA, FY 2005, to \$40,000,000.
  - Limits the use of program authority to build the capacity of foreign military forces, Section 1206, NDAA, FY 2006, to \$75,000,000 annually during FYs 2010 and 2011 for the purpose of forces to participate in or support military and stability operations in which U.S. armed forces are a participant.
  - Requires the President to submit a significant report to Congress regarding the relationship between security assistance and security cooperation, strengths and weaknesses of present law relating to the training and equipping of foreign militaries, any recommended legislative changes, and organizational and procedural changes to improve training and equipping of foreign militaries.
  - Requires a report addressing the role of FMS in meeting Iraqi military requirements.
  - Requires the establishment of a weapons registration and end-use monitoring program for both Afghanistan and Pakistan.
  - Provides an authority to transfer up to \$750,000,000 in DoD already in-theater defense articles and services during FY 2010 to Iraq and Afghanistan.
  - Authorizes the FY 2010 appropriation of \$7,462,769,000 for the Afghanistan Security Forces Fund (ASFF).
- *Department of Defense Appropriations Act, 2010*, Division A, P.L.111-118, 19 December 2009.
    - Appropriates the following funds:
      - \$50,000,000 for the Combatant Commander Initiative Fund (CCIF).
        - For overseas contingency operations, an additional \$12,500,000.
      - \$109,869,000 for oversea humanitarian, disaster and civic aid (OHDCA) program.
      - \$424,093,000 for the Cooperative Threat Reduction program.
      - \$1,158,226,000 for drug interdiction and counter-drug activities.
        - For overseas contingency operations, an additional \$346,603,000.
      - \$202,434,000 for the Israeli cooperative program.
      - \$6,562,769,000 for the ASFF.
      - \$1,570,000,000 to reimburse key cooperating nations in support of operations in Iraq and Afghanistan.
      - Up to \$1,200,000,000 in Army O&M to fund the Commanders' Emergency Response Program (CERP).

- Requires a quarterly report on the use of ASFF, ISFF, and Pakistan Counterinsurgency Fund (PCF).
- Prohibits the sale of the F-22 but authorizes DoD participation in a program to examine the possible development of an export version.
- Requires that any agency receiving appropriated funds to post any required congressional report on the agency public website, with determined security and propriety information exceptions.

## 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” webpage located at <http://thomas.loc.gov>.

- SAMM: *Security Assistance Management Manual*, DoD 5105.38-M, 3 October 2003, with changes. It is maintained electronically and can be viewed on the DSCA webpage at <http://www.dscamilitary.com/samm/>.
- FAA: *Foreign Assistance Act of 1961*, as amended, Public Law (P.L.) 87-195, 4 September 1961 [22 U.S.C. 2151, et seq.].
- P.L. 87-510: *Migration and Refugee Act of 1962*, P.L. 87-510, 28 June 1962 [22 U.S.C. 2601]
- AECA: *Arms Export Control Act*, as amended, P.L. 94-329, 30 June 1976 [22 U.S.C. 2751, et seq.].
- P.L. 96-8: *Taiwan Relations Act*, P.L. 96-8, 10 April 1979.
- P.L. 96-533: *Peace Corps Act*, Title VI, P.L. 96-533, 16 December 1980.
- P.L. 99-239: *Compact of Free Association*, P.L. 99-239, 14 January 1986.
- P.L. 99-415: *Anglo-Irish Agreement Support Act of 1986*, P.L. 99-415, 19 September 1986.
- P.L. 101-179: *Support for East European Democracy (SEED) Act of 1989*, P.L. 101-179, 28 September 1989.
- P.L. 101-510: *National Defense Authorization Act, Fiscal Year 1991*, P.L. 101-510, 5 November 1990.
- P.L. 102-484: *National Defense Authorization Act, Fiscal Year 1993*, P.L. 102-484, 6 October 1992.
- P.L. 102-511: *Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act (FSA) of 1992*, P.L. 102-511, 24 October 1992.
- P.L. 103-160: *National Defense Authorization Act, Fiscal Year 1994*, P.L. 103-160, 30 November 1993.
- P.L. 104-201: *National Defense Authorization Act, Fiscal Year 1997*, P.L. 104-201, 23 September 1996.
- P.L. 105-85: *National Defense Authorization Act, Fiscal Year 1998*, 18 November 1997.
- P.L. 106-113: *Making Consolidated Appropriations for the Fiscal Year ending September 30, 2000, and for Other Purposes*, P.L. 106-113, 29 November 1999.

- P.L. 106-429: *Making Appropriations for Foreign Operations, Export Financing, and Related Programs for the Fiscal Year ending September 30, 2001, and for Other Purposes*, P.L. 106-429, 6 November 2000.
- P.L. 107-115: *Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002*, P.L. 107-115, 10 January 2002.
- P.L. 108-136: *National Defense Authorization Act, Fiscal Year 2004*, P.L. 108-136, 24 November 2003.
- P.L. 108-287: *Department of Defense Appropriations Act, 2005*, P.L. 108-287, 5 August 2004.
- P.L. 108-375: *Ronald W. Reagan National Defense Authorization Act, Fiscal Year 2005*, P.L. 108-375, 28 October 2004.
- P.L. 109-163: *National Defense Authorization Act for Fiscal Year 2006*, P.L. 109-163, 6 January 2006.
- P.L. 109-364: *National Defense Authorization Act, Fiscal Year 2007*, P.L. 109-364, 17 October 2006.
- P.L. 109-472: *Department of State Authorities Act of 2006*, P.L. 109-472, 11 January 2007.
- P.L. 110-116: *Department of Defense Appropriations Act, 2008, Division A*, P.L. 110-116, 13 November 2007.
- P.L. 110-161: *Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008, Division J*, P.L. 110-161, 26 December 2007.
- P.L. 110-161: *Emergency Supplemental Appropriations Act for Defense, 2008, Division L*, P.L. 110-161, 26 December 2007.
- P.L. 110-181: *National Defense Authorization Act, Fiscal Year 2008*, P.L. 110-181, 28 January 2008.
- P.L. 110-417: *Duncan Hunter National Defense Authorization Act for Fiscal Year 2009*, P.L. 110-417, 14 October 2008.
- P.L. 111-08: *Department of State, Foreign Operation, and Related Programs Appropriations Act, 2009*, P.L. 111-08, 11 March 2009.
- P.L. 111-32: *Supplemental Appropriations Act, 2009*, P.L. 111-32, 24 June 2009.
- P.L. 111-73: *Enhanced Partnership with Pakistan Act of 2009*, P.L. 111-73, 15 October 2009.
- P.L. 111-84: *National Defense Authorization Act for Fiscal Year 2010*, P.L. 111-84, 28 October 2009.
- P.L. 111-88: *Further Continuing Resolution, 2010, Division B*, P.L. 111-88, 30 October 2009.
- P.L. 111-117: *Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, Division F*, P.L. 111-117, 16 December 2009.
- P.L. 111-118: *Department of Defense Appropriations Act, 2010, Division A*, P.L. 111-118, 19 December 2009.

## Legislation for Fiscal Year 2010

### *Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 (S/FOAA), Division F, P.L.111-117, 16 December 2009*

- Originally reported out of the House (HAC) and Senate (SAC) Appropriations Committees as HR3081 with H.Rpt. 111-187 on 23 Jun 09, and as S1434 with S.Rpt. 111-44 on 9 Jul 09 respectively. The House approved HR3081 on 9 Jul 09 and the Senate did not take action on S1434.
- The S/FOAA was incorporated as Division F within the *Consolidated Appropriations Act, 2010*, P.L.111-117, 16 Dec 09. Conference report H.Rpt. 111-366 was provided 8 Dec 09. This Act also included five other annual appropriations:
  - Division A – Transportation, Housing and Urban Development and Related Agencies (HR3288)
  - Division B – Commerce, Justice, Science, and Related Agencies (HR2847)
  - Division C – Financial Services and General Government (HR3170)
  - Division D – Departments of Labor, Health and Human Services, and Education, and Related Agencies (HR3293)
  - Division E – Military Construction and Veterans Affairs and Related Agencies (HR3082)
- Table One provides an overview for FY2010 security assistance funding to include final appropriations for FY2009 and the proposed request for FY2011.

**Table One**  
**Security Assistance Appropriations**

<b><u>Program</u></b>	<b><u>FY2009</u></b>	<b><u>FY2010</u></b>	<b><u>FY2011</u></b>
	<b><u>Appropriation</u></b>	<b><u>Appropriation</u></b>	<b><u>Request</u></b>
<b>FMFP</b>	\$5,006,500,000	\$5,420,000,000	\$5,473,348,000
<b>IMET</b>	93,000,000	108,000,000	110,000,000
<b>ESF</b>	7,116,901,000	6,344,000,000	7,811,982,000
<b>PKO</b>	530,200,000	331,500,000	285,950,000
<b>INCLE</b>	1,782,500,000	1,691,000,000	2,136,041,000
<b>NADR</b>	631,500,000	754,000,000	757,613,000

Notes: (1) FY2010 FMFP includes P.L.111-32 FY2009 appropriations of \$260M for Egypt, \$555M for Israel, \$150M for Jordan, and \$260M for the Mexican Navy intended for distribution during FY10.

(2) For the first time, S/FOAA, FY10, places the *International Narcotics Control and Law Enforcement (INCLE)* and *Nonproliferation, Anti-Terrorism, Demining and Related Programs*

(NADR) programs under the *International Security Assistance* Heading. Additionally, the previous *Andean Counterdrug Initiative (ACI)* program is merged into INCLE.

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

***Title IV, International Security Assistance, Funds Appropriated to the President Foreign Military Financing Program (FMFP)***

- Appropriation of \$4,195,000,000 in grant assistance to carry out the provisions of Section 23, AECA.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$1,294,000,000 as FMFP to remain available until 30 Sep 10 to include \$260,000,000 for the Mexican Navy, \$150,000,000 for Jordan, \$555,000,000 for Israel, \$260,000,000 for Egypt, and \$69,000,000 for Lebanon.
- A FY2010 supplemental request for \$60,000,000 in additional FMFP for **Pakistan** has been announced.
- Table Two provides the estimated funding allocations for FY2010 along with actual allocations for FY2009 and allocations intended for FY2011. The P.L.111-32 FMFP appropriated funding for Israel, Egypt, Jordan, and the Mexican Navy is carried forward into the FY2010 allocations.

**Table Two**  
**Foreign Military Financing Program (FMFP)**  
 (\$ in thousands)

<b><u>Program</u></b>	<b><u>FY2009</u></b>	<b><u>FY2010</u></b>	<b><u>FY2011</u></b>
<b><u>Africa</u></b>	<b>\$8,225</b>	<b>\$18,793</b>	<b>\$23,790</b>
Botswana		200	340
Chad		500	400
DR of the Congo	800	1,450	1,450
Djibouti	2,000	2,000	2,500
Ethiopia	843	843	2,000
Gabon		200	200
Ghana	300	350	450
Kenya	250	1,000	1,000
Liberia	1,500	6,000	9,000
Mali		200	200
Nigeria	1,350	1,350	1,350
Rwanda		200	400
Senegal		300	400
South Africa		800	800

Africa Regional	1,412	2,900	2,800
Tanzania		200	200
Uganda		300	300
<b><u>East Asia and Pacific</u></b>	<b>\$48,300</b>	<b>\$62,100</b>	<b>\$46,505</b>
Cambodia	1,000	1,000	1,000
Indonesia	15,700	20,000	22,000
Mongolia	1,000	4,500	5,000
Philippines	28,000	32,000	15,000
Thailand	1,600	1,600	1,060
Timor-Leste		500	500
Tonga	500	500	600
Vietnam	500	2,000	1,345
<b><u>Europe and Eurasia</u></b>	<b>\$95,200</b>	<b>\$137,855</b>	<b>\$162,090</b>
Albania	2,100	3,000	5,000
Armenia	3,000	3,000	3,500
Azerbaijan	3,000	3,000	3,500
Bosnia and Herzegovina	3,600	4,000	6,440
Bulgaria	7,400	9,000	13,200
Croatia	1,000	2,500	5,000
Czech Republic	3,000	6,000	7,000
Estonia	1,500	2,500	3,000
Georgia	11,500	16,000	16,000
Hungary	1,000	1,000	1,000
Kosovo	1,500	2,500	5,000
Latvia	1,500	2,500	3,000
Lithuania	1,700	2,700	3,300
Macedonia	2,800	4,000	5,000
Malta	100	455	600
Moldova	500	750	1,500
Montenegro	800	1,200	1,800
Poland	27,000	47,000	42,000
Romania	12,000	13,000	16,500
Serbia	800	1,000	2,500
Slovakia	1,000	1,250	1,500
Slovenia	400	500	750
Turkey	1,000		
Ukraine	7,000	11,000	15,000

<b><u>Near East</u></b>	<b>\$4,378,155</b>	<b>\$4,542,498</b>	<b>\$4,781,650</b>
Bahrain	8,000	19,000	19,500
Egypt	1,300,000	1,300,000	1,300,000
Israel	2,550,000	2,775,000	3,000,000
Jordan	335,000	300,000	300,000
Lebanon	159,700	100,000	100,000
Libya		150	250
Morocco	3,655	9,000	9,000
Oman	7,000	11,848	13,000
Tunisia	12,000	15,000	4,900
Yemen	2,800	12,500	35,000
<b><u>South and Central Asia</u></b>	<b>\$306,780</b>	<b>\$251,300</b>	<b>\$306,600</b>
Bangladesh	590	1,500	1,500
Kazakhstan	4,500	3,000	2,400
Kyrgyz Republic	800	3,500	2,400
Nepal		800	900
Pakistan	300,000	238,000	296,000
Sri Lanka		1,000	1,000
Tajikistan	740	1,500	1,200
Turkmenistan	150	2,000	1,200
<b><u>Western Hemisphere</u></b>	<b>\$118,390</b>	<b>\$352,990</b>	<b>\$96,130</b>
Belize	200	200	200
Chile	400	400	750
Colombia	53,000	55,000	51,500
Costa Rica		325	350
Dominican Rep	400	1,000	
East Caribbean	800	2,000	
Ecuador	300	300	750
El Salvador	3,500	1,000	4,800
Guatemala	500	1,765	1,000
Guyana	150	300	
Haiti	2,800	1,600	1,600
Honduras		1,075	1,300
Jamaica	400	500	
Mexico	39,000	265,250	8,000
Nicaragua	400	925	800
Panama	1,000	1,400	2,100
Paraguay			750
Peru	750	1,500	3,500

Suriname	150	300	
Bahamas	150	150	
Uruguay			570
Carib Basin Security Initiative		10,000	18,160
West Hemisphere Regional	14,490	8,000	
<b><u>FMFP Admin</u></b>	<b><u>\$51,420</u></b>	<b><u>\$54,464</u></b>	<b><u>\$56,583</u></b>
<b>Total FMFP</b>	<b>\$5,006,500</b>	<b>\$5,420,000</b>	<b>\$5,473,348</b>

Note: FY2010 FMFP includes P.L.111-32 FY2009 appropriations of \$260M for **Egypt**, \$555M for **Israel**, \$150M for **Jordan**, and \$260M for the **Mexican Navy**.

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

- To expedite the provision of assistance to countries and international organizations, the Secretary State, following consultation with the appropriations committees and subject to regular notification procedures, may use FY10 FMFP funds to procure defense articles and services to enhance the capacity of foreign security forces.
- Not less than \$1,040,000,000 in FY10 FMFP funds shall be for **Egypt** and may be used for border security programs and activities in the Sinai. All funds to be outlayed for Egypt during FY10 shall be transferred to an interest bearing account in the Federal Reserve Bank of New York within 30 days of enactment of this Act.
- Not less than \$2,220,000,000 in FY10 FMFP funds shall be for **Israel** to be disbursed within 30 days of enactment of this Act and not less than \$583,860,000 of this amount shall be available for the procedure of defense articles and services in Israel to include research and development.
  - FY2010 is the second year of a ten year agreement signed on 16 Aug 07 to provide \$30,000,000,000 overall in FMFP to Israel.
- \$150,000,000 in FY10 FMFP funds shall be for **Jordan**.
- Not more than \$55,000,000 in FY10 FMFP funds shall be available for **Colombia** of which up to \$12,500,000 is available to support maritime interdiction and riverine operations.
- Not less than \$238,000,000 in FY10 FMFP funds should be **Pakistan**. Additionally, subject to regular notification procedures with the appropriations committees, up to \$60,000,000 in FY10 ESF funds appropriated by this Act, or prior Acts, may be transferred to and merged with FMFP funds for Pakistan.
- No FY10 FMFP funds shall be made available to support or continue any program initially funded under Section 1206, NDAA for FY2006, P.L.109-163, *Building Capacity*

*of Foreign Military Forces*, unless the Secretary of State, in coordination with the Secretary of Defense, has justified such a program to the appropriations committees.

- No FY10 FMFP funds may be made available to **Nepal, Sri Lanka, Pakistan, Bangladesh, Philippines, Indonesia, Bosnia and Herzegovina, Haiti, Guatemala, Ethiopia, Cambodia, Kenya, Chad, or the Democratic Republic of the Congo** except pursuant to regular notification procedures of the appropriations committees.
- Notwithstanding any other provision of law, FY10 FMFP funds may be used for demining, unexploded ordnance clearance, and related activities which may include activities implemented through nongovernmental and international organizations.
- Only those countries justified for “foreign military sales financing program” in the FY1989 congressional presentation document (CPD) for security assistance may use FY10 FMFP for direct commercial sales (DCS).
  - DoD 5105.38-M, *Security Assistance Management Manual (SAMM)*, C9.7.4.1.1, lists the countries of Israel, Egypt, Jordan, Morocco, Tunisia, Turkey, Portugal, Pakistan, Yemen, and Greece as being eligible for this program.
- Not more than \$54,464,000 in FY10 FMFP funds may be used for general costs of administering military assistance and sales (FMS Admin). This amount may be exceeded only through the regular notification procedures of the appropriations committees.
  - Not more than \$4,000 of this authority may be available for entertainment expenses and not more than \$130,000 may be available for representation allowances.
- Not more than \$550,000,000 in funds (**FMS Admin ceiling authority**) realized pursuant to Section 21(e)(1)(A), AECA, may be obligated for expenses incurred by DoD during FY10 pursuant to Section 43(b), AECA. This ceiling may be exceeded only through regular notification procedures of the appropriations committees.

#### ***International Military Education and Training (IMET)***

- Appropriation of \$108,000,000 in grant assistance to carry out the provisions of Section 541, FAA, of which up to \$4,000,000 may remain available until expended and may only be provided through the regular notification procedures of the appropriations committees.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$2,000,000 as IMET for **Iraq** to remain available through FY2010.
- No FY10 supplemental for IMET has been announced.
- Table Two provides the estimated funding allocations for FY2010 along with actual allocations for FY2009 and allocations proposed for FY2011. The P.L.111-32 IMET appropriated funding for Iraq is retained within the FY09 allocations.

