

participation in educational and cultural exchange programs to a country;

(ii) all multilateral assistance described in paragraph (1)(B) to a country; or

(iii) one or more programs, projects, or activities of such assistance.

(B) Avoidance of significant adverse effects

The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) Definition of multilateral development bank

In this subsection, the term “multilateral development bank” refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) Certification

Together with any notification under subsection (c) of this section, the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 7102(7)(A) of this title, or with respect to any assistance described in section 7102(7)(B) of this title, no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

(f) Subsequent waiver authority

After the President has made a determination described in subsection (d)(1) of this section with respect to the government of a country, the President may at any time make a determination described in paragraphs (4) and (5) of subsection (d) of this section to waive, in whole or in part, the measures imposed against the country by the previous determination under subsection (d)(1) of this section.

(Pub. L. 106–386, div. A, § 110, Oct. 28, 2000, 114 Stat. 1482; Pub. L. 108–193, § 6(e), (h), (i), Dec. 19, 2003, 117 Stat. 2882, 2884.)

AMENDMENTS

2003—Subsec. (b)(3), (4). Pub. L. 108–193, § 6(e), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(4). Pub. L. 108–193, § 6(h)(1), inserted “or funding for participation in educational and cultural exchange programs” after “nonhumanitarian, nontrade-related foreign assistance”.

Subsec. (d)(5)(A)(i). Pub. L. 108–193, § 6(h)(2), inserted “or funding for participation in educational and cultural exchange programs” after “foreign assistance”.

Subsec. (f). Pub. L. 108–193, § 6(i), added subsec. (f).

PRESIDENTIAL DETERMINATION WITH RESPECT TO FOREIGN GOVERNMENTS’ EFFORTS REGARDING TRAFFICKING IN PERSONS

Determination of President of the United States, No. 2003–35, Sept. 9, 2003, 68 F.R. 53871, provided:

Memorandum for the Secretary of State

Consistent with section 110 of the Trafficking Victims Protection Act of 2000 (Division A of Public Law 106–386) [22 U.S.C. 7107] (the “Act”), I hereby:

Make the determination provided in section 110(d)(1)(A)(ii) of the Act, with respect to Burma, Cuba, Liberia, North Korea, and Sudan, not to provide certain funding for those countries’ governments for fiscal year 2004, until such a government complies with the minimum standards or makes significant efforts to bring itself into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Make the determination provided in section 110(d)(3) of the Act, concerning the determinations of the Secretary of State with respect to Belize, Bosnia and Herzegovina, the Dominican Republic, Georgia, Greece, Haiti, Kazakhstan, Suriname, Turkey, and Uzbekistan;

Determine, consistent with section 110(d)(4) of the Act, with respect to Liberia, that provision to Liberia of the multilateral assistance described in section 110(d)(1)(B) of the Act would promote the purposes of the Act [22 U.S.C. 7101 et seq.] or is otherwise in the national interest of the United States; and

Determine, consistent with section 110(d)(4) of the Act, with respect to Sudan for all programs, projects, or activities of assistance as may be necessary to implement a peace accord, that provision to Sudan of the multilateral assistance described in section 110(d)(1)(B) of the Act for such programs, projects, or activities would promote the purposes of the Act or is otherwise in the national interest of the United States.

The certification required by section 110(e) of the Act is provided herewith.

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

GEORGE W. BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7103, 7110 of this title.

§ 7108. Actions against significant traffickers in persons

(a) Authority to sanction significant traffickers in persons

(1) In general

The President may exercise the authorities set forth in section 1702 of title 50 without regard to section 1701 of title 50 in the case of any of the following persons:

(A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) Penalties

The penalties set forth in section 1705 of title 50 apply to violations of any license, order, or regulation issued under this section.

(b) Report to Congress on identification and sanctioning of significant traffickers in persons

(1) In general

Upon exercising the authority of subsection (a) of this section, the President shall report to the appropriate congressional committees—

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) Removal of sanctions

Upon suspending or terminating any action imposed under the authority of subsection (a) of this section, the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) Submission of classified information

Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

(c) Law enforcement and intelligence activities not affected

Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(d) Omitted

(e) Implementation

(1) Delegation of authority

The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a) of this section.

(2) Promulgation of rules and regulations

The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) Opportunity for review

Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a) of this section.

(f) Definition of foreign persons

In this section, the term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) Construction

Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a) of this section.

(Pub. L. 106–386, div. A, §111, Oct. 28, 2000, 114 Stat. 1484.)

CODIFICATION

Section is comprised of section 111 of Pub. L. 106–386. Subsec. (d) of section 111 of Pub. L. 106–386 amended section 1182 of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 section 1182.

§ 7109. Strengthening prosecution and punishment of traffickers

(a) Omitted

(b) Amendment to the Sentencing Guidelines

(1) Pursuant to its authority under section 994 of title 28 and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act [29 U.S.C. 201 et seq.] and the Migrant and Seasonal Agricultural Worker Protection Act [29 U.S.C. 1801 et seq.].

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(Pub. L. 106–386, div. A, §112, Oct. 28, 2000, 114 Stat. 1486.)

REFERENCES IN TEXT

The Fair Labor Standards Act, referred to in subsec. (b)(1), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Migrant and Seasonal Agricultural Worker Protection Act, referred to in subsec. (b)(1), is Pub. L. 97–470, Jan. 14, 1983, 96 Stat. 2584, as amended, which is classified generally to chapter 20 (§1801 et seq.) of Title