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Coup-Related Restrictions in U.S. Foreign Aid Appropriations

Events in August 2020 in Mali have focused renewed attention on a provision that has appeared in annual State, Foreign Operations and Related Programs (SFOPS) appropriations legislation since 1986 that restricts U.S. foreign assistance following a coup d'état. The provision intends to discourage and express U.S. disapproval of militaries seizing control of governments.

What Is Section 7008?

In its current form (P.L. 116-94 Division G), Section 7008 states that:

None of the funds appropriated or otherwise made available pursuant to 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 military coup d'état or decree or, after the date of enactment of this Act, a coup d'état or decree in which the military plays a decisive role: Provided, That assistance may be resumed to such government if the Secretary of State certifies and reports to the appropriate congressional committees that subsequent to the termination of assistance a democratically elected government has taken office: Provided further, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: Provided further, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

Key elements in determining whether Section 7008 restrictions apply to a situation are

- whether a country's military has overthrown, or played a decisive role in overthrowing, the government, and
- whether the deposed leader was "duly elected," a term not defined in statute.

The restriction is not a general one; it applies to selected types of aid, including the following:

- Foreign assistance provided *to the government*, including military assistance and economic assistance implemented through or in cooperation with host governments.

- Funds administered by the State Department and U.S. Agency for International Development (USAID).
- "Global train-and-equip" funds authorized to be provided by the Department of Defense under 10 U.S.C. 333, as the authority prohibits assistance "that is otherwise prohibited by any provision of law."

The provisions explicitly exempt aid to promote democracy. The restriction also has generally not applied to

- aid fully implemented by nongovernmental organizations rather than the government, or
- aid authorized or appropriated "notwithstanding" any other provision of law, which in FY2020 includes most humanitarian assistance; funds provided through the Assistance for Europe, Eurasia, and Central Asia (AEECA) account; aid to some specific countries (e.g., Egypt and Pakistan); and aid for some specific purposes (e.g., counter-narcotics, counter-crime, and counter-extremism), or aid that the President has authority to provide in certain conditions notwithstanding restrictions in law, subject to notification.

Section 7008 does not include waiver authority, and does not set a time parameter for certifying either that a coup has taken place, or subsequently that a "democratically elected government has taken office."

Legislative History

Legislation restricting foreign assistance after coups was first considered in the context of congressional concern about a possible coup in El Salvador. The Foreign Assistance and Related Programs Appropriations Act, FY1985 (P.L. 98-473), prohibited any appropriation from being obligated to El Salvador if the elected President of that country was deposed by military coup (§537). The following year, the enacted foreign aid appropriation, P.L. 99-190, expanded the provision to prohibit funds "to any country whose duly elected Head of Government is deposed by military coup or decree" (§513). Some version of the "coup provision" has been included in every foreign aid appropriations measure since FY1986. Congress has made several changes to the section over time, however, the most significant of which are depicted in **Figure 1**.

Figure 1. Section 7008: Key Changes

<p>FY1985: Coups provision first appears, applying only to El Salvador.</p>	<p>FY1986: Provision expanded to apply to “any country.”</p>	<p>FY1988: Proviso added allowing for the resumption of aid after democratic elections.</p>	<p>FY2002: Application narrowed by changing “any country” to “government of any country.” Exception added for democracy promotion aid.</p>	<p>FY2010: Title changes from Military Coups to Coups d’État.</p>	<p>FY2012: Provision modified to apply to “a coup d’État or decree in which the military plays a decisive role.”</p>
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Source: Created by CRS using information from annual Foreign Operations appropriations legislation.

Interpretation and Application of Section 7008

U.S. executive branch interpretations and application of the provision have varied across situations. During the past 12 years, the coup provision was in effect, at least temporarily, for the following countries, according to public documents (e.g., Millennium Challenge Corporation eligibility reports and State Department country fact sheets):

- **Sudan** (due to the 1989 coup)
- **Côte d’Ivoire** (1999 coup; lifted after 2011 elections)
- **Fiji** (2006 coup; lifted after 2014 elections)
- **Mauritania** (2008 coup; lifted after 2009 elections)
- **Madagascar** (2009 coup; lifted after 2014 elections)
- **Guinea-Bissau** (2012 coup; lifted after 2014 elections)
- **Mali** (2012 coup; lifted after 2013 elections)
- **Thailand** (2014 coup, lifted after 2019 elections)