**Table Three**  
**International Military Training and Education (IMET)**  
**(\$ in thousands)**

<u>Program</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>
<u>Africa</u>	<b>\$15,339</b>	<b>\$15,232</b>	<b>\$15,975</b>
Angola	375	475	500
Benin	262	235	250
Botswana	819	690	690
Burkina Faso	166	235	250
Burundi	403	275	325
Cameroon	285	285	285
Cape Verde	174	120	135
Central African Rep	62	125	125
Chad	294	380	380
Comoros	184	125	125
Cote d'Ivoire		32	40
Dem Rep of the Congo	506	500	500
Djibouti	377	330	350
Equatorial Guinea			40
Ethiopia	634	700	725
Gabon	211	200	220
Ghana	721	800	825
Guinea			40
Guinea-Bissau	131	100	125
Kenya	915	970	1,000
Lesotho	148	100	100
Liberia	440	500	525
Madagascar	48	32	40
Malawi	316	300	300
Mali	306	330	350
Mauritania		113	150
Mauritius	178	150	150
Mozambique	376	380	400
Namibia	154	140	150
Niger	100		40
Nigeria	878	965	1,000
Rep of the Congo	149	125	125
Rwanda	425	500	500
Sao Tome and Principe	189	180	200
Senegal	987	1,000	1,000
Seychelles	86	100	100
Sierra Leone	453	400	400

Somalia			40
South Africa	1,058	850	865
Sudan	681	800	800
Swaziland	190	100	100
Tanzania	375	400	400
The Gambia	169	120	120
Togo	134	140	150
Uganda	629	550	600
Zambia	351	380	400
Zimbabwe			40
<b><u>East Asia and Pacific</u></b>	<b>\$7,924</b>	<b>\$8,930</b>	<b>\$9,250</b>
Cambodia	106	100	100
Indonesia	1,547	1,750	1,800
Laos	107	100	200
Malaysia	757	950	950
Marshall Islands	59	60	60
Mongolia	1,013	1,000	1,000
Papua New Guinea	243		
Philippines	1,730	1,850	1,950
Samoa	51	40	40
Solomon Islands	74		
Thailand	1,459	1,500	1,500
Timor-Leste	281	330	350
Tonga	188		
Vanuatu	113		
Vietnam	196	400	450
East Asia and Regional		850	850
<b><u>Europe and Eurasia</u></b>	<b>\$26,581</b>	<b>\$30,205</b>	<b>\$30,500</b>
Albania	950	950	1,000
Armenia	357	450	450
Azerbaijan	989	900	900
Bosnia and Herzegovina	939	1,000	1,000
Bulgaria	1,703	1,650	1,700
Croatia	610	800	900
Czech Republic	1,599	1,900	2,000
Estonia	1,037	1,100	1,150
Georgia	1,426	1,800	2,000
Greece	100	100	100
Hungary	1,129	1,000	1,000

Iceland			100
Kosovo	638	700	700
Latvia	982	1,100	1,150
Lithuania	1,061	1,100	1,150
Macedonia	620	950	1,050
Malta	80	150	150
Moldova	674	660	750
Montenegro	148	400	500
Poland	2,220	2,200	2,200
Portugal	90	100	100
Romania	1,562	1,700	1,800
Russia		95	100
Serbia	887	900	900
Slovakia	1,026	900	900
Slovenia	733	700	700
Turkey	3,208	5,000	4,000
Ukraine	1,813	1,900	2,050

<b><u>Near East</u></b>	<b>\$16,339</b>	<b>\$18,593</b>	<b>\$18,590</b>
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Algeria	898	950	950
Bahrain	661	700	700
Egypt	1,316	1,900	1,400
Iraq	2,000	2,000	2,000
Jordan	3,109	3,800	3,700
Kuwait		10	10
Lebanon	2,278	2,500	2,500
Libya		330	350
Morocco	1,916	1,800	1,900
Oman	1,450	1,525	1,650
Qatar		10	10
Saudi Arabia	11	8	10
Tunisia	1,700	1,950	2,300
United Arab Emirates		10	10
Yemen	1,000	1,100	1,100

<b><u>South and Central Asia</u></b>	<b>\$9,399</b>	<b>\$13,480</b>	<b>\$13,120</b>
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Afghanistan	1,399	1,500	1,500
Bangladesh	787	1,000	1,000
India	1,364	1,200	1,400
Kazakhstan	858	785	800
Kyrgyz Republic	872	1,000	1,000
Maldives	145	195	195
Nepal	743	900	1,000

Pakistan	2,261	5,000	4,100
Sri Lanka	419	750	800
Tajikistan	282	600	650
Turkmenistan	269	350	375
Uzbekistan		200	300
<b><u>West Hemisphere</u></b>	<b>\$12,207</b>	<b>\$16,455</b>	<b>\$17,155</b>
Argentina	915	900	900
Belize	267	200	200
Bolivia	225	380	390
Brazil	252	610	650
Chile	525	900	960
Colombia	1,400	1,695	1,695
Costa Rica	364	380	400
Dem Republic	722	850	900
East Caribbean	661	810	
Ecuador	304	380	400
El Salvador	1,594	1,750	1,800
Guatemala	254	800	825
Guyana	283	300	325
Haiti	235	220	220
Honduras	329	700	700
Jamaica	823	750	800
Mexico	834	1,050	1,100
Nicaragua	409	900	950
Panama	253	750	800
Paraguay	348	400	425
Peru	398	650	725
Suriname	153	260	280
The Bahamas	137	200	200
Trinidad and Tobago	95	170	180
Uruguay	427	450	480
Barbados and East Caribbean			850
<b><u>Global</u></b>	<b>\$5,211</b>	<b>\$5,105</b>	<b>\$5,410</b>
Expanded IMET Schools		4,605	4,910
IMET General Costs		<u>500</u>	<u>500</u>
<b><u>Total IMET</u></b>	<b>\$93,000</b>	<b>\$108,000</b>	<b>\$110,000</b>

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

- Civilian personnel for whom IMET is provided may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights.
- FY10 IMET funding for assistance for **Angola, Bangladesh, Cameroon, Central African Republic, Chad, Cote d'Ivoire, Democratic Republic of the Congo, Ethiopia, Guatemala, Guinea, Haiti, Kenya, Libya, Nepal, Nigeria, and Sri Lanka** may only be provided through regular notification procedures of the appropriations committees to include a detailed description of proposed activities.
- FY10 IMET funding not to exceed \$55,000 may be available for entertainment allowances.
- The Conference Report reports directing the Government Accountability Office (GAO) to conduct an evaluation of the effectiveness of the IMET program in building professionalism and respect for human rights within military forces of unnamed selected countries and submit the report not later than 30 Sep 2010.
- The Conference Report also directs the Secretary of State to provide not later than 180 days after enactment of this Act, a report detailing the net savings to that country (also receiving IMET or designated as a high-income country) for training purchased at reduced cost or incremental rate through the FMS program, as authorized by Section 21(a)(1)(C), AECA.

***Title III, Bilateral Economic Assistance, Funds Appropriated to the President,***

***Economic Support Fund (ESF)***

- Appropriation of \$6,337,000,000 in grant assistance to carry out the provisions of Part II, Chapter Four, FAA, to remain available through FY2011.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$2,973,601,000 to remain available through FY2010.
- A FY10 ESF funding supplemental request of \$1,820,000,000 has been announced with the proposed allocations of \$1,576,000,000 for **Afghanistan** and \$244,000,000 for **Pakistan**.
- Table Four provides the estimated funding allocations for FY2010 along with actual allocations for FY2009 and allocations proposed for FY2011. The P.L.111-32 ESF appropriated funding is retained within the FY09 allocations.

**Table Four**  
**Economic Support Fund (ESF)**  
**(\$ in thousands)**

<u>Program</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>
<b><u>Africa</u></b>	<b>\$712,910</b>	<b>\$629,604</b>	<b>\$594,289</b>
Central African Republic	2,000		
Chad	5,000		
Cote d'Ivoire			4,200
Dem Rep of the Congo	52,800	59,100	64,199
Gabon	155		
Ghana	32,000		
Kenya	63,000		
Liberia	104,300	153,000	137,342
Mali	4,000		
Mauritania	300		
Sierra Leone	11,000	18,000	16,210
Somalia	32,250	28,270	25,818
Africa Regional	8,555	23,500	25,110
Sudan	263,550	296,034	270,210
Tanzania	37,000		
Uganda	15,000		
Zimbabwe	81,000	40,200	50,200
African Union		1,500	1,000
USAID Africa Reg	250	10,000	
USAID East Africa Reg	375		
USAID West Africa Reg	375		
<b><u>East Asia and Pacific</u></b>	<b>\$250,400</b>	<b>\$177,900</b>	<b>\$61,320</b>
Burma	33,300	36,500	34,750
Cambodia	10,000	15,000	5,000
China	7,300	7,400	5,000
Indonesia	126,500	65,000	
Malaysia	500		
Mongolia	12,000		
North Korea	17,500	3,500	2,500
Philippines	30,000	30,000	
Thailand	2,500	2,500	
Timor-Leste	2,800	3,000	
Vietnam		3,000	

East Asia/Pacific Reg	8,000	12,000	14,070
<b><u>Europe and Eurasia</u></b>	<b>\$38,500</b>	<b>\$33,000</b>	<b>\$11,000</b>
Cyprus	11,000	11,000	11,000
Ireland	15,000	17,000	
Turkey	7,500		
Eurasia Regional	3,000	5,000	
Europe Regional	2,000		
<b><u>Near East</u></b>	<b>\$2,257,914</b>	<b>\$1,631,900</b>	<b>\$1,671,350</b>
Egypt	250,000	250,000	250,000
Iraq	541,500	382,500	382,950
Jordan	513,547	363,000	360,000
Lebanon	67,500	109,000	109,000
Libya	2,500		
Morocco		3,000	3,000
Syria	2,500		
Tunisia	800	2,000	
West Bank/Gaza	772,800	400,400	400,400
Yemen	19,767	5,000	34,000
Mideast Multilaterals	800	1,000	1,500
Mideast Partnership Initiative	50,000	65,000	86,000
Mideast Regional Cooperation	4,200	4,000	1,500
Near East Reg Dem	25,000	40,000	40,000
Trans-Sahara C/T Partnership	4,000	6,000	3,000
USAID ME Regional	3,000	1,000	
<b><u>South and Central Asia</u></b>	<b>\$3,252,801</b>	<b>\$3,104,000</b>	<b>\$4,677,019</b>
Afghanistan	2,048,000	2,037,000	3,316,334
Bangladesh	50,000		
Nepal	22,151	27,000	34,335
Pakistan	1,114,000	1,033,000	1,321,700
Sri Lanka	14,000		
South/Central Asia Reg	4,650	7,000	4,650
<b><u>Western Hemisphere</u></b>	<b>\$436,350</b>	<b>\$485,540</b>	<b>\$456,269</b>
Colombia	196,500	201,790	202,988

Cuba	20,000	20,000	20,000
Dom Republic	1,100		
El Salvador	27,000		
Guatemala			2,000
Haiti	134,250	160,750	146,281
Mexico	15,000	15,000	10,000
Paraguay	2,500		
Venezuela	5,000	6,000	5,000
Carib Basin Security Initiative			17,000
West Hemi Regional	35,000	82,000	53,000
<b><u>Global</u></b>	<b>\$168,026</b>	<b>\$282,056</b>	<b>\$340,735</b>
Demo, Conflict, and Humanitarian Assist	44,000	37,500	
Demo, Human Rights, and Labor			70,000
Econ Growth, Agric, and Trade	25,556		42,085
Office to Monitor and Trafficking in Persons	12,000	12,000	
Assist to Developing Countries affected by the Global Financial Crisis	33,045		
Oceans and Int'l Environmental and Scientific Affairs	48,725	178,800	128,650
Internet Access		10,000	
Global Engagement			100,000
Unallocated	<u>4,700</u>	<u>43,756</u>	
<b><u>Total ESF</u></b>	<b>\$7,116,901</b>	<b>\$6,344,000</b>	<b>\$7,811,982</b>

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

- \$250,000,000 in ESF shall only be available for **Egypt** of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic and democratic reforms which are in addition to those which were undertaken in previous fiscal years.
  - Not less than \$25,000,000 of this amount shall be for democracy, human rights, and governance programs.

- Not less than \$35,000,000 of this amount shall be for education programs, of which not less than \$10,000,000 is for scholarships for Egyptian students with high financial need.
- \$11,000,000 In ESF should be for **Cyprus** to be used only for scholarships, administrative support of the scholarship programs, 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.
- \$12,000,000 of ESF funds for **Lebanon** shall be for educational scholarships for students in Lebanon with high financial need.
- Not less than \$363,000,000 in ESF shall be only for **Jordan**.
- Not more than \$400,400,000 in ESF may be used for assistance in the **West Bank and Gaza**.
  - Not more than \$150,000,000 of this amount shall be for cash transfer assistance.
- FY10 ESF assistance for **Afghanistan and Pakistan** may be provided notwithstanding any provision of law that restricts assistance to countries for cross-border stabilization and development programs between Afghanistan and Pakistan or between either country and the Central Asian Republics.
- Funds appropriated by this Act for Afghanistan and Pakistan may be made available for government-to-government assistance only if the Secretary of State certifies to the appropriations committees that the U.S. government and the recipient country have agree, in writing, to clear and achievable goals and objectives for the use of the funds, and have established mechanisms within each implementing agency to ensure such funds are used for the purposes for which they were intended.
  - Any such cash transfer assistance shall be subject to prior consultation with the appropriations committees.
  - The Secretary of State should suspend any such cash transfer assistance to an implementing agency if the Secretary has credible evidence of misuse of funds by any such agency.
  - Any decision to significantly modify the scope, objectives or implementation mechanisms of U.S. assistance programs in Afghanistan or Pakistan shall be subject to prior consultation with, and the regular notification procedures, of the appropriations committees. This prior consultation may be waived if it is determined that failure to do so would pose a substantial risk to human health or welfare.
    - In the case of any such waiver, notification to the appropriations committees shall be provided as early as practicable, but in no event later than three days after taking the action to which the consultation requirement was applicable.
- Though not legislated, the Conference Report requires that a bilateral agreement be in place prior to the provision of government-to-government assistance for the governments of Afghanistan and Pakistan. Such an agreement should be structured to

provide for the maximum accountability and oversight, and should contain certain conditions for disbursement of funds and detailed monitoring and reporting requirements. Funds should be deposited in and disbursed through a separate, traceable bank account for specific sectors. Perhaps most importantly, the Secretary should suspend any government-to-government assistance to any implementing agency if there is credible evidence of misuse of such funds by such agency.

- \$209,790,000 of FY10 ESF funds shall be apportioned directly to USAID for alternative development/institution building programs in **Colombia**.
- Not less than \$8,000,000 of FY10 ESF funding for Colombia shall be transferred to and merged with funds appropriated for Migration and Refugee Assistance and shall be available only for assistance to nongovernmental and international organizations that provide assistance to Colombian refugees in neighboring countries.

***Title IV, International Security Assistance, Department of State***

***Peacekeeping Operations (PKO)***

- Appropriation of \$331,500,000 for necessary expenses to carry out the provisions of Section 551, FAA.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$185,000,000 to remain available through FY2010. This funding was intended to provide \$168,000,000 for assistance for **Somalia**, \$15,000,000 for assistance for the **Democratic Republic of the Congo**, and \$2,000,000 for the **Multilateral Force and Observer (MFO)** mission in the Sinai.
- No FY10 PKO supplemental has been announced.
- Table Five provides the estimated funding allocations for FY2010 along with actual allocations for FY2009 and allocations proposed for FY2011. The P.L.111-32 PKO appropriated funding is retained within the FY09 allocations.

**Table Five  
Peacekeeping Operations (PKO)  
(\$ in thousands)**

<b><u>Program</u></b>	<b><u>FY2009</u></b>	<b><u>FY2010</u></b>	<b><u>FY2011</u></b>
<b><u>Africa</u></b>	<b>\$382,250</b>	<b>\$187,600</b>	<b>\$138,150</b>
Dem Rep of the Congo	40,500	18,000	22,000
Liberia	49,650	10,000	5,000
Somalia	246,600	102,000	53,550
Africa Regional	7,500	13,600	15,600
Sudan	38,000	44,000	42,000

<b><u>Multilateral Force and Observers</u></b>	<b>\$27,000</b>	<b>\$26,000</b>	<b>\$26,000</b>
<b><u>State Pol-Mil Affairs</u></b>	<b>\$120,950</b>	<b>\$117,900</b>	<b>\$121,800</b>
Trans-Sahara C/T Partnership (TSCTP)	15,000	21,000	20,000
Global Peace Ops Initiative (GPOI)	<u>105,950</u>	<u>96,900</u>	<u>101,800</u>
<b><u>Total PKO</u></b>	<b>\$530,200</b>	<b>\$331,500</b>	<b>\$285,950</b>

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

- These funds may be used, notwithstanding Section 660, FAA, (prohibition on police training) to provide assistance to enhance the capacity of foreign civilian security forces, including gendarmes, to participate in peacekeeping operations.
- Up to \$102,000,000 of FY10 PKO funding may be used for assistance for **Somalia** of which up to \$55,000,000 may be used to pay assessed expenses of international peacekeeping activities in Somalia.
- Not less than \$26,000,000 in FY10 PKO funding shall be for the U.S. contribution to the **Multilateral Force and Observers (MFO)** mission in the Sinai.
- None of these PKO funds shall be obligated or expended except as provided through the regular notification procedures of the appropriations committees.

***International Narcotics Control and Law Enforcement (INCLE)***

- Appropriation of \$1,597,000,000 for necessary expenses to carry out the provisions of Section 481, FAA, to remain available through FY2011.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$487,500,000 to remain available through FY2010. This funding was intended to provide not less than \$160,000,000 for assistance for **Mexico** and other programs.
- A FY2010 supplemental request of \$757,440,000 for INCLE has been announced with funding for proposed allocation as follows: **Iraq** - \$517,440,000, **Afghanistan** - \$200,000,000, and **Pakistan** - \$40,000,000.

- Table Six provides the estimated funding allocations for FY2010 along with actual allocations for FY2009 and allocations proposed for FY2011. The P.L.111-32 INCLE appropriated funding is retained within the FY09 allocations.

**Table Six**  
**International Narcotics Control and Law Enforcement (INCLE)**  
**(\$ in thousands)**

<b><u>Program</u></b>	<b><u>FY2009</u></b>	<b><u>FY2010</u></b>	<b><u>FY2011</u></b>
<b><u>Africa</u></b>	<b>\$26,600</b>	<b>\$30,538</b>	<b>\$107,165</b>
Benin			850
Burkina Faso	100		
Cape Verde	500	603	1,000
Dem Rep of the Congo	1,500	1,700	6,000
Djibouti	300		750
Ethiopia			500
Ghana	500	500	1,700
Guinea	100		500
Guinea-Bissau	100	1,500	3,000
Kenya			2,000
Liberia	4,130	6,000	17,000
Mauritania			330
Mozambique		300	600
Nigeria	720	500	2,500
Senegal			1,500
Sierra Leone	250	250	1,200
Somalia			2,000
South Africa			3,000
Africa Regional	3,000	2,500	4,500
Sudan	15,400	16,000	53,950
Tanzania		450	950
The Gambia			500
Togo			400
Uganda		235	1,535
Zambia			900
<b><u>East Asia and Pacific</u></b>	<b>\$9,970</b>	<b>\$18,575</b>	<b>\$21,490</b>
Cambodia			670
China	600	800	850
Indonesia	6,150	11,570	11,750
Laos	1,000	1,000	1,500
Philippines	800	1,365	2,450

Thailand	1,400	1,740	1,740
Timor-Leste	20	800	860
Vietnam			550
East Asia and Pacific Regional		1,300	1,300
<b><u>Europe and Eurasia</u></b>	<b>\$300</b>		<b>\$500</b>
Turkey	300		500
<b><u>Near East</u></b>	<b>\$214,000</b>	<b>\$178,250</b>	<b>\$512,960</b>
Algeria			870
Egypt	2,000	1,000	1,000
Iraq	20,000	52,000	314,560
Jordan	1,000	1,500	1,500
Lebanon	6,000	20,000	30,000
Morocco	1,000	750	3,000
West Bank/Gaza	184,000	100,000	150,000
Yemen		1,000	11,000
Trans-Sahara C/T Partnership (TSCTP)		2,000	1,030
<b><u>South and Central Asia</u></b>	<b>\$572,050</b>	<b>\$554,050</b>	<b>\$596,150</b>
Afghanistan	484,000	420,000	450,000
Bangladesh	200	350	850
Nepal	330	3,700	3,700
Pakistan	87,500	130,000	140,000
Sri Lanka	20		1,500
<b><u>West Hemisphere</u></b>	<b>\$817,165</b>	<b>\$706,364</b>	<b>\$689,921</b>
Argentina	305	300	400
Bolivia	26,000	20,000	20,000
Brazil	1,000	1,000	1,000
Colombia	275,128	248,900	204,000
Dom Republic	3,650	4,450	
East Caribbean	500		
Ecuador	7,500	4,500	7,738
Guatemala	8,320	7,500	
Haiti	17,500	21,107	19,420
Jamaica	1,010		

Mexico	360,000	284,000	292,000
Panama	2,200		
Paraguay	300	500	1,000
Peru	47,672	40,000	37,000
The Bahamas	500		
Trinidad and Tobago	400		
Venezuela	500		
Carib Basin Security Initiative			37,463
West Hem Regional	64,680	74,107	70,000
<b><u>Office to Monitor and Combat Trafficking in Persons</u></b>	<b>\$8,400</b>		<b>\$20,400</b>
<b><u>INCLE Affairs</u></b>	<b>\$134,015</b>	<b>\$203,223</b>	<b>\$187,455</b>
Alien Smuggling/ Border Security		1,000	1,000
Anti-Crime Programs	14,441	4,150	4,150
CFSP, Critical Flight Safety Program		20,750	17,250
Civilian Policing	5,400	4,000	6,000
Criminal Youth Gangs	5,000	8,000	7,000
Cyber Crime and IPR		5,000	3,750
Demand Reduction	10,000	14,000	12,500
Fighting Corruption		4,750	4,750
GPOI, Global PKO Initiative	3,000	5,000	
ILEA, Int'l Law Enforcement Acad.	17,000	37,200	36,700
Inter-Regional Aviation Support	<u>52,420</u>	<u>60,088</u>	<u>60,355</u>
<b>Total INCLE</b>	<b>\$1,782,500</b>	<b>\$1,691,000</b>	<b>\$2,136,041</b>

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

- During FY10, the Department of State may also use the authority of Section 608, FAA, (excess personal property), without regard to its restrictions, to receive excess property from an U.S. government agency for the purpose of providing it to a country or international organization under Part I, Chapter 8, FAA, subject to the regular notification procedures of the appropriations committees.

