

• A waiver of all provisions of section 1083 with respect to Iraq and any agency or instrumentality of Iraq is therefore in the national security interest of the United States and will promote the reconstruction of, the consolidation of democracy in, and the relations of the United States with, Iraq.

• Iraq continues to be a reliable ally of the United States and a partner in combating acts of international terrorism. The November 26, 2007, Declaration of Principles for a Long-Term Relationship of Cooperation and Friendship between the Republic of Iraq and the United States of America confirmed the commitment of the United States and Iraq to build an enduring relationship in the political, diplomatic, economic, and security arenas and to work together to combat all terrorist groups, including al-Qaida.

Accordingly, I hereby waive all provisions of section 1083 of the Act with respect to Iraq and any agency or instrumentality thereof.

You are authorized and directed to notify the Congress of this determination and waiver and the accompanying memorandum of justification [not set out in the Code], incorporated by reference herein, and to arrange for their publication in the Federal Register.

GEORGE W. BUSH.

### § 1606. Extent of liability

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

(Added Pub. L. 94-583, §4(a), Oct. 21, 1976, 90 Stat. 2894; amended Pub. L. 105-277, div. A, §101(h) [title I, §117(b)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-491; Pub. L. 106-386, div. C, §2002(g)(2), formerly §2002(f)(2), Oct. 28, 2000, 114 Stat. 1543, renumbered §2002(g)(2), Pub. L. 107-297, title II, §201(c)(3), Nov. 26, 2002, 116 Stat. 2337.)

#### AMENDMENTS

2000—Pub. L. 106-386, §2002(g)(2), formerly §2002(f)(2), as renumbered by Pub. L. 107-297, which directed repeal of section 101(h) [title I, §117(b)] of div. A of Pub. L. 105-277, was executed by striking out “, except any action under section 1605(a)(7) or 1610(f)” after “punitive damages”, to reflect the probable intent of Congress. See 1998 Amendment note below.

1998—Pub. L. 105-277 inserted “, except any action under section 1605(a)(7) or 1610(f)” after “punitive damages”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 applicable to any claim for which a foreign state is not immune under section 1605(a)(7) of this title arising before, on, or after Oct. 21, 1998, see section 101(h) [title I, §117(c)] of Pub. L. 105-277, set out as a note under section 1610 of this title.

### § 1607. Counterclaims

In any action brought by a foreign state, or in which a foreign state intervenes, in a court of

the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

(a) for which a foreign state would not be entitled to immunity under section 1605 or 1605A of this chapter had such claim been brought in a separate action against the foreign state; or

(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

(Added Pub. L. 94-583, §4(a), Oct. 21, 1976, 90 Stat. 2894; amended Pub. L. 110-181, div. A, title X, §1083(b)(2), Jan. 28, 2008, 122 Stat. 341.)

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 inserted “or 1605A” after “section 1605”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

For applicability of amendments by Pub. L. 110-181 to pending cases, see section 1083(c) of Pub. L. 110-181, set out as an Effective Date note under section 1605A of this title.

### § 1608. Service; time to answer; default

(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a “notice of suit” shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.