In other countries where the military has ousted, or helped oust, a civilian-led government, the executive branch has not invoked Section 7008. For example:

- **Honduras 2009.** The State Department referred to the military’s arrest and forced exile of the sitting president as a “coup d’État,” but asserted that these events were not, strictly speaking, a “military coup,” citing the “complexity” of actors involved, including the courts and legislature (which endorsed the military’s actions). Congress subsequently changed the title of the provision from “military coups” to “coups d’État” (**Figure 1**).
- **Niger 2010.** The State Department determined that Niger’s president, who was ousted by the military, had ceased to be “duly elected” because he had overstayed his original constitutional tenure.
- **Egypt 2013.** The State Department did not issue a determination as to whether or not a coup occurred.
- **Burkina Faso 2014.** Military commanders pressured the president to step down amid large protests, and retained influence in a subsequent civilian-led transitional government. U.S. officials referred to events as a “popular uprising.”
- **Zimbabwe 2017.** The army seized control of key facilities and pressed President Robert Mugabe to resign. The ruling party then removed Mugabe as its leader, after which he resigned. U.S. officials did not refer to these events as a coup d’État. The State Department had earlier stated that Zimbabwe’s 2013 elections, in which Mugabe was reelected, “did not represent the will of the Zimbabwean people.”
- **Algeria 2019.** The army chief of staff called on parliament to impeach the president, who resigned the next day. U.S. officials did not publicly comment on whether these events constituted a coup d’État.

In at least two of these cases (Honduras and Niger), U.S. Administrations chose, as a matter of policy, to suspend aid *consistent* with the restrictions under Section 7008. While producing a similar result to application of the provision, this allowed the executive branch flexibility to restart some aid prior to democratic elections. In the case of Zimbabwe, assistance that could have been restricted under Section 7008 was already prohibited under other legislation.

Military aid and other assistance to the governments of Egypt, Burkina Faso, and Algeria was not restricted in connection with the events described. For Egypt, Congress enacted new language in SFOPS appropriations measures from FY2014 onward, making funds available, subject to certain conditions, “notwithstanding” any other provision of law restricting foreign assistance (currently, Section 7041(a) of P.L. 116-94 Division G).

Policy Questions

As Congress considers SFOPS appropriations for FY2021 and beyond, and contemplates U.S. policy toward foreign governments that assume power by coup, it may revisit Section 7008 and consider whether the existing provisions support congressional intent. Congress may consider:

Waiver. Should waiver authority be added to the provision, or do existing workarounds—such as the notwithstanding provisions for certain countries and certain types of assistance, which may be created after the fact—provide sufficient policy flexibility?

Determination. Should a determination of the coup provision’s applicability be required within a specified time period? If so, should the determination remain fully delegated to the Administration, including the interpretation of events and the role of the military? Is there a role for Congress in such determinations?

Intention. Is the current proviso on a resumption of aid sufficient to adequately support the U.S. policy of objecting to a coup d’État? Should the overthrow of non- “*duly elected*” leaders be punished as well? Should policymakers be granted the ability to lift the provision if the military transfers control to a civilian-led transitional government, even if that government is not elected?

Policy and Program Implications. Should the resumption of aid following an election in a country where the provision has been applied trigger other U.S. policy responses, such as an evaluation of the status of democracy in the country and whether governance or security sector reform programs are merited? Should any additional U.S. actions to help deter future depositions of duly elected governments be pursued?

Further Reading on Selected Countries

Algeria: CRS In Focus IF11116, *Algeria*

Côte d'Ivoire: CRS Report RS21989, *Côte d'Ivoire Post-Gbagbo: Crisis Recovery*

Egypt: CRS Report RL33003, *Egypt: Background and U.S. Relations*

Honduran Political Crisis: CRS Report R41064, *Honduran Political Crisis, June 2009-January 2010*

Mali 2012 Coup: CRS Report R42664, *Crisis in Mali*

Sudan: CRS In Focus IF10182, *Sudan*

Thailand: CRS In Focus IF10253, *Thailand: Background and U.S. Relations*

Zimbabwe 2017 Events: CRS Insight IN10819, *Zimbabwe: A Military-Compelled Transition?*

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