- The Secretary of State shall provide to the appropriations committees not later than 45 days after enactment of this Act and prior to the initial obligation of FY10 INCLE funds, a report on the proposed uses of all funds on a country-by-country basis for each proposed program, project, or activity.
- Section 482(b), FAA, (prohibition of the procurement of weapons and ammunition) shall not apply to FY10 INCLE funds. However, any FY10 INCLE funds made available notwithstanding Section 482(b), FAA, shall be made available subject to the regular notification procedures of the appropriations committees.
- \$5,000,000 of FY10 INCLE funds should be made available to combat piracy of U.S. copyrighted materials, consistent with the requirements of Section 688(a) and (b), P.L.110-161, S/FOAA for FY08 (consultation with and providing assistance to the World Intellectual Property Organization).
- No FY10 INCLE funds for **Afghanistan** may be made available for eradication programs through the aerial spraying of herbicides unless the Secretary of State determines and reports to the appropriations committees that the President of Afghanistan has requested such assistance for counternarcotics purposes.
  - In the event the Secretary makes such a determination, the Secretary shall consult with the appropriations committees prior to the obligation of funds.
- No FY10 INCLE funds for **Colombia** shall be available for budget support or cash payments.
- No FY10 INCLE funds shall be made available for assistance for the **Bolivian** military and police unless the Secretary of State determines and reports to the appropriations committees that the government of Bolivia is investigating, prosecuting, and punishing military and police personnel who have been credibly alleged to have violated internationally recognized human rights.

***Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR)***

- Appropriation of \$754,000,000 for necessary expenses to carry out the provisions of Part II, Chapter 8, FAA for anti-terrorism assistance; Part II, Chapter 9, FAA, Section 504, FREEDOM Support Act, Section 23, AECA, or the FAA for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations; and Section 301, FAA, for a voluntary contribution to the International Atomic Energy Agency (IAEA) and for a U.S. contribution to the Comprehensive Nuclear Test Ban Treaty (CTBT) Preparatory Commission.
  - FY10 NADR funds made available for Anti-Terrorism Assistance and Export Control and Border Security shall remain available through FY2011.

- *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$102,000,000 to remain available through FY2010, to include up to \$77,000,000 for the Nonproliferation and Disarmament Fund.
- A FY2010 supplemental request for NADR has not been announced.
- Table Seven provides the estimated funding allocations for FY2010 along with actual allocations for FY2009 and allocations proposed for FY2011. The P.L.111-32 NADR appropriated funding is retained within the FY09 allocations.

**Table Seven**  
**Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR)**  
**(\$ in thousands)**

<b><u>Program</u></b>	<b><u>FY2009</u></b>	<b><u>FY2010</u></b>	<b><u>FY2011</u></b>
<b><u>Nonproliferation Programs</u></b>	<b>\$315,500</b>	<b>\$295,950</b>	<b>\$317,935</b>
Nonproliferation and Disarmament Fund	118,000	75,000	57,000
Export Control and Related Border Security Assistance	46,000	53,950	61,535
Global Threat Reduction	62,000	70,000	71,900
IAEA Voluntary Contribution	62,500	65,000	79,500
CTBT/International Monitoring System	25,000	30,000	33,000
Weapons of Mass Destruction Terrorism	2,000	2,000	2,000
UN Security Council Resolution 1540 Trust Fund			3,000
CTBTO Preparatory Commission Special Contribution			10,000
<b><u>Anti-Terrorism Programs</u></b>	<b>\$181,500</b>	<b>\$296,500</b>	<b>\$294,103</b>
Anti-Terrorism Assistance	161,300	215,000	205,103
Terrorism Interdiction Program	10,500	54,500	43,050
Counter-Terrorism Engagement with Allies	1,200	6,000	10,000
Counter-Terrorism Financing	8,500	21,000	20,950

Countering Violent Extremism			15,000
<b><u>Reg Stability and Humanitarian Assist</u></b>	<b>\$134,500</b>	<b>\$161,550</b>	<b>\$145,575</b>
Conventional Weapons Destruction			138,575
Humanitarian Demining Program	97,624	74,350	
International Trust Fund	12,500	12,200	7,000
Small Arms/Light Weapons Destruction	<u>24,376</u>	<u>75,000</u>	
<b><u>Total NADR</u></b>	<b>\$631,500</b>	<b>\$754,000</b>	<b>\$757,613</b>

Note: FY2011 funding for Conventional Weapons Destruction includes Humanitarian Demining and Small Arms/Light Weapons Destruction programs.

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

- Not more than \$75,000,000 of FY10 NADR funding to remain available until expended may be made available for the Nonproliferation and Disarmament Fund to promote bilateral and multilateral activities relating to nonproliferation, disarmament and weapons destruction.
  - Such may also be used for countries other than the Independent States of the former Soviet Union and international organizations when it is in the U.S. national interest
  - Funds made available for the Nonproliferation and Disarmament Fund shall be subject to prior consultation with, and the regular notification procedures of, the appropriations committees.
- FY10 NADR funding may be made available to the IAEA unless the Secretary of State determines that Israel is being denied its right to participate in IAEA activities.
- Not more than \$500,000 in FY10 NADR funding may be made available for public-private partnerships for conventional weapons and mine action by grant, cooperative agreement or contract.
- Not more than \$700,000 in FY10 NADR funding made available for demining and related activities, 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.

## Other S/FOAA for FY2010

The following includes FY2010 appropriations for programs also funded by Division F, P.L.111-117, that may be of interest to the security cooperation community.

### *Title I, Department of State and Related Agency, Department of State, Administration of Foreign Affairs,*

#### *Diplomatic and Consular Programs*

- \$8,227,000,000 for necessary expenses of the Department of State and the Foreign Service, of which \$1,586,214,000 is for Worldwide Security Protection remaining available until expended.
  - The Secretary of State may transfer up to \$137,600,000 of this funding to any other appropriation of any U.S. department or agency, upon the concurrence of the head of such department or agency, to support operations in and assistance for Afghanistan and to carry out the provision of the FAA.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$997,890,000 to remain available through FY2010.
- Though not legislated, the Conference Report, H.Rpt.111-366, provides for \$485,595,000 (also to include similar P.L.111-32 funding) for diplomatic operations in **Afghanistan**, \$1,121,641,000 (also to include similar P.L.111-32 funding) for Department of State operations in **Iraq**, and \$45,837,000 (no similar funding noted from P.L.111-32) for diplomatic operations in **Pakistan**. This same Report also directs not less than \$2,000,000 be available for the Bureau of Democracy, Human Rights, and Labor to support Leahy vetting program (Section 620J, FAA) monitoring of the uses of FMFP funding assistance.

#### *Civilian Stabilization Initiative*

- \$120,000,000 to remain available until expended for necessary expenses to support, maintain, mobilize, and deploy a civilian response corps in coordination with USAID, and for related construction and stabilization assistance to prevent or respond to conflict or civil strife in foreign countries or regions, or to enable transition from such strife.
  - However, \$10,000,000 shall be withheld from obligation until the Secretary of State reports to the appropriations committees that a memorandum of understanding has been signed with the Department of Defense relating to the provision of airlift for deployment of Civilian Response Corps personnel and equipment.

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

- \$21,174,000 for necessary expenses to carry out the Taiwan Relations Act, P.L.96-8.

## ***International Organizations,***

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

- \$1,682,500,000 for necessary expenses, not otherwise provided for, to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress.

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

- \$2,125,000,000 for necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, of which 15 percent shall remain available through FY2011.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$721,000,000 to remain available through FY2010.

## ***Title III, Bilateral Economic Assistance, Funds Appropriated to the President,***

### ***Development Assistance***

- \$2,520,000,000 for necessary expenses to carry out the provisions of Sections 103, 105, 106, 251-255, and Part I, Chapter 10, FAA, to remain available through FY2011.

### ***International Disaster Assistance***

- \$845,000,000 for necessary expenses to carry out the provisions of Section 491, FAA, for international disaster relief, rehabilitation, and reconstruction assistance, to remain available until expended.

### ***Transition Initiatives***

- \$55,000,000 for necessary expense for international disaster rehabilitation and reconstruction assistance pursuant to Section 491, FAA, to support transition to democracy and to long-term development of countries in crisis, to remain available until expended.

### ***Complex Crises Fund***

- \$50,000,000 for necessary expenses to carry out the provisions of the FAA to enable the Administrator of USAID, in consultation with the Secretary of State, to support programs

and activities to prevent or respond to emerging or unforeseen complex crises overseas, to remain available until expended.

- The Conference Report defines a complex crisis to mean a disaster or emergency, usually of long-term duration, that includes humanitarian, political, and security dimensions which hinders the provision of external assistance. This Report also directs that USAID and the Department of State should establish crisis prevention and response capabilities in order to assume most, if not all, of the functions currently authorized to be DoD-funded by Section 1207 (Security and Stabilization Assistance), NDAA, FY06, P.L.109-163.

### ***Democracy Fund***

- \$120,000,000 for necessary expenses to carry out the provisions of the FAA for the promotion of democracy globally, to remain available through FY2011.

### ***International Fund for Ireland***

- \$17,000,000 for necessary expenses to carry out the provisions of Part II, Chapter 4, FAA, which shall be available for the U.S. contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the *Anglo-Irish Agreement Support Act of 1986*, P.L.99-415, to remain available through FY2011.

### ***Assistance for Europe, Eurasia, and Central Asia (AEECA)***

- \$741,632,000 for necessary expenses to carry out the provisions of the FAA, the Freedom for Russia and Emerging Eurasian Democracies, and Open Markets (FREEDOM) Support Act (FSA) of 1992, P.L.102-511, and the Support for East European Democracy (SEED) Act of 1989, P.L. 101-179, to remain available through FY2011.
  - *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$272,000,000 to remain available through FY2010. Majority of this funding was intended for **Georgia**.

### ***Department of State***

#### ***Migration and Refugee Assistance***

- \$1,685,000,000 for necessary expenses, not otherwise provided for, to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the UN High Commissioner for Refugees, and other activities to meet refugee and migration needs, to remain available until expended.

- *Supplemental Appropriations Act, 2009*, Title XI, P.L.111-32, 24 Jun 09, earlier appropriated \$390,000,000 to remain available until expended.

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

- \$45,000,000 for necessary expense to carry out the provisions of Section 2(c), Migration and Refugee Assistance Act of 1962, P.L.87-510, to remain available until expended.

### ***Title VII, General Provisions***

#### **Unobligated Balances Report (Section 7002)**

- Any department or agency to which any funds appropriated or made available by this act shall provide to the congressional appropriations committees a quarterly accounting of cumulative balances by program, project, and activity of the funds received this fiscal year, or any other fiscal year that remain unobligated and unexpended.

#### **Prohibition against Direct Funding for Certain Countries (Section 7007)**

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

#### **Coups d'Etat (Section 7008)**

- None of the funds appropriated or otherwise made available by Titles III through VI of 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.
- This assistance may be resumed to such government if the President determines and certifies to the appropriations committees 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 appropriations committees.
- While indicating this title change from previous years' *Military Coups* to now *Coups d'Etat* is not substantive, the Conference Report expressed concern that the former title implied an unintended limitation. Therefore, the State Department Office of the Legal Advisor is to undertake a review of events necessary to trigger the provisions of this Section and provide report to the appropriations committees not later than 45 days after enactment of this Act.

### **Reporting Requirement (Section 7010)**

- The Secretary of State shall provide a quarterly written report, starting not later than 1 April 2010, to the appropriations committees on the uses of funds made available under FMFP, IMET, and PKO. This report shall include a description of the obligation and expenditures of funds, and the specific country in receipt of, and the use or purpose of the assistance provided by such funds.

### **Availability of Funds (Section 7011)**

- No funding appropriated in this Act shall remain available for obligation after this fiscal year unless expressly so provided in this act.
- However, FY2010 funds appropriated for the purposes of, inter alia, Part II, Chapters 4, 5, 6, 8, and 9, FAA; Section 23, AECA; the SEED Act; and the FREEDOM Support Act shall remain available for an additional four years from the date of which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability.
- 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 7012)**

- No part of any appropriation in Title III through VI of 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, following consultations with the appropriations committees, that assistance to such country is in the national interest of the U.S.
- Also referred to as the **Brooke-Alexander Amendment**.

### **Prohibition on Taxation of U.S. Assistance (Section 7013)**

- None of the funds appropriated by Titles III through VI of 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.
- An amount equivalent to 200 percent of the total taxes assessed during FY2010 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 FY2011 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 appropriations committees that such taxes have not been reimbursed to the U.S. government.

- Foreign taxes of a “de minimis” 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.
  - DSCA Policy Memo 04-32, 21 August 2004, Subject: Prohibition on Taxation of U.S. Assistance, was published as SAMM E-Change 19 to DoD 5105.38-M, *Security Assistance Management Manual* (SAMM) providing a mandatory prohibition note for FMS case LOAs, 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 funding.
- The terms “taxes” and “taxation” refer to value added taxes (VAT) and customs duties imposed on commodities financed with U.S. assistance for programs for which funds are appropriated by this act.

### **Reprogramming Notification Requirements (Section 7015)**

- For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under Titles II through V of this Act, inter alia, INCLE, SEED Act, FREEDOM Support Act, ESF, PKO, NADR, FMFP, IMET 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 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 major defense equipment (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 appropriations committees are notified fifteen days in advance of such commitment.
  - This notification requirement shall not apply to any reprogramming of less than ten percent of the amount previously justified to Congress.
  - 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.

- No FY10 funds appropriated by Titles III through VI of this Act shall be obligated or expended for assistance to **Serbia, Sudan, Zimbabwe, Pakistan Dominican Republic, Cuba, Iran, Haiti, Libya, Ethiopia, Nepal, Colombia, Mexico, Kazakhstan, Somalia, Sri Lanka, Cambodia**, later Section 7045(c)(2) listed Caribbean countries, and later Section 7045(f)(2) listed countries of Central America except as provided through regular notification procedures of the appropriations committees.

#### **Notification of Excess Defense Equipment (Section 7016)**

- Prior to providing excess DoD articles (EDA) in accordance with Section 516(a), FAA, the DoD shall notify the appropriations committees to the same extent and under the same conditions as are other committees pursuant to Section 516(f), FAA.
- Before issuing a letter of offer (an FMS LOA) to sell EDA under the AECA, DoD shall notify the appropriations committees in accordance with the regular notification procedures of such committees if the defense articles are significant military equipment (SME) or valued (in terms of original acquisition cost) 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.

#### **Allocations (Section 7019)**

- Funds provided in this Act for, inter alia, ESF, SEED Act, FREEDOM Support Act, INCLE, NADR, FMFP, and PKO shall be made available for programs and countries in the amounts contained in the respective tables included in the joint explanatory statement accompanying this Act. These tables are included within the conference report H. Rpt.111-366 of 8 Dec 09, specifically addressing Division F for FY2010 S/FOAA.
- Any proposed deviations from these tables are subject to the regular notification procedures of the appropriations committees.

#### **Prohibition of Payment of Certain Expenses (Section 7020)**

- As in prior years, none of the funding appropriated or otherwise made available by Titles III or IV of this act under the headings, inter alia, IMET and FMFP informational program activities, or 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.

### **Prohibition on Assistance to Foreign Governments that Export Lethal Military Equipment to Countries Supporting International Terrorism (Section 7021)**

- None of the funds appropriated or otherwise made available by Titles III through VI of this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of Section 6(j), *Export Administration Act (EAA) of 1979*.
- 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 appropriations 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.
  - This waiver was provided on 9 Mar 10 for an unnamed country and later published in the Federal Register on 15 Mar 10.
  - Likewise, this waiver was provided on 3 Jun 10 for an unnamed country and later published in the Federal Register on 10 Jun 10.

### **Prohibition on Bilateral Assistance to Terrorist Countries (Section 7022)**

- Funds appropriated for bilateral assistance under Titles III through VI 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 determined that national security or humanitarian reasons justify such a waiver. The waiver shall be published in the *Federal Register*. At least 15 days before the waiver takes effect, the President shall notify the appropriations committees of the waiver to include the justification.

### **Authorization Requirement (Section 7023)**

- Except for funds under Trade and Development Agency, provides authorization language to obligate and expend funds appropriated by this Act notwithstanding Section 10, P.L.91-672; Section 15, *State Department Basic Authorities Act of 1956*; Section 313, *Foreign Relations Authorization Act, Fiscal Years 1994 and 1995*, P.L.103-236; and Section 504(a)(1), National Security Act of 1947, 50 U.S.C. 414(a)(1).

### **Definition of Program, Project, and Activity (Section 7024)**

- For the purposes of Title II through VI of the Act, program, project, and activity shall be defined at the appropriations act account level and shall include all appropriations and authorizations Acts funding directives, ceilings, and limitations with the exception that the ESF and FMFP accounts shall also be considered to include country, regional, and central program level funding within each account.

### **Eligibility for Assistance (Section 7028)**

- Restrictions contained in this Act or any other act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations (NGOs) from funds appropriated by this Act to carry out provisions of Part I, Chapters 1, 10, 11, and 12, FAA; Part II, Chapter 4 (ESF), FAA; and from funds appropriated generally for the FREEDOM Support Act and SEED Act.
  - However, before using this authority to provide assistance to NGOs, the President shall notify the appropriations committees using regular notification procedures.
    - This section shall not apply with respect to Section 620A, FAA, prohibiting assistance to governments supporting terrorism.
    - This section shall not apply with respect to Section 116, FAA, prohibiting assistance to governments that violation internationally recognized human rights.

### **Special Authorities (Section 7034)**

- Section 7034(a) -- Funds appropriated by Titles III through VI of this Act for **Afghanistan** may be made available notwithstanding Section 7012 of this Act (the Brooke-Alexander Amendment) and Section 660, FAA (the prohibition of police training).
  - Funds appropriated by Titles III and VI of this Act that are made available for **Iraq, Lebanon, Montenegro, Pakistan**, and 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 appropriations committees, to combat such trafficking, may be available notwithstanding any other provision of law.
- Section 7034(e) -- 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 sub-national entity emerging instability, as well as a nation emerging from instability.
- Section 7034(p) -- Not later than 45 days after enactment of this Act and prior to initial obligation of funds for assistance for **Afghanistan, Pakistan, and Iraq**, the Secretary of State shall submit detailed spending plans for funds appropriated for such purposes.

- The Conference Report expressed concern with the quality of the Department of State and USAID congressional budget justifications (CBJ) documents and expect continued consultation with the appropriations committees regarding the CBJ purpose, format, and content.

### **Palestinian Statehood (Section 7036)**

- None of the funds appropriated under Titles III through VI of this Act may be provided to support a **Palestinian state** unless the Secretary of State determines and certifies to the appropriate committees the following.
  - The governing entity of a new Palestinian state:
    - Has demonstrated a firm commitment to peaceful co-existence with the Israel, and
    - Is taking appropriate measures to counter terrorism and terrorism financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures, and is cooperating with appropriate Israeli and other appropriate security organizations.
  - The Palestinian Authority (or governing authority of a new 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, which should include:
    - Termination of all claims or states of belligerency,
    - Respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones,
    - Their right to live in peace within secure and recognized boundaries free from threats or acts of force,
    - Freedom of navigation through international waterways in the area, and
    - A framework for achieving a just settlement of the refugee problem.
- This prohibition is subject to presidential waiver if determined to be important to U.S. national security interests.
- This prohibition shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or the governing entity, in order to help meet the above stated requirements consistent with the provisions of the later Section 7040 of this Act.

### **Limitations on Assistance for the Palestinian Authority (Section 7040)**

- No FY10 ESF funding may be obligated or expended with respect to providing funds to the **Palestinian Authority**.

- This prohibition shall not apply if the President certifies in writing to the Speaker of the House, the President pro tempore of the Senate, and the appropriations committees that a waiver is important to U.S. national security interests. This waiver shall be effective for no more than six months at a time and shall not apply beyond 12 months after enactment of this Act.
  - On 7 Apr 10, the President provided this certification (Published in the Federal Register on 15 Apr 10).
  - Any such waiver shall include a report to the appropriations committees detailing waiver justification, purposes for the fund, and the accounting procedures to be in place to ensure funds are properly disbursed. This report shall also detail the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons, and dismantle the terrorist infrastructure.
  - Any such waiver shall also include a certification and report from the Secretary of State to the appropriations committees prior to obligation of funds that the Palestinian Authority has established a single treasury account for all Palestinian Authority financing and all financing mechanisms flow through this account, no parallel financing mechanisms exist outside of the Palestinian Authority treasury account, and there is a single comprehensive civil service roster and payroll.

