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

Recent events in Burkina Faso, Sudan, Guinea, Burma, and Mali have brought attention to 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.

What Is Section 7008?

In its current form (P.L. 116-260, Division K, extended into FY2022 by continuing resolution), 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 titles that Section 7008 references encompass Bilateral Economic Assistance (III), International Security Assistance (IV), Multilateral Assistance (V), and Export and Investment Assistance (VI). The restriction is not a general one; it applies to selected types of aid, including

- Foreign assistance provided *to the government*, i.e., implemented through or in cooperation with host governments.

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

Section 7008 explicitly exempts aid to promote democracy. The restriction also has generally not applied to

- aid fully implemented by nongovernmental organizations rather than the government,
- aid authorized or appropriated "notwithstanding" any other provision of law, which in FY2021 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, along with certain aid for Sudan); and aid for some specific purposes (e.g., counter-narcotics, counter-crime, and anti-terrorism), or
- aid the President has authority to provide in certain conditions notwithstanding restrictions in law, subject to congressional notification.

Section 7008 does not include waiver authority, and does not set a time parameter or format for certifying 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, 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. Cases in which the provision has been applied have generally involved the military ouster of an elected president. Section 7008 is currently in effect with regard to **Burkina Faso** (coup in 2022), **Guinea** (2021), **Burma** (2021), **Mali** (2020) and **Sudan** (1989). Once invoked, Section 7008 restrictions can be lifted only if the Secretary of State reports to Congress that a democratically elected government has taken office. In the case of **Sudan**, the 116th Congress enacted legislation permitting certain aid to be provided “notwithstanding” other provisions of law, with some exceptions (§7042(j) of P.L. 116-260, Division K; and Subtitle G of Title XII, P.L. 116-283).

During the past decade, the provision was temporarily in effect for the following countries, according to U.S. government public documents:

- **Fiji** (2006 coup; lifted after 2014 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 cases, the executive branch has not invoked Section 7008, on various grounds. 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.** Amid mass protests, the military deposed an elected president, suspended the constitution, and installed the defense minister as interim president. 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 protests, and retained influence in a 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 then resigned. U.S. officials did not publicly comment on whether these events constituted a coup d’état.
- **Chad 2021.** A military council seized power, bypassing the constitutional line of succession, after the battlefield death of the president. U.S. officials called for a “peaceful democratic transition of power to a civilian-led government” but did not refer to events as a “coup.”

In two of these cases (**Honduras** and **Niger**), U.S. officials chose, as a matter of policy, to suspend aid *consistent* with the provisions of Section 7008. While producing a similar result, this allowed flexibility for the executive branch to restart some aid prior to democratic elections. In the case of **Zimbabwe**, aid that could have been restricted under Section 7008 was already prohibited under other legislation. Regarding **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 (currently, §7041(a) of P.L. 116-260, Division K).

Policy Questions

As Congress considers SFOPS appropriations for FY2022 and beyond, it may revisit Section 7008 and consider whether its application supports congressional intent. Congress may consider:

Waiver. Should waiver authority be added, or do existing workarounds—such as notwithstanding provisions for certain countries and certain types of aid, 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? Is there a role for Congress in such determinations?

Intention. Is the current proviso on a resumption of aid sufficient to adequately support a 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 actions to deter future ousters of elected leaders be pursued?

Selected CRS Resources

CRS Insight INI1854, *"An Epidemic of Coups" in Africa? Issues for Congress*
CRS In Focus IF10434, *Burkina Faso*
CRS Insight INI1594, *Coup in Burma (Myanmar): Issues for U.S. Policy*
CRS Report RL33003, *Egypt: Background and U.S. Relations*
CRS Report R41064, *Honduran Political Crisis, June 2009-January 2010*
CRS In Focus IF10116, *Crisis in Mali*
CRS In Focus IF10182, *Sudan*
CRS In Focus IF10253, *Thailand: Background and U.S. Relations*

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