#### **Saudi Arabia (Section 7041)**

- No FY10 S/FOAA funds may be obligated or expended to finance any assistance to **Saudi Arabia**; however, the Secretary of State may waive this prohibition if determined to be in the U.S. national interest.

#### **Near East (Section 7042)**

- Section 7042(a) -- Of the FY10 funds appropriated by Titles III (ESF) and IV (FMFP, INCLE, and IMET) of this Act, not less than \$1,295,200,000 shall be made available for assistance for **Egypt**.
  - The announced allocations for Egypt in FY10 appropriations include \$250,000,000 in ESF, \$1,040,000,000 in FMFP, \$1,000,000 in INCLE, and \$1,900,000 in IMET for a total of \$1,292,900,000.
  - Up to \$50,000,000 in FY10 ESF may be made available for an endowment to further the shared interests of the U.S. and Egypt, consistent with the purposes and requirements for which such funds are requested in the FY2010 Congressional Budget Justifications materials and appropriated as ESF. The Secretary of State shall consult with the appropriations committees on the establishment of such an endowment and any funds to be used for the endowment shall be subject to the regular notifications procedures of the appropriations committees.

- Section 7042(b) – Of the FY10 funds appropriated by Titles III and IV of this Act, up to \$466,800,000 may be made available for assistance for **Iraq**.
  - The announced allocations for Iraq in FY10 appropriations include \$382,500,000 in ESF, no FMFP, \$52,000,000 in INCLE, and \$2,000,000 in IMET for a total of \$436,500,000.
  - The provisions of Section 1106(a), P.L.111-32, using Iraqi entities to the maximum extent practicable, and Section 1106(b), P.L.111-32, using Iraqi funds in matching U.S. funds for any assistance.
- Section 7042(c) – Of the FY10 funds appropriated by Titles III and IV of this Act, not less than \$542,950,000 shall be made for **Jordan**.
  - The announced allocations for Jordan in FY10 appropriations include \$363,000,000 in ESF, \$150,000,000 in FMFP, \$1,500,000 in INCLE, and \$3,800,000 in IMET for a total of \$518,300,000.
- Section 7042(d) – Of the FY10 funds appropriated by Titles III and IV of this Act, not less than \$238,300,000 shall be for **Lebanon**.
  - The announced allocations for Lebanon in FY10 appropriations include \$109,000,000 in ESF, \$100,000,000 in FMFP, \$20,000,000 in INCLE, and \$2,500,000 in IMET for a total of \$231,500,000.
  - FMFP shall only be used to professionalize the Lebanese Armed Forces and to strengthen border security and combat terrorism, including training and equipping the armed forces to secure Lebanon’s borders, interdicting arms shipments, preventing the use of Lebanon as a safe haven for terrorist groups, and implementing UN Security Council Resolution 1701.
  - Funds may not be available for obligation until the Secretary of State provides the appropriations committees a detailed spending plan.
- Section 7042(e) – “Funds appropriated by this Act should be made available in a manner to further peace in the Middle East between Israel and Palestinians.”
- Section 7042(f) -- Of the FY10 funds appropriated by Titles III and IV of this Act, \$502,900,000 shall be made available for the **West Bank and Gaza**.
  - The announced allocations for the West Bank and Gaza in FY10 appropriations include \$400,400,000 in ESF, no FMFP, \$100,000,000 in INCLE, and no IMET for a total of \$500,400,000.
  - The reporting requirements of Section 1404, P.L.110-242, regarding the training and equipping of Palestinian security forces to include a description of modifications, if any to the security strategy shall apply to funds made available by this Act.
  - The Conference Report directs the Secretary of State to provide, within 180 days of enactment of this Act, a report on international participation, including by Arab states, in the economic development of the West Bank and support for the Palestinian Authority.

### **Aircraft Transfer and Coordination (Section 7044)**

- Notwithstanding any other provision of law or regulation, aircraft procured with funds appropriated by this Act and prior acts making appropriations for the Department of State, foreign operations and related programs under headings of Diplomatic and Consular Programs, International Narcotics Control and Law Enforcement, and Andean Counterdrug Programs, may be used for any other program and in any region, including for the transportation of active and standby Civilian Response personnel and equipment during a deployment.
  - The responsibility for policy decisions and justification for the use of such transfer authority shall be the Secretary of State or her deputy secretary and it is not to be delegated no further.
  - This authority shall only apply after a determination by the Secretary of State to the appropriations committees that the equipment is no longer required to meet programmatic purposes in the designated country or region. Any such transfer shall be subject to prior consultation with, and the regular notification procedures of, the appropriations committees.
- The use of aircraft purchased or leased by the Department of State or USAID using funds from this Act or prior S/FOAAs shall be coordinated under the authority of the appropriate Chief of Mission.
  - Such aircraft may be used to transport federal or non-federal personnel supporting Department of State or USAID programs and activities.
  - Official by other agencies for other purposes may be supported on a reimbursable basis, or without reimbursement when traveling on a space available basis.
  - These requirements and authorities shall only apply to aircraft, the primary purpose of which is the transportation of personnel.

### **Western Hemisphere (Section 7045)**

- Section 7045(a) – Of the funds appropriated by this Act, not less than \$10,000,000 of Developmental Assistance and not less than \$10,000,000 of ESF shall be made available for labor and environmental capacity building activities relating to the free trade agreements with the countries of Central America, Peru, and Dominican Republic.
- Section 7045(b) – The government of **Haiti** shall be eligible to purchase defense articles and services under the AECA for the Coast Guard.
  - Of the FY10 funds appropriated by Titles III and IV of this Act, not less than \$295,530,000 shall be made available for Haiti.
  - The announced allocations for Haiti in FY10 appropriations include \$160,750,000 in ESF, \$1,600,000 in FMFP, \$21,107,000 in INCLE, and \$220,000 in IMET for a total of \$183,677,000.

- No FY10 INCLE funds may be used to transfer excess weapons, ammunition, or other lethal property of the U.S. government to the government of Haiti for use by the Haitian National Police until the Secretary of State reports to the appropriations committees that any members of the National Police who have been credibly alleged to have committed serious crimes, including drug trafficking and violations of internationally recognized human rights, have been suspended.
- Section 7045(c) – Of the fund appropriated by this Act, not less than \$37,000,000 under the headings of Developmental Assistance, ESF, INCLE, and FMFP should be made available for the countries of the **Caribbean Basin** to provide equipment and training to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, education, anti-corruption, rule of law activities, and maritime security. Not less than \$21,100,000 of these funding should be made available for social justice and education programs to include vocational training, workforce development and juvenile justice activities.
  - None of this funding shall be used for budget support or as cash payments.
  - Not less than 45 days of enactment of this Act, the Secretary of State shall submit a detailed spending plan to the appropriations committees for the funding made available to these countries with concrete goals, actions to be taken, budget proposals, and anticipated results.
  - Countries of the Caribbean Basin are to include **Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago.**
- Section 7045(d) – Of the funding appropriated by this Act, not less than \$4,000,000 in INCLE shall be for the U.S. contribution to the International Commission against Impunity in Guatemala (CICIG).
  - FY10 IMET, other than Expanded IMET, for **Guatemala** may only be available for the Guatemalan Air Force, Navy, and Army Corps of Engineers.
    - Assistance may only be made available for these Guatemalan units once the Secretary of State certifies are respecting internationally recognized human rights and cooperating with civilian judicial investigations and prosecutions of current and retired military personnel who have been credibly alleged to have committed violations of such rights, and with the CICIG by granting access to CICIG personnel, providing evidence to CICIG, and allowing witness testimony.
    - Assistance for the Army Corps of Engineers shall only be for training to improve disaster response capabilities and to participate in international peacekeeping operations.
  - Of the FY10 FMFP funds, not more than \$1,000,000 may be available for the Guatemalan Air Force, Navy, and Army Corps of Engineers.

- The provision of this assistance shall be subject to the same certifications and purposes as just previously stated for IMET assistance.
  - However, FY10 funds made available for regional naval cooperation and maritime security assistance programs shall not be subject to the limitations of this subsection.
- Section 7045(e) – Of the FY10 funds appropriated for INCLE, FMFP, and ESF, not more than \$210,250,000 may be for assistance for **Mexico** and only to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, anti-corruption, and rule of law activities.
  - None of this funding shall be used for budget support or as cash payments.
  - The provisions of S/FOAA, FY09, Section 7045(e)(1) through (3), shall likewise apply to FY10 funds appropriated for Mexico. These provisions required a written report by the Secretary of State to the appropriations committees for the government of Mexico continued compliance with outlined requirements, a description of actions being taken, and a detailed spending plan.
- Section 7045(f) 00 of the FY10 funds appropriated for INCLE, ESF, and FMFP, up to \$83,000,000 may be used for assistance for the countries of **Central America** only to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, anti-corruption, rule of law activities, and maritime security.
  - The ESF portion of this funding shall be made available through USAID for continued support of an Economic and Social Development Fund for Central America.
  - None of this funding shall be used for budget support or as cash payments.
  - As is the previous case for Mexico funding, the provisions of S/FOAA, FY09, Section 7045(f)(1) through (3) shall apply for FY10 funding for the countries of Central America.
  - The countries of Central America are to include **Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.**
- Section 7045(g) – “To the maximum extent practicable, the costs of operations and maintenance, including fuel, of aircraft funded by this Act should be borne by the recipient country.”
- Section 7045(h) – As a pilot project, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit not later than 30 Jun 2011 a report to the appropriations committees on the feasibility of extending the use of passport cards as proof of identity and citizenship for the purposes of international travel by nationals of the U.S., Canada, and Mexico to air ports of entry between the U.S. and Canada and between the U.S. and Mexico.

## Colombia (Section 7046)

- Of the FY10 funds appropriated for ESF, INCLE, NADR, IMET, and FMFP, not more than \$521,880,000 shall be used for assistance for **Colombia**.
  - These funds may be used to support a unified campaign against narcotics trafficking and organizations designated as foreign terrorist organizations and successor organizations, and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.
  - 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.
  - Rotary and fixed wing aircraft supported with INCLE funds for Colombia may be used for aerial or manual drug eradication and interdiction including to transport personnel and supplies and to provide security for such operations, and to provide transport in support of alternative development programs and investigations of cases under the jurisdiction of the Attorney General, the Procuraduria General de la Nacion, and the Defensoria del Pueblo.
  - The President shall ensure that if any helicopter procured with funds in this Act or prior S/FOAAs is used to aid or abet the operations of any illegal self-defense group, paramilitary organization, illegal security cooperative or successor organizations in Colombia, such helicopter shall be immediately returned to the U.S.
  - None of the funds appropriated by this Act or prior S/FOAAs may be used for assistance for the Colombian Departamento Administration de Seguridad.
  - Any INCLE funds for the Colombian national police for the procurement of chemicals for aerial coca and poppy eradication programs, not more than 20 percent of such funds may be made available for such eradication unless the Secretary of State certifies to the appropriations committees that herbicide is being used in accordance with EPA label requirements for comparable use in the U.S. and with Colombian laws. The certification is to also include that the herbicide is being used without unreasonable risks or adverse effects to humans or the environment, to include endemic species.
    - The Secretary is also to certify that any complaints of harm to health or licit crops caused by such aerial eradication are thoroughly investigated and evaluated, and fair compensation is being paid in a timely manner for meritorious claims.
    - No funds may be made available for such purposes unless programs are being implemented by USAID, the government of Colombia, or other organizations, in consultation and coordination with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers and communities whose illicit crops are targeted for aerial eradication.

- No funds may be made available for assistance to Colombia shall be available for the cultivation or processing of African oil palm, if doing so would contribute to significant loss of native species, disrupt or contaminate natural water sources, reduce local food security, or cause the forced displacement of local people.
- No funds may be used for aerial eradication in Colombia's national parks or reserves unless the Secretary certifies to the appropriations committees on a case-by-case basis that there are no effective alternatives and the eradication is conducted in accordance with Colombian laws.
- With certain specified exceptions, the provisions of Section 7046(c) through (f), S/FOAA, FY09, P.L. 111-8, shall also apply to FY10 assistance appropriated or made available to Colombia.

#### **Community-Based Police Assistance (Section 7047)**

- Funds made available by Titles III and IV of this Act to carry out the provisions of Part I, FAA, and Part II, Chapters 4 and 6, FAA, may be used, notwithstanding Section 660, FAA (Prohibition for police training), to enhance the effectiveness and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, anti-corruption, 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.
- This assistance is subject to prior consultation with, and the regular notification procedures of, the appropriations communities.

#### **War Crimes Tribunals Drawdown (Section 7049)**

- As in prior years, authorizes the determination for a drawdown of commodities **and** services of up to \$30,000,000 pursuant to Section 552(c), FAA, 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.
- Any such determination shall be in lieu of any determinations otherwise required under Section 552(c), FAA.
- Any funds made available for such drawdown shall be made available subject to the regular notification procedures of the appropriations committees.

#### **Attendance at International Conferences (Section 7053)**

- None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees of agencies or departments of the U.S. government who are stationed in the U.S., at any single international conference

occurring outside the U.S., unless the Secretary of State determines that such attendance is in the national interest.

- International conference shall mean a conference attended by representatives of the U.S. government and representatives of foreign governments, international organizations, or nongovernmental organizations.

### **Withholding of Assistance for Parking Fines and Real Property Taxes Owed by Foreign Countries (Section 7055)**

- Of the funds appropriated by Titles III through VI of 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 appropriations 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 appropriations committees.
- The Secretary of State may waive the withholding requirements for parking fines no sooner than 60 days from the date of the enactment of this Act if determined to be in the national interests of the U.S. The Secretary also may waive the withholding requirements for unpaid property taxes if determined to be in the national interest of the U.S.
- Not later than 6 months of any waiver, the Secretary, after consultations with New York City, shall submit a report to the 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 fines owed to the District of Columbia or New York NY and incurred during 1 April 1997 through 30 September 2009.
- Unpaid property taxes are defined to those taxes plus interest determined owed by a country on real property in the District of Columbia and New York NY in a court order or judgment entered against the country by a court of the U.S., any State, or subdivision thereof.

### **Landmines and Cluster Munitions (Section 7056)**

- As in prior years, authorizes **demining equipment** made available to USAID and the Department of State 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.
- No military assistance shall be furnished for **cluster munitions**, no defense export license for cluster munitions may be issued, and no cluster munitions or cluster munitions technology shall be sold or transferred, unless:
  - The sub-munitions of the cluster munitions, after arming, do not result in more than 1 percent unexploded ordnance across the range of intended operational environments, and

- The agreement applicable for assistance, transfer, or sale of the munitions or its technology specifies the munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians.

### **Gender-Based Violence (Section 7063)**

- Funds appropriated under Development Assistance, ESF, and INCLE shall be made available for programs to address sexual and gender-based violence.
- Programs funded under Titles III and IV of this Act that provide training for foreign police, judicial, and military officials, shall include, where appropriate, programs, and activities that address gender-based violence. This would include, inter alia, ESF, INCLE, NADR, PKO, IMET, and FMFP.

### **Reconciliation Programs (Section 7066)**

- \$26,000,000 of ESF and Development Assistance funding shall be made available to support people-to-people reconciliation programs which bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.
  - \$10,000,000 of this amount shall be made available for such programs in the Middle East.
- The Administrator of USAID shall consult with the appropriations committees prior to the initial obligation of such funds on the most effective uses of the funds.

### **Comprehensive Expenditures Report (Section 7066)**

- Not later than 180 days after enactment of this Act, the Secretary of State shall submit a report to the appropriations committees detailing the total amount of U.S. government expenditures in FY2008 and FY2009, by federal agency, for programs and activities in each foreign country, identifying the line item as presented in the President's budget appendix and the purpose for which the funds were provided. If required, information can be submitted in classified form.

### **Requests for Documents (Section 7067)**

- No funds appropriated or made available by Titles III through VI of this Act shall be available to a nongovernmental organization, including any contractor, which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the USAID.

### **Africa (Section 7070)**

- Section 7070(a) – FY10 IMET may only fund training for **Angola, Cameroon, Central African Republic, Chad, Cote d'Ivoire, Guinea, and Zimbabwe** that is related to international peacekeeping operations and expanded-IMET.

- This limitation shall not apply to courses that support maritime security for Angola and Cameroon.
- No FY10 IMET funds may be used for **Equatorial Guinea or Somalia**.
- Section 7070(b) – FY10 funding for Development Assistance, ESF, INCLE, NADR, and PKO shall be made available as follows:
  - Not less than \$24,735,000 for the East Africa Strategic Initiative,
  - Not less than \$3,600,000 for Africa Conflict Stabilization and Border Security,
  - Not less than \$81,315,000 for Trans-Sahara Counterterrorism Partnership, and
  - Not less than \$10,000,000 for a Horn of Africa and Pan Sahel Program, in addition to funds otherwise made available for such purposes, to be administered by USAID.
- Section 7070(c) -- No FY10 FMFP funds may be provided for **Ethiopia** unless the Secretary of State:
  - Determines that the government of Ethiopia is taking effective measures to guarantee the rights of its citizens to peaceful expression, association and assembly, and to document violations of internationally recognized human rights without harassment or criminal penalty, and provides such determination in writing to the appropriations committees, and
  - Submits a report to the same committees on the types and amounts of U.S. training and equipment provided to the Ethiopian military including steps being taken to ensure that such assistance is not provided to military units or personnel with records of violations of internationally recognized human rights.
  - This prohibition shall not apply to assistance to support the deployment of Ethiopian military to international peacekeeping operations.
- Section 7070(d) – No FY10 FMFP funds may be provided for use by **Rwanda** if the Secretary of State has credible evidence that the government of Rwanda is providing political, military, or financial support to armed groups in the **Democratic Republic of the Congo** that have committed violations of internationally recognized human rights, including rape,
- Section 7070(e) -- Funds in this Act that are made available for **Liberia, Sierra Leone, Nigeria, Cote d’Ivoire**, and the countries participating in the Congo Basin Forest Partnership shall be made available to promote and support transparency and accountability in relation to the extraction of timber, oil and gas, cacao, and other natural resources, including by strengthening implementation and monitoring of the Extractive Industries Transparency Initiative and the Kimberly Process Certification Scheme.
- Section 7070(f) – Notwithstanding any other provision of law, no FY10 funds may be used for assistance for **Sudan**.
  - This prohibition also includes any modification of loans or 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.
  - This prohibition shall not apply if the Secretary of State determines and certifies to the appropriations committees the following concerning the government of Sudan:
    - Honors its pledges to cease attacks upon civilians and disarms and demobilizes the Janjaweed and other government-supported militias,

- And all government-supported militia groups are honoring their commitments made in all previous cease-fire agreements, and
- Is allowing unimpeded access to Darfur to humanitarian aid organizations, the human rights investigation and humanitarian teams of the U.N., including protection officers, and an international monitoring team that is based in Darfur and has the support of the U.S.
- This prohibition shall not apply to humanitarian assistance; assistance for the Darfur region, Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei; and assistance to support implementation of the Comprehensive Peace Agreement and the Darfur peace Agreement or any other internationally recognized viable peace agreement in Sudan.
- The government of Sudan does not include the government of Southern Sudan.
- Notwithstanding any other provision of law, assistance in this Act may be made available for the government of Southern Sudan to provide non-lethal military assistance, military education and training, and defense services controlled under the International Traffic in Arms Regulations (ITAR), if the Secretary of State:
  - Determines that providing such assistance is in the U.S. national interest, and
  - Not later than 15 days before providing the assistance, notifies the appropriations committees of the determination.
    - This determination was completed on 3 Feb 10 to be later published in the Federal Register on 12 Mar 10.
- Section 7070(g) – The Secretary of State shall seek to obtain regular audits of the financial accounts of the government of **Southern Sudan** to ensure transparency and accountability of funds, including revenues from the extraction of oil and gas, and the public disclosure of such audits in a timely manner.
  - The Secretary shall assist, as appropriate, in conducting these audits.
  - The Secretary shall consider the extent to which such government is ensuring transparency and accountability when determining the amount and type of U.S. assistance is to be provided.
- Section 707(h) – FY10 funds, including funds for debt restructuring, may be provided, if determined by the Secretary of State, to the central government of a country is cooperating with the efforts of **International Criminal Tribunal for Rwanda (ICTR)** and the **Special Court for Sierra Leone (SCSL)** to the surrender and transfer of indictees in a timely manner.
  - The section shall not apply to assistance provided under Section 551, FAA (PKO), or to project assistance under Title VI of this Act.
  - The U.S. shall use its voice and vote in the U.N. Security council to fully support efforts by ICTR and SCSL.
  - This prohibition may be waived by the Secretary on a country-by-country basis if the President determines it is in the U.S. national security interest.

- Section 7070(i) – No FY10 funds shall be available for the central government of **Zimbabwe**, except for macroeconomic growth assistance, unless the Secretary of State determines and reports in writing to the appropriations committees that rule of law has been restored, including respect for ownership and title to property, freedom of speech and association.

#### **Asia (Section 7071)**

- Section 7071(a) – Notwithstanding any other provision of law, not less than \$7,400,000 in FY10 ESF should be used for nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in the **Tibetan** Autonomous Region and in other Tibetan communities in China.
- Section 7071(b) – Not less than \$36,500,000 in FY10 ESF shall be used for assistance in **Burma**.
  - Such assistance shall be made available only to support democracy and humanitarian programs and activities in Burma, programs and activities along the Burma-Thailand border, programs and activities involving Burmese student groups and other organizations located outside of Burma, and humanitarian assistance for displaced Burmese along Burma’s border.
  - Separately, not less than \$4,000,000 in FY10 Migration and Refugee Assistance shall be for community-based organizations operating in Thailand to provide food, medical and other humanitarian assistance to internally displaced persons in eastern Burma.
  - Any FY10 funds for any new program, project, or activity shall be subject to prior consultation with the appropriations committees and also subject to regular notification procedures.
    - The implementing agency shall only support activities that are consistent with the principles and goals of the National League for Democracy in Burma.
- Section 7071(c) – FY10 funds appropriated by this Act may only be made available as an U.S. contribution to a Khmer Rouge tribunal if the Secretary of State certifies to the appropriations committees that the U.N. and the government of **Cambodia** are taking credible steps to address allegations of corruption and mismanagement within the tribunal.
  - This certification was provided on 23 Mar 10 and later published in the Federal Register on 5 Apr 10.
- Section 7071(d) – FY10 FMFP funds not to exceed \$20,000,000 shall be made available for **Indonesia**, of which \$2,000,000 is to be withheld from obligation until the Secretary of State submits to the appropriations committees the report detailed within the Conference report H.Rpt 111-366 for HR3288.

- Not less than \$400,000 in FY10 ESF for Indonesia should be available for grants for capacity building of Indonesian human rights organizations, including in Papua.
- Section 7071(e) – FY10 FMFP may be used for **Nepal** if the Secretary of State certifies to the appropriations committees that the Nepal army is:
  - Cooperating fully with investigations and prosecutions by civilian judicial authorities of violations of internationally recognized human rights, and
  - Working constructively to redefine the Nepal Army’s mission and adjust its size accordingly, implement reforms including strengthening the capacity of the civilian ministry of defense to improve budget transparency and accountability, and facilitate the integration of former rebel combatants into the security forces including the Nepal Army, consistent with the goals of reconciliation, peace, and stability.
  - This prohibition shall not apply to assistance to support the deployment of Nepal Army in humanitarian relief and reconstruction operations in Nepal.
- Section 7071(f) – FY10 funds for Migration and Refugee Assistance shall be available for assisting refugees from **North Korea**.
  - \$3,500,000 of FY10 ESF shall be for democracy, human rights, and governance programs in North Korea.
  - No FY10 ESF may be available for energy-related assistance for North Korea.
- Section 7071(g) – No FY10 funds for Diplomatic and Consular Programs may be obligated or expended for processing export licenses for the export of U.S.-origin satellites (including commercial satellites and satellite components) to the **Peoples’ Republic of China** unless the appropriations committees are notified at least 15 days in advance of such proposed action.
  - Section 660(h), FAA (prohibition of U.S. assistance to communist countries), shall apply to foreign assistance projects or activities of the Peoples’ Liberation Army (PLA), to include such projects or activities by any entity that is owned or controlled by, or an affiliate of, the PLA.
    - No funds appropriated, or made available, by this Act may be used to finance any grant, contract, or cooperative agreement with the PLA, or any entity that the Secretary of State has reason to believe is owned or controlled by, or an affiliate, of the PLA.
  - Notwithstanding any other provision of law and subject to the regular notification procedures of the appropriations committees, not less than \$12,000,000 in FY10 Development Assistance shall be used for U.S. educational institutions and nongovernmental organizations for programs and activities in the Peoples’ Republic of China relating to the environment, governance, and the rule of law.
- Section 7071(h) – FY10 FMFP funding not to exceed \$32,000,000 may be available for the **Philippines** of which \$3,000,000 may not be obligated until the Secretary of State submits to the appropriations committees the report detailed in the Conference Report H.Rpt. 111-366.

- Section 7071(i) – FY10 ESF funding not less than \$1,000,000, in addition to funds otherwise made available for such purposes, shall be made available for democracy programs and activities in **Timor-Leste**, and not less than \$2,000,000 shall be made available for higher education scholarships.
- Section 7071(j) – Funds appropriated by this Act that are made available for **Vietnam** for remediation of dioxin contaminated sites and related health activities may be made available to the government of Vietnam, including the military, for such purposes.

### **Serbia (Section 7072)**

- Funds in this Act may be made available for assistance for the central government of **Serbia** after 31 May 2010, if the President has made the determination and certification to the appropriations committees that the government of Serbia is:
  - Cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, timely information on the location, movement, and sources of financial support of indictees, and the surrender and transfer of indictees or assistance in their apprehension including 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.
  - The Secretary of State provided this necessary determination on 27 May 10 which was published in the Federal Register on 11 Jun 10.
- This section does not apply to humanitarian assistance or assistance to promote democracy.
- After 31 May 2010, the Secretary of the Treasury should instruction the U.S. executive directors to the international financial institutions to support loans and assistance to the government of Serbia subject to the conditions of the above presidential determination and certification.

### **Independent States of the Former Soviet Union (Section 7073)**

- None of the FY10 Assistance for Europe, Eurasia and Central Asia (AEECA) funds shall be available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act.
  - These funds may be made available if the President determines that to do so is the U.S. national security interest.
    - By direction, the Deputy Secretary of State provided this national security interest determination on 21 May 10 and was published in the Federal Register on 17 Jun 10.

- These funds for the **Russian Federation, Armenia, Kazakhstan, and Uzbekistan** shall be subject to the regular notification procedures of the appropriations committees.
- Of these funds that are allocated for the government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the appropriations committees that the government of the Russian Federation:
  - Has terminated 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, or
  - Is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.
- This 60 percent funding limitation shall not apply to:
  - Assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons, and
  - Activities authorized under Title V (nonproliferation and disarmament programs and activities) of the FREEDOM Support Act of 1992, P.L.102-511.

#### **Repression in the Russian Federation (Section 7074)**

- None of the FY10 Assistance for Europe, Eurasia and Central Asia (AEECA) funds shall be available for assistance for the government of the Russian Federation after 180 days from the enactment of this Act unless the Secretary of State certifies to the appropriations committees that the government of the **Russian Federation**:
  - Has implemented no state, executive order, regulation or similar government action that would discriminate, or which has as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Federation is a party,
  - Is honoring its international obligations regarding freedom of expression, assembly, and press, as well as due process,
  - Is investigating and prosecuting law enforcement personnel credibly alleged to have committed human rights abuses against political leaders, activists, and journalists, and
  - Is immediately releasing political leaders, activists, and journalists who remain in detention.
- The Secretary of State may waive this prohibition if determined that to do so is important to the U.S. national interests.

#### **Central Asia (Section 7075)**

- The terms and conditions of Sections 7075(a) and (b) and Sections 7076(a) through (e), S/FOAA, FY09, P.L.111-8, shall apply to funds appropriated by this Act. Those sections require Secretary of State determinations and reports before the provision of assistance to the governments of **Kazakhstan and Uzbekistan**.

- The providing of FY10 Expanded IMET assistance to Uzbekistan is exempted from this limitation.

### **Afghanistan (Section 7076)**

- FY10 funds appropriated by this Act for **Afghanistan** shall be made available, to the maximum extent practicable, in a manner that uses Afghan entities and emphasizes the participation and leadership of Afghan women and directly improves the security, economic, and social well-being, and political status of Afghan women and girls.
  - FY10 ESF and INCLE funds of not less than \$175,000,000 shall be made available to support programs that directly address the needs and protect the rights of Afghan women and girls, including for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women’s Affairs, and for women-led nongovernmental organizations.
  - These funds shall also be made available to support programs that increase participation by women in the political process, including at the national, provincial, and sub-provincial levels, and in efforts to improve security in Afghanistan.
- FY10 funds for Afghanistan may be used to conduct procurements and to award assistance instruments within Afghanistan.
- Ten percent of FY10 INCLE funds for Afghanistan shall be withheld from obligation until the Secretary of State reports to the appropriations committees that Afghanistan is implementing a policy to promptly remove from office any government official who is credibly alleged to have engaged in narcotics trafficking, gross violation of human rights, or other major crimes.
- \$200,000,000 of FY10 ESF funding for Afghanistan may not be obligated unless the Secretary of State certifies to the appropriations committees that the government of Afghanistan is cooperating fully with U.S. efforts against the Taliban and al-Qaeda and to reduce poppy cultivation and illicit drug trafficking.
  - The Secretary of State may waive this prohibition if reported to the appropriations committees that to do so is vital to U.S. national security interests.
- Not less than \$175,000,000 of FY10 ESF funding for Afghanistan shall be available for the National Solidarity Program.
  - The Secretary of State, in consultation with the Administrator of USAID and the Secretary of Defense, should enhance U.S. reconstruction efforts in Afghanistan by:
    - Emphasizing capacity building and support of Afghan entities and institutions at the provincial and sub-provincial levels, and
    - Requiring civilian provincial reconstruction team (PRT) leaders to consult regularly with appropriate Afghan leaders in their respective provinces and ensuring that PRT reconstruction and development activities support local needs in a sustainable manner and strengthen the authority and control of the government of Afghanistan at the provincial and sub-provincial levels.

### **Extradition (Section 7080)**

- Other than funds provided under INCLE, Migration and Refugee Assistance, Emergency Migration and Refugee Assistance, and NADR; no other FY10 funds made available by

this Act may be used to provide assistance to the central government of a country which has notified the Secretary of State of its refusal to extradite to the U.S. any individual indicted for a criminal offense for which the maximum penalty is life imprisonment without the possibility of parole or for killing a law enforcement officer, as specified in a U.S. extradition request.

- This shall only apply to the central government of a country with which the U.S. maintains diplomatic relations and with which the U.S. has an extradition treaty and the government of that country is in violation of the terms and conditions of the treaty.
- The Secretary of State may waive this prohibition on a case-by-case basis if certified in writing to the appropriations committees that the waiver is important to U.S. national interests.

#### **Prohibition on Promotion of Tobacco (Section 7082)**

- No funds in this Act shall be used to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

#### **Commercial Leasing of Defense Articles (Section 7083)**

- As with the last several years, notwithstanding any other provision of law, and subject to the regular notification procedures of the appropriations committees, FY10 FMFP funding may be used to provide financing to **Israel, Egypt, 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 major defense Equipment (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 (FMS).

#### **Anti-Kleptocracy (Section 7084)**

- In furtherance of the National Strategy to Internationalize Efforts against Kleptocracy and Presidential Proclamation 7750, the Secretary of State shall compile and maintain a list of foreign government officials and their immediate family members determined by the Secretary there is credible evidence to believe have been involved in corruption relating to the extraction of natural resources in their countries.
- Any person on the list is to be ineligible for admission to the U.S.
  - The Secretary may waive this entry prohibition when determined that admission is necessary to attend the UN or to further U.S. law enforcement objectives, or that the circumstances which caused the individual to be on the list have sufficiently changed to justify removal from the list.
- Not later than 90 days after enactment of this Act, and 180 days thereafter, the Secretary shall submit a report, if necessary classified, to the appropriations committees describing the evidence of corruption considered in determining the individuals placed on the list.

## Transparency and Accountability (Section 7086)

- Section 7086(a) -- FY10 funds appropriated by this Act shall continue to be available to continue support efforts to promote transparency and accountability at the U.N., including access to audits and program information, as appropriate.
  - Following consultation with the appropriations committees, the Secretary of State may withhold from obligation any funds appropriated under International Organizations and Programs for a U.S. contribution to a U.N. organization or agency that the Secretary determines is not adequately implementing reforms to increase transparency and accountability.
- Section 7086(c) -- No FY10 funding appropriated by Titles III and IV of this Act may be made available to any central government of a country that fails to make its national budget public on an annual basis, to include income and expenditures.
  - The Secretary of State may waive this prohibition on a country-by-country basis with a report to the appropriations committees if determined to be in the U.S. national interest to do so. As of 1 Apr 10, the following waivers have been published.
    - **Egypt** was waived on 11 Jan 10 to be later published in the Federal Register on 25 Jan 10.
    - **Cambodia** was waived on 1 Mar 10 to be later published in the Federal Register on 11 Mar 10.
    - **Algeria** was waived on 10 Mar 10 to be later published in the Federal Register on 25 Mar 10.
    - **Tajikistan, Uzbekistan, and Turkmenistan** were waived on 22 Mar 10 to be later published in the Federal Register on 29 Mar 10.
    - **Libya** was waived on 22 Mar 10 to be later published in the Federal Register on 31 Mar 10.
  - Up to \$1,500,000 of FY10 ESF funding may be used for programs and activities to assist the central government of any country named in the above required reports to improve national budget transparency, in addition to funds otherwise made available for such purposes.

## Sri Lanka (Section 7089)

- FY10 funds appropriated under Title III of this Act made available for **Sri Lanka** shall be made available for programs that promote reconciliation between ethnic Sinhalese and Tamil populations, support post-conflict reconstruction, and advance the participation of Tamils and other minorities in the political and economic life of the country, and shall be subject to the regular notification procedures of the appropriations committees.
- No FY10 FMFP funds may be made available, no DCS license may be issued, no military equipment or technology shall be sold or transferred to Sri Lanka pursuant to this Act or any other act until the Secretary of State certifies to the appropriations committees that the government of Sri Lanka:
  - Is suspending and bringing to justice members of the military who have been credibly alleged to have committed gross violations of human rights or international humanitarian law,

- Is respecting internationally recognized human rights, including the right to due process and freedoms of the press, association, and assembly,
- Is treating internally displaced persons in accordance with international standards, including by guaranteeing their freedom of movement, providing access to conflict-affected areas and populations by humanitarian organizations and journalists, and accounting for persons detained in the conflict, and
- Is implementing policies to promote reconciliation and justice including devolution of power as provided for in the Constitution of Sri Lanka.
- Once the certification is provided, any provided FY10 FMFP funding should be used to support the recruitment and training of Tamils into the military, Tamil language training for Sinhalese military personnel, and human rights training for all military personnel.
- This prohibition shall not apply to assistance for humanitarian demining.

#### **Prohibition on Certain First-Class Travel (Section 7092)**

- No FY10 funds made available by this Act may be used for first-class travel by employees of agencies funded by this Act in contravention of 41 CFR 301-10.222 through 310-10.124.

#### ***Enhanced Partnership with Pakistan Act of 2009, P.L.111-73, 15 October 2009***

- First introduced as S962 on 4 May 09, cleared the Senate Foreign Relations Committee (SFRC) on 23 Jun with S.Rpt 111-33, and passed by the Senate on 24 Jun but held at the desk and not forwarded to the House for action. Similar legislation was introduced on 24 Sep in the House as HR3642 and referred to the House Foreign Affairs Committee (HFAC) with no further action. Also reintroduced in the Senate as S1707 to be immediately passed on 24 Sep and forwarded to the House. The House passed S1707 on 30 Sep to be later enacted by the President on 15 Oct 09 as P.L.111-73.
- This authorization legislation is sometimes referred to as the **Kerry-Lugar-Berman bill**.

#### ***Title I – Democratic, Economic, and Development Assistance for Pakistan*** **Definitions (Section 2)**

- **Appropriate congressional committees** – Unless specified otherwise, includes both House (HAC) and Senate (SAC) Appropriations Committees, and the Senate Foreign Relations Committee (SFRC) and House Foreign Affairs Committee (HFAC).
- **Counterinsurgency** – Efforts to defeat organized movements that seek to overthrow the duly constituted governments of Pakistan and Afghanistan through violent means.
- **Counterterrorism** – Efforts to combat al-Qaeda and other foreign terrorist organizations that are designated by the Secretary of State in accordance with Section 219, *Immigration and Nationality Act* (8 U.S.C. 1189), or other individuals and entities engaged in terrorist activity or support for such activity.

- **Security forces of Pakistan** – means to include the military and intelligence services of the government of Pakistan, including the Armed Forces, Inter-Services Intelligence Directorate, Intelligence Bureau, police forces, levies, Frontier Corps, and Frontier Constabulary.
- **Security-related assistance** – includes grant assistance to carry out Section 23, AECA, *Foreign Military Financing Program (FMFP)*, and Part II, Chapter 2, FAA, *Military Assistance*. Part II Chapter 2, FAA, includes Sections 503 through 517.
  - Specifically defined to not include assistance authorized to be appropriated or otherwise made available under any other provision of law that is funded from accounts with budget function 050 (National Defense), or amounts appropriated or otherwise available to the **Pakistan Counterinsurgency Capability Fund (PCCF)** established under the *Supplemental Appropriations Act, 2009*, P.L.111-32, 24 Jun 09.
    - The PCCF was established by Title XI of P.L.111-32 to carry out various provisions of the FAA and AECA, and provided \$700,000,000 to become available on 30 Sep 09 and to remain available through FY2011. These funds may be transferred by the Secretary of State to DoD or other federal agencies to support counterinsurgency activities in Pakistan.

#### **Authorization of Appropriations (Section 102)**

- **Authorizes the appropriation** to the President of up \$1,500,000,000 for each of the FYs 2010 through 2014 for purposes of providing assistance to Pakistan under this Title and under the FAA.
  - None of the amounts appropriated to Pakistan may be made available after the date that is 60 days after enactment of this Act unless the Pakistan Assistance Strategy Report (refer to later Section 310 of this Act regarding this report) has been submitted to the appropriate congressional committees.
  - Not more than \$750,000,000 may be made available for assistance to Pakistan unless the President’s Special Representative to Afghanistan and Pakistan submits to the appropriate congressional committees:
    - A **certification** that assistance provided to Pakistan under this Title or the FAA to date has made or is making reasonable progress toward achieving the principal objectives of U.S. assistance to Pakistan contained in the Strategy Report, and
    - A memorandum explaining the reasons justifying the above certification.
  - Should the Special Representative position be terminated or become vacant, the certification and memorandum may be made by the Secretary of State.
  - The Secretary of State may waive the above stated limitations if determined and certified to the appropriate congressional committees that it is in the U.S. national security interests to do so.

- The **sense of Congress** is expressed that subject to an improving political and economic climate in Pakistan, there should be authorized to be appropriated up to \$1,500,000,000 for each of the FYs 2015 through 2019 for the purpose of providing assistance to Pakistan under the FAA.

### **Auditing (Section 103)**

- After consultation with the Secretary of State and Administrator, USAID, the Inspectors-General (I-G) of the Department of State and USAID are authorized to **establish I-G field offices in Pakistan** with sufficient staffs to carry out audits, investigations, and oversee the obligation and expenditure of funds authorized to be appropriated under this Title.
- Up to \$30,000,000 for each fiscal is authorized to be appropriated to carry out these audit functions. These amounts are to be in addition to amounts available for such purposes.

### ***Title II – Security Assistance for Pakistan***

#### **Purposes of Assistance (Section 201)**

- The **purposes of assistance** within this Title are to:
  - Support Pakistan’s paramount national security need to fight and win the ongoing counterinsurgency within its borders in accordance with its national security interests,
  - Work with the government of Pakistan to improve Pakistan’s border security and control and help prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere,
  - Work in close cooperation with the government of Pakistan to coordinate action against extremist and terrorist targets, and
  - Help strengthen the institutions of democratic governance and promote control of military institutions by a democratically elected civilian government.

#### **Authorization of Assistance (Section 202)**

- Authorizes the appropriation of such sums that may necessary for each of the FYs 2010 through 2014 for **International Military Education and Training (IMET)**, including Expanded-IMET, for Pakistan.
- Authorizes the appropriation of such sums that may necessary for each of the FYs 2010 through 2014 for **Foreign Military Financing Program (FMFP)** for the purchase of defense articles, services, and training for Pakistan.
- A significant portion of these funds shall be for activities relating to counterinsurgency and counterterrorism operations in Pakistan.
- Except as provided in Section 3, AECA (eligibility for U.S. defense articles and services), Section 102, AECA (nuclear weapons prohibitions), Section 620J, FAA (Leahy

human rights vetting), and any S/FOAA provision for coups d'état, and except as otherwise provided in this Title; amounts authorized to be made available to carry out counterinsurgency and counterterrorism operations in Pakistan for FYs 2010 and 2011 are authorized to be made available notwithstanding any other provision of law.

- The Secretary of State is authorized to **establish an exchange program** between military and civilian personnel of Pakistan, military and civilian personnel of countries determined by the Secretary to be in the process of consolidating and strengthening a democratic form or government, or military and civilian personnel of NATO countries.
  - This exchange program is to foster greater mutual respect for and understanding of the principle of civilian rule of the military.
  - This program may include conferences, seminars, exchanges, and other events, distribution of publications and reimbursements of expenses of foreign military participants, including transportation, translation, and administrative expenses.
  - Any authorized funding to be appropriated may be used for the use of nongovernmental organizations to facilitate implementation of this program.
  - The appropriation of such sums necessary during FYs 2010 through 2014 to carry out this exchange program is authorized.

#### **Limitations on Certain Assistance (Section 203)**

- For FYs 2011 through 2014, no security-related assistance may be provided to Pakistan in a fiscal year until the Secretary of State, under the direction of the President, makes the following **certification** to the appropriate congressional committees that:
  - The government of Pakistan is continuing to cooperate with the U.S. in efforts to dismantle supplier networks relating to the acquisition of nuclear weapons-related materials, such as providing relevant information from or direct access to Pakistan nationals associated with such networks,
  - The government of Pakistan during the preceding fiscal year has demonstrated a sustained commitment to and is making significant efforts towards combating terrorist groups, consistent with the purposes of assistance as described previous Section 201 of this Act, including taking into account the extent to which the government of Pakistan has made progress on matters such as:
    - Ceasing support, including by any elements within the Pakistan military or its intelligence agency, to extremist and terrorist groups, particularly to any group that has conducted attacks against the U.S. or coalition forces in Afghanistan, or against the territory or people of neighboring countries,
    - Preventing al-Qaeda, the Taliban and associated terrorist groups, such as Lashkar-e-Taiba and Jaish-e-Mohammed, from operating in the territory of Pakistan, including carrying out cross-border attacks into neighboring countries, closing terrorists in the Federally Administered Tribal Areas of Pakistan (FATA), dismantling terrorist bases of operations in other parts of the country, including

Quetta and Muridka, and taking action when provided with intelligence about high-level terrorist targets, and

- Strengthening counterterrorism and anti-money laundering laws, and
- The security forces of Pakistan are not materially and substantially subverting the political or judicial processes of Pakistan.
- None of the funds appropriated for security-related assistance for FYs 2010 through 2014, or any amounts appropriated to the PCCF may be obligated or expended to make payment relating to :
  - FMS Case PK-D-YAD for 500 AIM-120 AMRAAMs,
  - FMS Case PK-D-NAP for F-16 mid-life upgrade, and
  - FMS Case PK-D-SAF for 12 new F-16s.
  - However, funds appropriated for security-related assistance for FYs 2010 through 2014 may be used for construction and related activities carried out pursuant to these FMS cases.
- The Secretary of State, under the direction of the President, may waive the above limitations for a fiscal year if the Secretary determines that it is important to U.S. national security interests to do so.
  - The Secretary, under the direction of the President, may not exercise this waiver authority until 7 days after the Secretary provides to the appropriate congressional committees a written notice of the intent to issue the waiver and the reasons therefore.
- The appropriate congressional committees for this Section include the HFAC, the SFRC, both the HASC and SASC, the House Oversight and Government Reform Committee, the House Permanent Select Committee on Intelligence, and the Senate Select Committee on Intelligence.

#### **Pakistan Counterinsurgency Capability Fund (PCCF) (Section 204)**

- Purpose of PCCF is to authorize for use by the Secretary of State, with the concurrence of the Secretary of Defense, to build and maintain the counterinsurgency capability of Pakistan under the same terms and conditions (except as otherwise provided in this Section) applicable to amounts made available under P.L.111-32.
- The Secretary of State is authorized to transfer amounts in the DoS PCCF for any fiscal year to the DoD **Pakistan Counterinsurgency Fund (PCF)** likewise established by P.L.111-32.
  - The DoD PCF was established and funded by the *Supplemental Appropriations Act, 2009*, P.L.111-32, 24 Jun 09, at \$400,000,000 to remain available through FY2010 for DoD assistance to Pakistan's security forces.
  - Such amounts of DoS PCCF previously transferred to the DoD PCF may be transferred back to the DoS PCCF if the Secretary of Defense, with the concurrence of

the Secretary of State, determines that such amounts are not needed for the purposes for which initially transferred.

- The authority to provide assistance under this Section is in addition to any other authority to provide assistance to foreign countries.
- The Secretary of State shall, in not less than 15 days prior to making transfers from the DoS PCCF to the DoD PCF, notify the appropriate congressional committees in writing of the details of any such transfer.
- For the purposes of this Section, appropriate congressional committees include both the HAC and SAC, both the HASC and SASC, the HFAC, and the SFRC.

### **Requirements for Civilian Control of Certain Assistance (Section 205)**

- For FYs 2010 through 2014, any **direct cash security-related assistance or non-assistance payments** by the U.S. to Pakistan may only be provided or made to civilian authorities of a civilian government of Pakistan.
- The Secretary of State, in coordination with the Secretary of Defense, shall ensure that civilian authorities of a civilian government of Pakistan have received a copy of final documentation provided to the U.S. related to non-assistance payments provided or made to the government of Pakistan.
  - The Secretary of State, in consultation with the Secretary of Defense, may waive these requirements with respect to security-related assistance funded from budget function 150 (International Affairs) accounts if the Secretary certifies to the appropriate congressional committees that the waiver is important to U.S. national security interests.
  - The Secretary of Defense, in consultation with the Secretary of State, may likewise waive these requirements with respect to non-assistance funded from budget function 050 (National Defense) accounts if the Secretary certifies to the appropriate congressional committees that the waiver is important to U.S. national security interests.
- Nothing in this Section shall apply with respect to:
  - Any activities subject to reporting requirements under Title V, *National Security Act of 1947* (50 U.S.C. 413, et. seq.),
  - Any assistance to promote democratic elections or public participation in democratic processes,
  - Any assistance or payments if the Secretary of State determines and certifies to the appropriate congressional committees, that subsequent to the termination of assistance or payments, a democratically elected government has taken office,
  - Any assistance or payments (currently up to \$40,000,000 annually) made pursuant to Section 1208, NDAA, FY2005, P.L.108-375, *Support of Military Operations to Combat Terrorism*,

- Any payments made pursuant to the Acquisition and Cross-Servicing Agreement (ACSA) between the U.S. DoD and the Pakistan Ministry of Defense, and
- Any assistance or payments (currently not more than \$20,000,000 annually) made pursuant to Section 943, NDAA, FY2009, P.L.110-417, *Authorization of Non-Conventional Assisted Recovery Capabilities*.
- For the purposes of this Section, appropriate congressional committees include both the HAC and SAC, both the HASC and SASC, the HFAC, and the SFRC.
- The term civilian government of Pakistan does not include any government of Pakistan whose duly elected head of government is deposed by military coup or decree.

### ***Title III – Strategy, Accountability, Monitoring, and other Provisions***

#### **Strategy Reports (Section 301)**

- Not later than 45 days after enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report (**Pakistan Assistance Strategy Report**) describing U.S. policy and strategy with respect to assistance to Pakistan under this Act, to include the following.
  - A description of the principal objectives of U.S. assistance to Pakistan to be provided under Title I of this Act.
  - A general description of the specific programs, projects, and activities designed to achieve the purposes of Section 101 of this Act (non-military programs) and the respective funding levels for such programs, projects, and activities for FYs 2010 through 2014.
  - A plan for program monitoring, operations research, and impact evaluation research for assistance authorized under Title I of this Act.
  - A description of the role to be played by Pakistani national, regional, and local officials and members of Pakistani civil society and local private sector, civic, religious, and tribal leaders in helping to identify and implement programs and projects for which assistance is to be provided under this Act, and of consultations with such representatives in developing the strategy.
  - A description of the steps taken, or to be taken, to ensure assistance provided under this Act is not awarded to individuals or entities affiliated with terrorist organizations.
  - A projection of the levels of assistance to be provided to Pakistan under this Act, broken down into the following categories as described in the annual *Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for the Millennium Challenge Account Assistance*.

Civil Liberties

Political Rights

Voice and Accountability

Government Effectiveness

Public Expenditure on Primary Education

Natural Resource Management

Business Start-Up

Land Rights and Access

Rule of Law	Trade Policy
Control of Corruption	Regulatory Quality
Immunization Rates	Inflation Control
Public Expenditure on Health	Fiscal Policy
Girls' Primary Education Completion Rate	

- An analysis for the suitable replacement for existing Pakistani helicopters, including recommendations for sustainment and training.
- The President shall develop a comprehensive interagency regional security strategy to eliminate terrorist threats and close safe havens in Pakistan, including by working with the government of Pakistan and other relevant governments and organizations in the region and elsewhere, as appropriate, to best implement effective counterinsurgency and counterterrorism efforts in and near the borders of Pakistan and Afghanistan, including the Federally Administered Tribal Areas (FATA) of Pakistan, the North West Frontier Province (NWFP) of Pakistan, parts of Balochistan, and parts of Punjab.
  - Not less than 180 days of enactment of this Act, the President shall submit to the appropriate congressional committees a report on the **comprehensive regional security strategy** just described in this Section, to also include specifications of goals, and proposed timelines and budgets for implementation of the strategy.
    - On 7 Apr 10, the President delegated the authority for this report to the Secretary of State (published in the Federal Register on 15 Apr 10).
  - For this Comprehensive Regional Security Strategy Report, the appropriate congressional committees include both the HAC and SAC, both the HASC and SASC, the SFRC, the HFAC, the House Permanent Select Committee on Intelligence, and the Senate Select Committee on Intelligence.
- Not later than 180 days after enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a plan for the proposed use of amounts authorized for security-related assistance for each FYs 2010 through 2014, to include an assessment of how the use of such amounts complements or otherwise is related to amounts described in Section 204 (PCCF) of this Act.

### **Monitoring Reports (Section 302)**

- Not later 180 days after the submission of the Pakistan Assistance Strategy Report pursuant to Section 301 of this Act, and every 180 days thereafter through FY2014, the Secretary of State, in consultation with the Secretary of Defense, shall submit to the appropriate congressional committees, a report specified in detail (**Semi-Annual Monitoring Report**) within Section 302(a) of this Act that describes the assistance provided under this Act during the preceding 180-day period.
- Not later than one year after the submission of the Pakistan Assistance Strategy Report pursuant to Section 301 of this Act, the U.S. Comptroller-General (GAO) shall submit to the appropriate congressional committees a report that contains:

- A review of, and comments addressing the Pakistan Assistance Strategy Report,
- Recommendations relating to any additional actions the Comptroller-General believes could help improve the efficiency and effectiveness of U.S. efforts to meet the objectives of this Act,
- A detailed description of the expenditures made by Pakistan pursuant to grant assistance under Section 23, AECA (FMFP), and
- An assessment of the impact of the assistance on the security and stability of Pakistan.
- Not later than 120 days after the date on which the President makes the certification described in Section 203 of this Act, the Comptroller-General shall conduct an independent analysis of the certification described in such section and shall submit to the appropriate congressional committees a report containing the results of this analysis.
- The Secretary of State may submit the reports required by this Section in conjunction with other reports relating to Pakistan required under other provisions of law, including Section 1116 and 1117, P.L.111-32.
- For this Section, the appropriate congressional committees include both the HAC and SAC, both the HASC and SASC, the HFAC, and the SFRC.

***National Defense Authorization Act for Fiscal Year 2010, P.L.111-84, 28  
October 2009***

- Introduced in the House on 2 Jun 09 as HR2647 and referred to the House Armed Services Committee (HASC). It was reported out of committee on 18 Jun initially with H.Rpt. 111-166 with a supplemental Part II on 23 Jun. The bill was immediately passed by the House on 25 Jun and passed along to the Senate. The Senate passed the House bill with amendments on 23 Jul. The conference report was reported out 7 Oct with H.Rpt. 111-288. The House and Senate approved the conference report on 8 Oct and 22 Oct respectively. The legislation was enacted on 28 Oct as P.L.111-84.

***Division A – Department of Defense Authorization***

***Title I – Procurement***

***SubTitle C – Navy Programs***

**Report on a Service Life Extension Program for Oliver Hazard Perry Class Frigates (Section 127)**

- In requiring a report on the life extension of the FFG-7 class frigates and the strategic plan for replacing the FFG-7s with the Littoral Combat Ships (LCS-1), also requested a description of the manner in which the Navy has met the requirements of U.S.

SOUTHCOM over time, including assets and ships the Navy has deployed for **military-to-military engagements, UNITAS exercise, and counterdrug operations** in support of Command, U.S. SOUTHCOM.

#### *SubTitle D – Air Force Programs*

##### **Limitation on Retirement of C-5 Aircraft (Section 137)**

- In limiting the Secretary of the Air Force to not retiring C-5s below a active inventory of 111, until a report is submitted regarding an evaluation of the aircraft with respect to reliability, maintainability, and availability and with respect to critical operations issues, requires the report to include, inter alia, an assessment of the costs, benefits, and implications of transferring the aircraft to U.S. flag carriers operating in the Civil Reserve Air Fleet (CRAF) program or to **coalition partners in lieu of the retirement** of such aircraft.

#### *Title II*

##### *SubTitle B*

##### **Extension and Enhancement of Global Research Watch Program (Section 211)**

- Sec. 231(a), NDAA, FY04, P.L.108-136, originally provided for a new 10 U.S.C. 2365 authorizing the Director, Defense Research and Engineering (DDR&E) to establish and maintain the **Global Research Watch Program**, to include a database, through FY2011 to, inter alia, monitor and analyze the basic and applied research activities and capabilities of foreign nations in areas of military interest, including allies and competitors and to establish standards for comparison and comparative analysis of other nations' research capabilities in relation to U.S. research capabilities. Additionally, the military departments and defense agencies are to provide assistance to DDR&E as may be required for the program.
- Amends 10 U.S.C. 2365(d) extending the authority for the program through FY2015, and with a new paragraph (3)(A) directing that funds available to a military department for a fiscal year for monitoring or analyzing the research activities and capabilities of countries may not be obligated or expended until DDR&E certifies to USD (AT&L) that the secretary of the mildep has provided assistance required by DDR&E for the program.

#### *Title IX – Department of Defense Organization and Management*

##### *SubTitle A – Department of Defense Management*

##### **Increased Flexibility for Combatant Commander Initiative Fund (Section 904)**

- Amends 10 U.S.C. 166(a)(e)(1)(A) authorizing not more than \$20,000,000 (vice \$10,000,000) annually for the **Combatant Commander Initiative Fund (CCIF)** for the Chairman of the Joint Chiefs of Staff to provide to the commander of a combatant command for a variety of listed cooperative programs ranging from force training to humanitarian assistance to military education and training of foreign military and related civilian personnel.
- Further amends 10 U.S.C. 166(a)(e)(1)(A) by authorizing the investment unit cost threshold of this fund not to exceed that of 10 U.S.C. 2245(a) which is \$250,000.
- Also amends 10 U.S.C. 166(a)(b)(6) by authorizing CCIF for humanitarian and civic assistance, to include urgent and unanticipated humanitarian relief and reconstruction assistance “in coordination with the relevant chief of mission to the extent practicable.”

#### **Repeal of Requirement for a Deputy Under Secretary of Defense for Technology Security Policy within the Office of the Under Secretary for Policy (Section 905)**

- Repeals 10 U.S.C. 134(b) which authorized the Deputy Under Secretary of Defense for Technology Security Policy [DUSD(TSP)] within the Office of the Under Secretary of Defense for Policy (USDP).
  - This was originally added by Section 1521(b)(1), NDAA, FY99, P.L.105-261.
- Further states that the Secretary of Defense shall ensure that none the following action(s) regarding the reporting relationship for the **Defense Technology Security Administration (DTSA)** is not to take place until after the expiration of 30 legislative days after notification of such action(s) to the congressional armed services committees.
  - The transfer of DTSA to an undersecretary or other DoD office other than USDP.
  - The consolidation of DTSA with another office, agency, or field activity of the DoD,
  - The addition of management layers between the Director, DTSA and the USDP.

#### **Deputy Under Secretaries of Defense and Assistant Secretaries of Defense (Section 906)**

- Provides for a new 10 U.S.C. 137a authorizing five deputy under secretaries of defense to be appointed from civilian life by the President, by and with the advice and consent of the Senate.
  - Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics
  - Principal Deputy Under Secretary of Defense for Policy
  - Principal Deputy Under Secretary of Defense for Personnel and Readiness
  - Principal Deputy Under Secretary of Defense (Comptroller)
  - Principal Deputy Under Secretary of Defense for Intelligence
- Effective 1 Jan 2011, these five deputy under secretaries shall be the only deputy under secretaries of defense.

- Amends 10 U.S.C. 138 authorizing 12 (vice 10) assistant secretaries of defense.

### **Provision of Space Situational Awareness Services and Information to Non-U.S. Government Entities (Section 912)**

- Amends 10 U.S.C. 2274 authorizing the Secretary of Defense, effective with the date of enactment of this Act, to provide space situational awareness services and information to, and may obtain the same from, **non-US. government entities** when determined that such action is consistent with U.S. national security interests.
- Non-U.S. government entities are to include:
  - A State,
  - A political subdivision of a State,
  - A U.S. commercial entity,
  - The government of a foreign country, or
  - A foreign commercial entity.
- However, prior to such provision of services or information, the Secretary of Defense must enter into an agreement under which the entity:
  - Agrees to pay an amount that may be charged by the Secretary,
    - This amount may be what the Secretary determines appropriate to reimburse DoD for the costs of providing such services or information.
    - Plus the Secretary has the authority to not require the government of a State or a political subdivision of a State to not pay any amount.
  - Agrees not to transfer any data or technical information received under the agreement, including analysis of data, to any other entity without the express approval of the Secretary, and
  - Agrees to any other terms and conditions considered necessary by the Secretary.
- Any funds received under this authority shall be credited, at the election of the Secretary, to the following:
  - The appropriation, fund, or account used in incurring the obligation, or
  - The appropriate appropriation, fund or account currently available for the purposes for which the expenditures were made.
- The Secretary shall establish procedures by which this authority shall be carried out. This may include such services or information to be provided through a DoD contractor.
- The U.S., any agencies and instrumentalities thereof, and any individuals, firms, corporations, and other persons acting for the U.S., shall be immune from any suit in any court for any cause of action arising from this provision or receipt of such services or information, whether or not provided in accordance with this Section, or any related action or omission.
- If the Secretary determines that a commercial or foreign entity has declined or is reluctant to provide data or information to the Secretary in accordance with this Section, the

Secretary shall not later than 60 days after the determination provide notice to the congressional defense committees.

## *Title X – General Provisions*

### *SubTitle B – Counter-Drug Activities*

#### **Unified Counter-Drug and Counterterrorism Campaign in Colombia (Section 1011)**

- Amends Section 1021, NDAA, FY2005, P.L.108-375, authorizing the use of DoD funds through FY2010 (vice FY2009) to provide assistance to the **government of Colombia** to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations.

#### **Joint Task Force Support to Law Enforcement Agencies conducting Counter-Terrorism Activities (Section 1012)**

- Amends Section 1022, NDAA, FY2004, P.L.108-136, authorizing a DoD joint task force that provides **support to law enforcement agencies** conducting counter-drug activities to also provide support through FY2010 (vice FY 2009) to such agencies conducting counter-terrorism activities.

#### **Support for Counter-Drug Activities of Certain Foreign Governments (Section 1014)**

- Amends Section 1033, NDAA, FY 1998, P.L.105-85), authorizing support to **certain countries for counter-drug activities** through FY2010 (vice FY2009).
- Further authorizes the total value of such assistance to be \$75,000,000 during either FY of 2009 and 2010. Formerly, this value was \$75,000,000 during just FY 2009.

#### **Border Coordination Centers in Afghanistan and Pakistan (Section 1015)**

- **Prohibits the use of DoD funding available drug interdiction and counter-drug activities** to be used for the construction, expansion, repair, or operation of any existing or proposed border coordination center; however, specifically does not prohibit or limit the use of other DoD funds for such purposes.
- The Secretary of Defense may not authorize the establishment of a third border coordination center in the area of operations of Regional Command-East in **Afghanistan** until a border coordination center has been constructed or is under construction in either:
  - The area of operations of Regional Command-South in Afghanistan, or
  - Baluchistan in Afghanistan.
- If determined vital to U.S. national security interests, the Secretary of Defense, with a prompt notice in writing to Congress, may waive this limitation.

*SubTitle D – Miscellaneous Requirements, Authorities, and Limitations*

**Authorization of Appropriations for Payments to Portuguese Nationals Employed by the Department of Defense (Section 1037)**

- Authorizes the appropriation of not less than \$240,000 to the Secretary of Defense for payments to **Portuguese nationals employed by DoD** in Portugal for salary increases.

*SubTitle E – Studies and Reports*

**Report on Defense Travel Simplification (Section 1058)**

- Not later than 180 days after enactment of this Act, the Secretary of Defense shall submit a report to the congressional armed service committees setting forth a comprehensive plan to **simplify DoD travel procedures**.

**Disclosure of Names of Students and Instructors at Western Hemisphere Institute for Security Cooperation (Section 1083)**

- The Secretary of Defense shall release to the public upon request, with respect to FYs 2009 and 2010, the first, middle, and surnames of each student and instructor at the **Western Hemisphere Institute for Security Cooperation (WHISC)**.
- If determined to be in the national interest, the Secretary may waive this requirement.

**Sense of Congress Regarding the Western Hemisphere Institute for Security Cooperation (Section 1084)**

- WHISC offers quality professional military bilingual instruction for military officers and noncommissioned officers that promote democracy, subordination to civilian authority, and respect for human rights.
- WHISC is uniquely positioned to support the modernization of Latin America security forces as they work to transcend their controversial pasts.
- WHISC is building partner capacity which enhances regional and global security while encouraging respect for human rights and promoting democratic principles among eligible military personnel, law enforcement officials, and civilians of the nations of the Western Hemisphere.
- WHISC is an invaluable education and training facility the curriculum of which is not duplicated in any of the military departments and is not replaceable by professional military education (PME) funded by appropriations for International Military Education and Training (IMET), for which education is not conducted in Spanish and does not concentrate on regional challenges.

- WHISC is an essential tool to educate future generations of Latin American leaders and improve U.S. relationships with partner nations that are working with the U.S. to promote democracy, prosperity, and stability in the Western Hemisphere.

***Title XII – Matters Relating to Foreign Nations***

***SubTitle A – Assistance and Training***

**One-Year Extension of Authority for Security and Stabilization Assistance (Section 1201)**

- Amends Section 1207, NDAA, FY 2006, P.L.109-163, to expire 30 Sep 2010 (vice 2009).

**Expansion of Authority and Modification of Notification and Reporting Requirements for Use of Authority for Support of Special Operations to Combat Terrorism (Section 1202)**

- Amends Section 1208, NDAA, FY 2005, P.L.108-375, authorizing up to \$40,000,000 (vice \$35,000,000) annually in such assistance and further refining the reporting detail of providing such assistance.

**Modification of Report on Foreign-Assistance Related Programs Carried out by the Department of Defense (Section 1203)**

- Amends Section 1209, NDAA, FY 2008, P.L.110-181, requiring an annual report by the Secretary of Defense not later than 1 Feb each year through 1 Feb 2013 to the appropriations, foreign affairs/relations, and armed services committees, on a country-by-country basis, **each foreign-assistance related program carried out by DoD** during the prior fiscal year under the following authorities:
  - Section 1206, NDAA, FY 2006, P.L.109-163,
  - Section 1207, NDAA, FY 2006, P.L.109-163,
  - Section 1208, NDAA, FY 2006, P.L.109-163,
  - Section 1033, NDAA, FY 1998, P.L.105-85,
  - Section 1004, NDAA, FY 1991, P.L.101-510,
  - 10 U.S.C. 127d,
  - 10 U.S.C. 2249c,
  - 10 U.S.C. 2561, and
  - 10 U.S.C. 166a(b)(6).
    - This last authority is an addition to the original reporting requirement.
- The report required to be submitted by 1 Feb 2010 shall include required information for FYs 2008 and 2009.

## **Report on Authorities to Build the Capacity of Foreign Military Forces and Related Matters (Section 1204)**

- Not later than 1 Mar 2010, the President shall transmit a report to the appropriations, armed services, foreign affairs, and foreign relations committees, a report on the following.
  - **The relationship between DoD authorities to conduct security cooperation programs to train and equip, or otherwise build the capacity of, foreign military forces and Department of State security assistance authorities** and other foreign assistance agencies to provide assistance to provide assistance to train and equip, or otherwise build the capacity of, foreign military forces, including the distinction, if any, between the purposes of such authorities, and the contribution such authorities make to the core missions of each such department and agency.
  - The strengths and weaknesses of the FAA, the AECA, Title 10 U.S. Code, any other provision of law relating to training and equipping, or otherwise building the capacity of, foreign military forces, including to conduct counterterrorist operations or participate in or support military and stability operations in which the U.S. armed forces are a participant.
  - The changes, if any, that should be made to the provisions of law just listed that would improve the ability of the U.S. government to train and equip, or otherwise build the capacity of, foreign military forces, including to conduct counterterrorist operations or participate in or support military and stability operations in which the U.S. armed forces are a participant.
  - The organizational and procedural changes, if any, that should be made in the Departments of Defense and State and other foreign assistance agencies to improve the ability of such departments and agencies to conduct programs to train and equip, or otherwise build the capacity of, foreign military forces, including to conduct counterterrorist operations or participate in or support military and stability operations in which the US. Armed forces are a participant.
  - The resources and funding mechanisms required to ensure adequate funding for such programs.
- This type of assessment and recommendation report, or variation thereof, has been requested in past legislation.

## **Authority to Provide Administrative Services and Support to Coalition Liaison Officers of Certain Foreign Nations Assigned to U.S. Joint Forces Command (Section 1205)**

- Amends 10 U.S.C. 1051(a), effective on the date of enactment of this Act, allowing **support of coalition liaison officers** to the combatant command assigned by the Secretary of Defense the mission of joint warfighting experimentation and joint forces training.

### **Modification of Authorities Relating to Program to Build the Capacity of Foreign Military Forces (Section 1206)**

- Amends Section 1206, NDAA, FY 2006, P.L.109-163, to limit not more than \$75,000,000 for each year during FYs 2010 and 2011 of the \$350,000,000 total annual authority is to be used for the purpose to participate in or support military and stability operations in which the U.S. armed forces are a participant.

### **Authority for Non-Reciprocal Exchanges of Defense Personnel between the U.S. and Foreign Countries (Section 1207)**

- The Secretary of Defense is authorized through FY 2012 to enter into **non-reciprocal defense personnel exchange agreements**, to also include civilian personnel of the defense ministry of that foreign government.
- In general, the applicable foreign government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its personnel under such an agreement.
  - This does not apply to cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the assigned personnel, costs incident to the use of facilities in the U.S. government in the performance of assigned duties, and cost of temporary duty of the exchanged personnel directs by the U.S. government.
- Not later than 90 days after the end of a fiscal year, the Secretary of Defense shall submit a report to the armed services, foreign affairs, and foreign relations committees on the use of this authority during the just ended fiscal year.

### **Report on Alternatives to use of Acquisition and Cross-Servicing Agreements to Lend Military Equipment for Personnel Protection and Survivability (Section 1208)**

- Not later than 90 days after enactment of this Act, the Secretary of Defense shall a report to the armed services committees setting forth and assessing the various alternatives to the use of **acquisition and cross-servicing agreements (ACSAs)** pursuant to Section 1202, NDAA, FY2007, P.L.109-364, for the purposes of lending **significant military Equipment (SME) to a nation** participating in combined operations with the U.S. in Iraq and Afghanistan and a nation participating with the U.S. as part of a peacekeeping operation.

### **Enhancing Iraqi Security through Defense Cooperation between the U.S. and Iraq (Section 1209)**

- Not later than 120 days of enactment of this Act, the Secretary of Defense, with the concurrence of the Secretary of State, shall submit a specified report to the armed services, foreign affairs, and foreign relations committees on the **role of foreign military sales (FMS)** in meeting the requirements of the military and security forces of Iraq for restoring and maintaining peace and security in Iraq.
- The sense of Congress is also expressed that the Secretary of Defense should, with the concurrence of the Secretary of State, seek to increase the number of positions in professional military education (PME) courses, including courses at command and general staff colleges, war colleges, and the service academies, that are made available annually to personnel of the security forces of the government of **Iraq**.

### **Availability of Appropriated Funds for the State Partnership Program (Section 1210)**

- Not later than 90 days after enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall prescribe regulations regarding the use of funds appropriated to DoD to pay the costs incurred by the National Guard in conducting activities under the **State Partnership Program (SPP)**.
  - Not later than 15 days after promulgation of such regulations, a copy is to be provided to the armed services, foreign affairs, and foreign relations committees.
- Funds for SPP activities in a country shall not be made available unless such activities are jointly approved by the applicable combatant command commander and chief of mission.
- Funds shall not be available for the participation of a member of the National Guard in SPP activities in a country unless the member is on active duty in the armed forces at the time of such participation.
- Not later than 90 days after enactment of this Act, and not later than the end of each FYs 2010 through 2013, the Secretary of Defense shall submit a detailed SPP activities report to the armed services, foreign affairs, and foreign relations committees undertaken and funds expended in the previous fiscal year.

### ***SubTitle B – Matters Relating to Iraq, Afghanistan and Pakistan***

#### **One-Year Extension and Expansion of Commanders' Emergency Response Program (Section 1222)**

- Amends Section 1202, NDAA, FY 2006, P.L.109-163, as amended, by authorizing the appropriation and use of \$1,300,000,000 for the **Commanders' Emergency Response Program (CERP)** during FY 2010.

- Also authorizes the Secretary of Defense, if determined to enhance counterinsurgency or stability operations in Afghanistan, to transfer not to exceed \$50,000,000 in FY 2010 CERP funds to the Secretary of State in support of the Afghanistan National Solidarity Program.
  - This transfer authority shall expire at the end of FY 2010.
  - Not later than 15 days before transfer of this funding, the Secretary of Defense shall submit a report to the congressional defense committees, a description of the amount of funds to be transferred.
- The Secretary of Defense, in coordination with the government of Afghanistan and with the concurrence of the Secretary of State, may use FY 2010 CERP funds to support the reintegration into Afghan society of those individuals who have renounced violence against the government of Afghanistan.
  - Likewise, this authority shall be expire at the end of FY 2010.
  - The use of this authority shall be included in the CERP use report required by Section 1202, NDAA, FY 2006, P.L.109-163, as amended, and include copies to the HFAC and SFRC.
- Not later than 180 days after enactment of this Act, the Secretary of Defense shall conduct a thorough review of CERP and submit the results to the congressional defense committees.

**Modification of Authority for Reimbursement of Certain Coalition Nations for Support Provided to U.S. Military Operations (Section 1223)**

- Amends Section 1233, NDAA, FY 2008, P.L.110-181, by expanding the **reimbursement authorities** to include:
  - “(1) Logistical and military support provided by that nation to or in conjunction with U.S. military operations in Operation Iraqi Freedom or Operation enduring Freedom, and (2) for logistical, military, and other support, including access, provided by that nation to or in connection with U.S. military operations in paragraph (1).”
  - New subparagraph (b): “(b) Other Support: Using funds described in subsection (a)(2), the Secretary of Defense may also assist any key cooperating nation support U.S. military operations in Operation Iraqi Freedom or Operation Enduring Freedom in Afghanistan through the following:
    - (1) The provision of specialized training to personnel of that nation in connection with such operations, including training of such personnel before deployment in connection with such operations.
    - (2) The procurement and provision of supplies to that nation in connection with such operations.

- (3) The procurement of specialized equipment and the loaning of such specialized equipment to that nation on a nonreimbursable basis in connection with such operations.”
- New subparagraph (c)(2) is amended as follows: “(2) SUPPORT – Support authorized by subsection (b) may be provided in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, considers appropriate.”
  - New subparagraph (d)(1) is amended as follows: “The aggregate amount of reimbursements made under subsection (a) and support provided under subsection (b) during FY 2010 may not exceed \$1,600,000,000.”
  - The appropriations, armed services, foreign affairs, and foreign relations committees are to be notified 15 days prior to making any such reimbursement or providing any such support.
    - Any reimbursement to **Pakistan** is to be made in accordance with later Section 1232 of this Act.

#### **Pakistan Counterinsurgency Fund (Section 1224)**

- The **Pakistan Counterinsurgency Fund (PCF)** shall consist of:
  - The PCF first authorized to the Secretary of Defense and funded at \$400,000,000, to be available through FY2010, by the *Supplemental Appropriations Act, 2009*, P.L.111-32, and
  - Any **Pakistan Counterinsurgency Capability Fund (PCCF)** first authorized to the Secretary of State and funded at \$700,000,000, to be available beginning 30 Sep 10 and to remain available through FY2011, also by P.L.111-32. The Secretary of State has the authority to transfer any of its PCCF to be incorporated into the DoD PCF.
- The DoD PCF shall be available to the Secretary of Defense, with the concurrence of the Secretary of State, to provide assistance (including program management and the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction) to the security forces of Pakistan (including military forces, police forces, and the Frontier Corps) to build and maintain the counterinsurgency capability of such forces, and of which not more than \$4,000,000 may be available for humanitarian assistance to the people of Pakistan only as part of civil-military training exercises for such forces receiving assistance un this fund.
- The PCF may include amounts (PCCF) transferred by the Secretary of State, with the concurrence of the Secretary of Defense, under any authority of the Secretary of State to transfer funds under any provision of law.
  - Any of these transferred funds shall be subject to any restriction relating to payments of Letters of Offer and Acceptance (FMS cases) as a condition of the authority to transfer these funds, and merged with amounts in the DoD PCF and shall be made

available for the same purposes, and subject to the same conditions and limitations, as amounts in the DoD PCF.

### **Program to Provide for the Registration and End-Use Monitoring of Defense Articles and Defense Services Transferred to Afghanistan and Pakistan (Section 1225)**

- As was the case of Section 1228, NDAA, FY 2008, P.L.110-181, for establishing an end-use monitoring (EUM) program for Iraq, the Secretary of Defense has 180 days after enactment of this Act to establish and carry out a program for **Afghanistan and Pakistan** to provide for the **registration and EUM of defense article and defense services** transferred in accordance with the FAA, the AECA, and using DoD funds to include the PCF. Retransfers by either country are prohibited without the consent of the U.S. government.
  - With a certification in writing that it is vital to U.S. interests, the Secretary of Defense may delay this deadline by an additional 120 days.
- No defense articles or services may be transferred to either country or any other organization or individuals in the two countries until the Secretary of Defense has certified to the armed services, foreign affairs, and foreign relations committees that the EUM is in place.
- The registration and EUM requirements for both Afghanistan and Pakistan transfers shall include:
  - Detailed records of the origin, shipping, and distribution of defense articles and services, and
  - The registration of provided small arms serial numbers.
  - This process is to include transfers to the governments of Afghanistan and Pakistan, and any other groups, organizations, citizens, and residents in the two countries.
- The Secretary of Defense shall periodically review the defense articles and services subject to these registration and EUM requirements to determine which ones, if any, should no longer be subject to these controls and report to the armed services, foreign affairs, and foreign relations committees the results of each review.
- The Secretary of Defense may also exempt a defense article or service from this control program beginning 30 days after the date the Secretary provides notice to these same committees of such proposed action.
- For the purposes of this Section, a defense article is defined by Section 644(d), FAA, defense service is defined by Section 644(f), FAA, and small arms are to include:
  - Handgun or pistol,
  - Should-fired weapon, including a sub-carbine, carbine, or rifle,
  - A light, medium, or heavy automatic weapon up to and including a .50 caliber machine gun,
  - A recoilless rifle up to and including 106mm,

- A mortar up to and including 81mm,
- A rocket launcher, man-portable,
- A grenade launcher, rifle and should-fired, and
- An individually-operated weapon which is portable or can be fired without special mounts or firing devices and which has potential use in civil disturbances and is vulnerable to theft.

### **Assessment and Report on U.S.-Pakistan Military Relations and Cooperation (Section 1231)**

- The Secretary of Defense, in consultation with the Secretary of State, shall conduct an assessment of possible alternatives to **reimbursement to Pakistan** for logistical, military, or other support provided by Pakistan to or in connection with U.S. military operations, which would encourage the Pakistani military to undertake counterterrorism and counterinsurgency operations and achieve the goals and objectives for long-term U.S./-Pakistan military relations and cooperation.
- This report is to be provided not later than 180 days after enactment of this Act and submitted to the armed services, appropriations, foreign affairs, and foreign relations committees.

### **Report on Progress toward Security and Stability in Pakistan (Section 1232)**

- The President shall submit a report to Congress on the progress toward long-term **security and stability in Pakistan** to be submitted concurrent with the report required by Section 1232, NDAA, FY 2008, P.L.110-181.
- This report shall address, at a minimum, the following:
  - Effectiveness of efforts to achieve the following goals:
    - To disrupt, dismantle, and defeat al-Qaida, its affiliated networks, and other extremist forces in Pakistan,
    - To eliminate the safe havens, for such forces in Pakistan, and
    - To prevent the return of such forces to Pakistan or Afghanistan.
  - Effectiveness of U.S. security assistance to Pakistan to achieve the above strategic goals.
  - For any addressed strategic goal, a description of any additional goals and objectives, and the timelines for meeting such goals and objectives.
  - Description of the metrics used to assess progress toward each goal and objective and along each timeline described above.

## **Authority to Transfer Defense Articles and Provide Defense Services to the Military and Security Forces of Iraq and Afghanistan (Section 1234)**

- The Secretary of Defense, with the concurrence of the Secretary of State, is authorized to **transfer defense articles from DoD stocks**, without reimbursement from the governments of Iraq or Afghanistan, and to provide defense services in connection with the transfer of such defense articles to:
  - Military and security forces of **Iraq** to support the efforts of those forces to restore and maintain peace and security in that country, and
  - Military and security forces of **Afghanistan** to support the efforts of those forces to restore and maintain peace and security in that country.
- The aggregate replacement value of all defense articles and services to transferred under this authority may not exceed \$750,000,000.
- These defense articles must have:
  - Were present in Iraq upon enactment of this Act,
  - Immediately before the transfer, were in use to support operations in Iraq, and
  - Are no longer required by the U.S. forces in Iraq; or
  - Were present in Kuwait upon enactment of this Act,
  - Prior to being transferred to Kuwait, were in use to support operations in Iraq, and
  - Are no longer required by the U.S. forces in Iraq or Kuwait.
- Any defense articles transferred under this authority must in appliance with the authorities and limitations applicable to excess defense articles under Section 516, FAA, other than subsections 516(b)(1)(B) [prohibition of the use of DoD funds for the procurement of defense equipment], subsection 516(e) [prohibition of DoD funds for transportation], subsection 516(f) [required advance notification to Congress], and subsection 516(g) [limitation in annual aggregate value of transfer].
- The Secretary of Defense may not exercise this transfer authority until 30 days after a report on the plan, with the concurrence of the Secretary of State, is provided to the appropriate committees for the disposition of DoD equipment and other property in Iraq and Kuwait.
- The Secretary of Defense may not transfer defense articles or provide defense services under the authority of this section until 15 days after the date on which the Secretary, with the concurrence of the Secretary of State, has provided a specified notice to the appropriate committees of the proposed transfer.
- For the purposes of this Section, the appropriate committees include the armed services, appropriations, foreign affairs, and foreign relations committees.

### *SubTitle C – Other Matters*

#### **Report on the Impact of Drawdown Authorities on DoD (Section 1247)**

- The Secretary of Defense shall annually through 31 Dec 2013 provide a report to the HFAC and SFRC on the **impacts of drawdown authorities** on the DoD. This report is to be included within the budget submitted pursuant to 31 U.S.C. 1105(a).
- Drawdown authority is defined to include:
  - Section 506(a)(1), FAA, for military purposes,
  - Section 506(a)(2), FAA, generally for non-military purposes,
  - Section 552(c)(2), FAA, for unforeseen emergencies, and
  - Any other substantially similar provisions of law.
    - However, this is not to include the Section 1234 authority of this Act for transfers to Iraq and Afghanistan.

#### **Report on Potential Foreign Military Sales of the F-22A Fighter Aircraft (Section 1250)**

- Not later than 180 days after enactment of this Act, the Secretary of Defense shall, in coordination with the Secretary of State and in consultation with the Secretary of the Air Force, submit a report to the HFAC and SFRC on **potential FMS transfer of the F-22A** aircraft.
- Also, the Secretary of Defense shall enter into an agreement with a federally funded research and development center to submit not later than 180 days after enactment of this Act a report to the same committees on the impact of FMS transfers of the F-22A on the U.S. aerospace and aviation industry, with advantages and disadvantages of such sales for sustaining that industry.

#### **Sense of Congress Relating to Israel (Section 1253)**

- The sense of Congress is expressed that:
  - **Israel** is one of the strongest allies of the U.S.,
  - The U.S. remains vigorously committed to supporting Israel's welfare, security, and survival as a democratic state,
  - Israel and the U.S. face common enemies, and
  - The U.S. should continue to provide critical security assistance needed to address existential threats.

## ***Title XIII – Cooperative Threat Reduction***

### **Specification of Cooperative Threat Reduction Programs and Funds (Section 1301)**

- For the purposes of Section 301 of this Act, Operation and Maintenance Funding, and other provisions of this Act, **Cooperative Threat Reduction programs** are the programs specified in Section 1501, NDAA, FY 1997, P.L.104-201.
- This program is sometimes referred to as the “Nunn-Lugar Program.”

### **Funding Allocations (Section 1302)**

- Of the \$424,093,000 authorized to be appropriated in FY 2010 to the DoD for the Cooperative Threat Reduction program, the following amounts may be obligated for the purposes specified:
  - Strategic offensive arms elimination in Russia -- \$66,385,000,
  - Strategic nuclear arms elimination in Ukraine -- \$6,800,000,
  - Nuclear weapons storage security in Russia -- \$15,090,000,
  - Nuclear weapons transportation security in Russia -- \$46,400,000,
  - Weapons of mass destruction proliferation prevention in the states of the former Soviet Union -- \$90,886,000,
  - Biological threat reduction in the former Soviet Union -- \$152,132,000
  - Chemical weapons destruction -- \$3,000,000,
  - Defense and military contacts -- \$5,000,000,
  - New Cooperative Threat Reduction initiatives -- \$17,000,000, and
  - Activities designated as Other Assessments/Administrative Costs -- \$21,400,000.
- Title II, *Department of Defense Appropriations Act, 2010*, P.L.111-118, 19 Dec 09, appropriated the same \$424,093,000 as authorized.

## ***Title XIV – Other Authorizations***

### ***SubTitle A – Military Programs***

#### **Drug Interdiction and Counter-Drug Activities, Defense-Wide (Section 1401)**

- \$1,054,234,000 is authorized to be appropriated to DoD for FY 2010 **Drug Interdiction and Counter-Drug Activities, Defense-Wide.**

***SubTitle C – Authorization of Additional Appropriations for Overseas Contingency Operations***

**Operation and Maintenance (Section 1509)**

- Of the additional O&M funds authorized to be appropriated for FY 2010, \$7,462,769,000 is for the **Afghanistan Security Forces Fund (ASFF)**.
  - Title IX, *Department of Defense Appropriations Act, 2010*, P.L.111-118, 19 Dec 09, appropriated \$6,562,769,000 for the ASFF.

**Limitations on Availability of Funds in ASFF (Section 1510)**

- FY 2010 funds appropriated to the ASFF shall be subject to the conditions contained in Sections 1513(b) through (g), NDAA, FY 2008, P.L.110-181.

**Limitations on Iraq Security Forces Fund (Section 1511)**

- FY 2010 funds made available to the DoD for the Iraq Security Forces Fund (ISFF) shall be subject to the conditions contained in Sections 1512(b) through (g), NDAA, FY2008, P.L.110-181.
  - No FY 2010 funds have yet to be authorized or appropriated for the **Iraq Security Forces Fund (ISFF)**.
  - However, \$1,000,000,000 in FY 2009 funding was appropriated by Section 306, *Supplemental Appropriations Act, 2009*, P.L.32, 24 Jun 2009, to remain available through FY 2010.

**Drug Interdiction and Counter-Drug Activities, Defense-Wide (Section 1515)**

- \$356,603,000 is authorized to be funded for the DoD **Drug Interdiction and counter-Drug Activities**, Defense-Wide.

**Treatment as Additional Authorizations (Section 1519)**

- The amounts authorized to be appropriated by this Title are in addition to amounts otherwise authorized by this Act.

***Department of Defense Appropriations Act, 2010, Division A, P.L.111-118, 19 December 2009***

- Originally reported out of the House (HAC) and Senate (SAC) Appropriations Committees as HR3326 with H.Rpt. 111-230 on 22 Jul 09, and with S. Rpt. 111-74 on 10

Sep 09, respectively. The House passed HR3326 on 30 Jul 10 with the Senate passing it with amendments on 6 Oct 09. A conference report was never published; however, an equivalent explanatory statement was inserted into the Congressional Record on 16 Dec 09. The House passed the final HR3326 on 16 Dec 09 and the Senate passed it on 19 Dec 09. The legislation was ultimately enacted on 16 Dec 09 as P.L.111-118. Later, the HAC issued an unnumbered and undated committee report with the joint explanatory statement in the Congressional Record in January 2010.

- As has been requested and even legislated in the past by Congress, this is the first annual DoD appropriations that contains funding for Southwest Asia and global terrorism operations which before was provided through later supplemental appropriations. However, a FY2010 supplemental of at least \$33,000,000,000 reflecting needed funding for the redeployment of troops and equipment from Iraq, stepped up deployment of troops and equipment to Afghanistan, and humanitarian assistance for earthquake disasters is anticipated.

## *Division A – Department of Defense Appropriations*

### *Title II*

#### *Operation and Maintenance*

##### *Operations and Maintenance, Defense-Wide*

- \$28,115,793,000 for the operation and maintenance of activities and agencies of the Department of Defense, other than the military departments. Not more than \$50,000,000 of this funding may be used for the **Combatant Commander Initiative Fund (CCIF)** authorized by 10 U.S.C. 2411(1)(D).

##### *Overseas Humanitarian, Disaster, and Civic Aid (OHDCA)*

- \$109,869,000 for expenses related to **OHDCA programs** of the Department of Defense authorized by 10 U.S.C. 401, 402, 404, 2557, and 2561 to remain available through FY2011.

##### *Cooperative Threat Reduction Account*

- \$424,093,000 for assistance to the republics of the former Soviet Union and, with appropriate authorization by the Departments of Defense and State, to countries outside 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,
  - For establishing programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise,

- 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.
- Not less than \$15,000,000 of this amount shall be available only 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 and North.
- These funds are to remain available through FY2012.

#### *Title IV*

##### *Research, Development, Test and Evaluation, Defense-Wide*

- \$20,747,081,000 for expenses of activities and agencies of the Department of Defense other military departments to remain available for obligation through FY2011.
- Of which \$2,500,000 of this amount shall be available only for the Missile Defense Agency to construct a **replacement Patriot launcher pad** for the Japanese Ministry of Defense.

#### *Title VI*

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

###### *Defense Health Program*

- \$29,243,428,000 for expenses, not otherwise provided for, for medical and health care programs of the Department of Defense as authorized by law.
- Not less than \$10,000,000 of this amount 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 countries**.

###### *Drug Interdiction and Counter-Drug Activities, Defense*

- \$1,158,226,000 for drug interdiction and counter-drug activities of the Department of Defense for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under Titles 10 and 32 of the U.S. Code.
- These funding is to remain available for obligation for the same period and for the same purpose as the appropriation to which transferred.

## *Title VIII*

### *General Provisions*

#### **Foreign National Employee Compensation (Section 8002)**

- During FY 2010, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the U.S. shall not apply to DoD personnel.
- Salary increases granted to direct and indirect hire DoD **foreign national employees** funded by this act shall not be at a rate in excess of the percentage increase authorized by law for DoD civilian employees 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 section shall not apply to DoD foreign service national employees serving at U.S. diplomatic missions whose pay is set by the Department of State under the *Foreign Service Act of 1980*.
- The limitations of this provision shall not apply to DoD foreign national employees in the **Republic of Turkey**.

#### **Humanitarian and Civic Action (Section 8012)**

- Within the funds appropriated for the operation and maintenance of the armed forces, funds are hereby appropriated pursuant to 10 U.S.C. 401 for **humanitarian and civic costs** under 10 U.S.C. Chapter 20. Such funds may also be obligated for humanitarian and civic costs incidental to authorized operations and pursuant to 10 U.S.C. 401. These obligations shall be reported as required by 10 U.S.C. 401(d).
- Funds available for operation and maintenance 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 authorized by P.L.99-239.
- When determined by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at army medical facilities located in Hawaii, the Secretary may authorize the provision of medical services at such facilities and transportation, on a nonreimbursable basis, for civilian patients from **American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam**.

#### **Contributions from the Government of Kuwait (Section 8024)**

- During FY2010, DoD is authorized 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 the government of **Kuwait**. Upon receipt of such contributions, the funding shall be credited to the appropriations or fund which incurred such obligations.

### **Congressional Defense Committees (Section 8028)**

- For the purposes of this Act, congressional defense committees include the armed services committees of the House (HASC) and Senate (SASC) and the appropriations subcommittees for defense of the House (HAC-D) and Senate (SAC-D).

### **Assistance for the Democratic People's Republic of Korea (Section 8044)**

- No funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the **Democratic People's Republic of Korea** unless specifically appropriated for that purpose.

### **Drug Interdiction or Counter-Drug Activities (Section 8047)**

- No funds available to DoD for any fiscal year for **drug interdiction or counter-drug activities** may be transferred to any other U.S. department or agency except as specifically provided in an appropriations law.
- No funds available to the CIA for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other U.S. department or agency except as specifically provided in an appropriations law.

### **Defense Funding for the Transfer of Defense Articles or Services to another Country or International Organization (Section 8051)**

- No FY2010 DoD funds may be obligated or expended to **transfer defense articles or services** (other than intelligence services) to another nation or international organization for below specified activities unless the defense and foreign relations committees are notified 15 days in advance of the transfer.
  - The specified activities include any **international peacekeeping, peace-enforcement or humanitarian assistance operation**, or similar U.N. activities under an authority of the U.N. Security Council resolution or any other 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 U.S. armed forces, including the reserve components, 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.

### **F-22A Advanced Tactical Fighter (Section 8059)**

- No FY2010 DoD funds may be used to approve or license the **sale of the F-22A** advanced tactical fighter to any foreign government.
- DoD may conduct or participate in studies, research, design and other activities to define and develop a future export version of the F-22A that protects classified and sensitive information, technologies and U.S. war fighting capabilities.

### **Procurement from Foreign Sources (Section 8060)**

- The Secretary of Defense, on a case-by-case basis, may waive with respect to a foreign country each limitation on the procurement of **defense items from foreign sources** provided in law, if determined that the application of the limitation with respect to that country would invalidate cooperative programs entered into between 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 procured in the U.S. for that country. This section applies with respect to:
  - Contracts and subcontracts entered into on or after enactment of this Act, and
  - Options for the procurement of items that are exercised after such enactment date under contracts that were entered into before such enactment if the option prices are adjusted for any reason other than the application of this waiver authority.
- This wavier authority does not exist for certain listed items.

### **Training with Foreign Security Force Units (Section 8061)**

- No FY2010 DoD funds may be used to support any **training program involving a unit of the security forces** of a 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 the Secretary of State, shall ensure that prior to a decision to conduct any such training, full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.
  - After consultation with the Secretary of State, the Secretary of Defense may waive this prohibition if determined such waiver is required by extraordinary circumstance.
  - Not more than 15 days after such waiver, the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, U.S. and foreign forces involved in the training, and the information relating to human violations that necessitated the waiver.

### **Israeli Cooperative Programs (Section 8076)**

- \$202,434,000 of the FY2010 DoD funds appropriated under Research, Development, Test, and Evaluation, Defense-Wide shall be made available for the **Israeli Cooperative Program**.
  - \$80,092,000 shall be for the Short Range Ballistic Missile Defense (SRBMD) program, including cruise missile defense research and development,
  - \$50,036,000 shall be available for an upper-tier component to the Israeli Missile Defense Architecture, and
  - \$72,306,000 shall be for the Arrow Missile Defense Program, of which \$25,000,000 shall be for producing Arrow missile components in the U.S. and Arrow missile

components in Israel to meet Israel's defense requirements, consistent each nation's laws, regulations, and procedures.

- These funds for the production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.
  - This transfer authority is in addition to any other transfer authority in this Act.

#### **Asia Pacific Regional Initiative Program (Section 8094)**

- Up to \$15,000,000 in funding appropriated under Operation and Maintenance, Navy may be made available for the **Asia Pacific Regional Initiative Program** for the purpose of enabling the Pacific Command to execute Theater Security Cooperation activities such as humanitarian assistance and payment of incremental and personnel costs of training and exercising with foreign security forces.
  - This funding made available for this purpose may be used, notwithstanding any other funding authorities for humanitarian assistance, security assistance, or combined exercise expenses.
  - None of this funding may be obligated to provide assistance to a country that is otherwise prohibited from receiving such assistance under any other provision of law.

#### **High Priority National Guard Counterdrug Programs (Section 8112)**

- Up to \$15,000,000 of the FY2010 funds appropriated under Drug Interdiction and Counter-Drug Activities, Defense shall be available for the purpose of **High Priority National Guard Counterdrug Programs**.
- This funding is to be in addition to any other amounts made available by this Act for that purpose.

#### **Public Posting of Reports to Congress (Section 8114)**

- Any agency receiving funds made available by this Act, shall post their public website **any report required by Congress** in this or any other act [underlined emphasis added by this author] upon determination by the head of the agency that it shall serve in the national interest. This requirement shall not apply if:
  - The public posting of the report compromises national security, or
  - The report contains proprietary information.
- The posting of any such report shall be done only after such report has been made available to the requesting committee or committees of Congress for no less than 45 days.

#### **Allocation of Funds and Implementation of this Act (Section 8124)**

- The explanatory statement regarding this Act printed in the House section of the Congressional Record on or about 16 Dec 09 by the Chairman of the subcommittee on Defense of the House Appropriations Committee shall have the same effect with respect

to the **allocation of funds and implementation of this Act** as if it were a joint explanatory statement of a committee of conference.

## *Title IX*

### *Overseas Contingency Operations*

#### *Operation and Maintenance*

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

- An additional \$7,490,900,000 for Operation and Maintenance, Defense-Wide, to include:
  - Not to exceed amount of \$12,500,000 for the **Combatant Commander Initiative Fund (CCIF)** for use in support of Operation Iraqi Freedom and Operation Enduring Freedom, and
  - Not to exceed amount of \$1,570,000,000 to remain available until expended for payments to **reimburse key cooperating nations** for logistical, military, and other support, including access provided to U.S. military operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, notwithstanding any other provision of law.
    - Such reimbursements may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget (OMB), may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the U.S. accounting officers, and 15 days following notification of the appropriate congressional committees.
    - These funds may be used for the purpose of providing **specialized training and procuring supplies and specialized equipment** and providing such supplies and loaning such equipment on a nonreimbursable basis to coalition forces supporting U.S. military operations in Iraq and Afghanistan, and 15 days following notification to the appropriate congressional committees.
    - The Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided under this authority.

#### *Afghanistan Security Forces Fund (ASFF)*

- \$6,562,769,000 for the **ASFF** to remain available through FY2011 for the purpose of allowing the Commander, Combined Security Transition Command-Afghanistan, or the Secretary of Defense's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan.
  - This is to include the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding.
  - The authority to provide this assistance is in addition to any other authority to provide assistance to foreign nations.

- Contribution of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund and used for such purposes.
  - The Secretary of Defense shall notify the congressional defense committees in writing upon the receipt and upon the obligation of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions.
- The Secretary of Defense shall, not fewer than 15 days prior to obligating from this appropriation account, notify the congressional defense committees in writing of the details of any such obligation.
- It should be noted that no FY2010 appropriations were provided in this Act for the **Iraq Security Forces Fund (ISFF)**; however, it is reported that up to \$1,000,000,000 will be requested within the FY2010 supplemental. Any additional funding would likely require significant oversight similar to the above ASFF program.
  - Additionally, Section 306 of the *Supplemental Appropriations Act, 2009*, P.L.111-32, 24 Jun 09, did provide for \$1,000,000,000 for the ISFF to remain available through FY2010.

#### *Other Department of Defense Programs*

##### *Drug Interdiction and Counter-Drug Activities*

- An additional \$346,603,000 to remain available through FY2011.

#### *General Provisions – This Title*

##### **Transfer of Funds (Section 9002)**

- Authorizes the Secretary of Defense, with the approval of OMB and prompt notification to Congress, to transfer up to \$4,000,000,000 between the appropriations of funds available to the Department of Defense when such action is necessary in the U.S. national interest.

##### **Commanders' Emergency Response Program (Section 9005)**

- Up to \$1,200,000,000 of Operation and Maintenance, Army appropriated by this Act may be used, notwithstanding any other provision of law, to fund the **Commanders' Emergency Response Program (CERP)** for the purpose of enabling commanders in Iraq and Afghanistan to respond to urgent humanitarian relief and reconstruction requirements with their areas of responsibility.

##### **Logistical Support to Coalition Forces (Section 9006)**

- Funds available to DoD for operation and maintenance may be used, 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.

### **Quarterly Report on the Use of Funds (Section 9010)**

- Director, OMB, in consultation with the Secretary of Defense; Commander, USCENTCOM; Commander, Multi-National Security Transition Command – Iraq; and Commander, Combined Security Transition Command – Afghanistan, shall submit a detailed quarterly report not later than 45 days after the end of each quarter to the congressional defense committees on the proposed use of all funds appropriated by this any prior Act under the headings of **ISFF, ASFF, and the Pakistan Counterinsurgency Fund (PCF)** on a project-by-project basis, for which the obligation of funds is anticipated during the three month period from such date of the report, including estimates by the commanders referred to in this Section of the costs required to complete each such project.
- The Secretary of Defense shall notify the congressional defense committees of any proposed new projects or transfers of funds between sub-activity groups in excess of \$20,000,000 using funds appropriated by this Act or any other prior act under the headings of ISFF, ASFF, and PCF.

### ***Division B – Other Matters***

- No Departments of Defense or State, security cooperation funding or any related requirements are in this Division.

### **Conclusion**

The article for FY 2010 included a summary of four pieces of legislation that impacted U.S. international programs especially those of security assistance and security cooperation. Any funding allocations were taken from the State Department provided congressional budget justifications for FY 2011 which included country and program funding levels for FYs 2009 and 2010.

The significant items within the S/FOAA were high funding levels for each program with several countries receiving more than \$100,000,000 and major congressional reporting requirements especially required by the appropriations committees with a notable absence of requirements from the HFAC and SFRC.

The only stand-alone authorization legislation for foreign relations and assistance was the *Enhanced Partnership with Pakistan Act of 2009*. High funding levels of foreign affairs assistance and security assistance are authorized annually during FYs 2010 through 2014. However, very specific annual certifications from the Secretary of State, in coordination with the Secretary of Defense, are required by Congress prior to any obligation of funds for Pakistan. The certification generally includes, among other things, continued cooperation between the U.S. and Pakistan and ever-growing, successful efforts by Pakistan in counterinsurgency and counterterrorism operations against the Al-Qaeda and the Taliban and other terrorist

organizations. The Secretary of State is directed to put financial management monitoring organizations into place for continuous oversight in the use of U.S. assistance.

The *National Defense Authorization Act for Fiscal Year 2010* generally extended the various security cooperation authorities to the end of FY 2010, limited the use of the “1206” authority, required the establishment of a registration and end-use monitoring program for the weapons provided by security cooperation to Afghanistan and Pakistan, and authorized the FY 2010- only grant transfer of in-theater U.S. defense equipment to Iraq and Afghanistan. Two of many required reports from the Secretary of Defense, with concurrence of the Secretary of State, included addressing the role of FMS in meeting Iraqi military and security requirements, and a report regarding the relationship between security cooperation and security assistance and an assessment of the effectiveness of the current U.S. organizations and processes in providing assistance to countries combating terrorism.

*The Department of Defense Appropriations Act, 2010*, continues to provide significant funding to security cooperation programs especially those in Southwest Asia. The Act, like the others, requires many reports to Congress furthering its oversight role. \$6,562,769,000 was appropriated for the Afghanistan Security Forces Fund but the Iraq Security Forces Fund was not further funded.

A supplemental appropriation for security assistance is anticipated and Table Eight provides the known requests.

Table Eight  
FY 2010 Supplemental Security Assistance  
(\$ in thousands)

<b><u>Program</u></b>	<b><u>Funding</u></b>
FMFP	\$60,000
ESF	1,820,000
INCLE	757,440

Note: No additional funding for IMET, PKO, or NADR was announced.

Source: Department of State FY2011 Congressional Budget Justification (CBJ) for Foreign Operations

## **About the Author**

Ken Martin has been at DISAM for over twenty 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 a contributing author for the annually republished

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 masters degree in administration from Central Michigan University.