



CRS Report for Congress

Department of Defense “Section 1207” Security and Stabilization Assistance: A Fact Sheet

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Summary

Section 1207 of the National Defense Authorization Act for Fiscal Year 2006 (P.L. 109-163) provides authority for DOD to transfer to the State Department up to \$100 million per fiscal year in defense articles, services, training or other support for reconstruction, stabilization, and security activities in foreign countries. DOD has transferred \$10 million in FY2006, \$99.5 million in FY2007, and \$100 million in FY2008 under this authority. In action on the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417), Congress extended the original Section 1207 authority through FY2009 and, for that fiscal year, added special authority to transfer up to an additional \$50 million for Georgia, although the actual amount transferred for FY2008 was \$100 million. The 111th Congress may wish to take into account varied concerns regarding the use of DOD funds for State Department activities in considering whether to extend Section 1207 authority once again or to fund Section 1207 activities under the Department of State budget. This report will be updated as events warrant.

Section 1207 of the National Defense Authorization Act (NDAA) for Fiscal Year 2006 (P.L. 109-163) provided authority for DOD to transfer to the State Department up to \$100 million in defense articles, services, training or other support in FY2006 and again in FY2007 to use for reconstruction, stabilization, and security activities in foreign countries. This authority was extended through FY2008 by Section 1210 of the FY2008 NDAA (P.L. 110-181) and through FY2009 by the Section 1207 of the FY2009 Duncan Hunter NDAA (P.L. 110-417). The FY2009 Duncan Hunter NDAA provides special authority for \$50 million to be spent under Section 1207 for Georgia in addition to the \$100 million for other countries. This authority has been used to fund activities of the State Department’s Office of the Coordinator for Reconstruction and Stabilization (S/CRS) and activities implemented by other agencies that are coordinated by S/CRS. Operations and maintenance funds from the three military services and from the DOD defense-wide account have been tapped for this purpose, although the legislation does not specify a funding source.

According to a United States Institute of Peace report, Section 1207 was introduced “in response to requests from Defense Secretary Donald Rumsfeld and Secretary of State Condeleezza Rice to help jump start the S/CRS by providing authorization and funding for projects that would involve interagency coordination. This action was taken in recognition of the fact that Congress was unable to pass a State Department authorization bill that would authorize S/CRS to conduct a comparable program”¹ and “because of the perception that it was easier to obtain funding from Congress” in the DOD bill rather than the State Department bill.²

Conditions. Section 1207 authority requires that any services, defense articles, or funds provided or transferred to the Secretary of State comply with the authorities and limitations of the Foreign Assistance Act of 1961, the Arms Export Control Act, or any law making appropriations to carry out such Act. The Secretary of Defense must notify congressional armed services, foreign affairs, and appropriations committees when the authority is exercised; the notification must be prepared “in coordination” with the Secretary of State. As of FY2009, Section 1207 funds may not be used to support the budgets of foreign governments.

Funding Transfers. *In FY2006*, DOD transferred \$10 million to the State Department for assistance to Lebanon in the midst of the Lebanese conflict. According to a spokesperson for S/CRS, DOD lacked the funds for further transfers through this authority in FY2006, even though the authorized amount was \$100 million. *In FY2007*, DOD transferred a total of \$99.5 million to the State Department for programs in seven countries and regions. DOD described the projects funded in FY2007 as “a few small focused activities in various critical countries/regions to demonstrate proof of concept” and judged that while largely successful, “most could have more significant impact if continued or expanded.”³ *In FY2008*, DOD provided \$100 million in transfers from the DOD budget, \$50 million for Georgia and \$50 million for other countries.

Congressional Action and Statements

2005-2007. Section 1207 authority was the result of a Senate floor amendment offered by Senator James Inhofe to the Senate version of the FY2006 NDAA (S. 1042), which would have provided funding up to \$200 million per fiscal year. (For FY2006, the Administration had asked for \$200 million for a State Department Conflict response fund, but neither authority nor funding was provided in non-DOD legislation.)⁴

Conferees on the FY2006 DOD authorization bill stated in their explanatory statement (H.Rept. 109-360), that they were providing “a temporary authority ... to the

¹ Robert M. Perito, *Integrated Security Assistance: The 1207 Program*, United States Institute of Peace Special Report, July 2008, p. 2.. (Hereafter referred to as *Integrated Security Assistance*.)

² *Integrated Security Assistance*, p. 3.

³ U.S. Department of Defense, *Fiscal Year 2009 Budget Request Summary Justification*, February 4, 2008, p. 104. Hereafter referred to as *FY2009 Summary Justification*.

⁴ For more on the conflict response fund, see CRS Report RL32862, *Peacekeeping and Conflict Transitions: Background and Congressional Action On Civilian Capabilities*, by Nina M. Serafino and Martin Weiss.

Department of State until S/CRS is fully stood up and adequately resourced.” Further, the conferees on that bill stated that they were not inclined to continue authorizing DOD funds to enable the State Department to “fulfill its statutory authorities.” Subsequently, the Senate Armed Services Committee (SASC), in its report on S. 1547 (S.Rept. 110-77), the Senate version of the FY2008 NDAA, described Section 1207 as a “pilot project.”

In addition to extending the authority through FY2008, Section 1210 of the FY2008 NDAA (P.L. 110-181) augmented the role played by the Secretary of Defense. Under the FY2006 NDAA, the Secretary of Defense’s role was limited to providing services and transferring defense articles and funds to the Secretary of State. The FY2008 NDAA included a provision requiring the Secretary of State to “coordinate with the Secretary of Defense in the formulation and implementation of a program of reconstruction, security, or stabilization assistance to a foreign country that involves the provision of services or transfer of defense articles or funds” under this authority.

2008. In action on the FY2009 NDAA, Congress extended the \$100 million Section 1207 transfer authority for one fiscal year, through FY2009. In a March 20, 2008, letter, DOD requested that Congress double Section 1207 authorized funding to \$200 million per year, extend the authority for five fiscal years, and broaden the authority to permit DOD to provide that services or transfer defense articles and funds to the head of any U.S. government department or agency, not just the Department of State. As reported by SASC, the FY2009 NDAA (S. 3001) would have doubled the authorized amount to \$200 million, as requested by DOD, and would have extended Section 1207 authority three years, through September 30, 2011.⁵ The conference version of the bill conformed to the House Armed Services Committee (HASC) version of the FY2009 NDAA (H.R. 5658), which did not change the authorized amount and provided for a one-year extension. Nevertheless, Congress did approve a special additional authority under Section 1207 to provide up to \$50 million in Section 1207 assistance to Georgia in FY2009. (S. 3001 was signed into law, P.L. 110-417, on October 14, 2008.) In addition, Congress amended the original legislation to prohibit the use of Section 1207 funds to support the budgets of foreign governments.

Congressional Concerns

From the beginning, there has been some confusion about the appropriate uses of Section 1207 and questions about the desirability of funding State Department activities through the DOD budget. HASC and SASC reports on their respective versions of the FY2009 NDAA both state separate concerns about Section 1207 authority, reflecting a perceived need to clarify intended purposes and restate the original congressional intention that Section 1207 was to be a temporary authority.

In its report accompanying S. 3001 (S. Rept 110-335), SASC stated that DOD had “inappropriately restricted the uses for which services or funds may be provided to the Department of State under section 1207....” Pointing to the Secretary of Defense’s April 15, 2008, testimony at a HASC hearing that Section 1207 authority “is primarily for

⁵ In testimony before Congress in April 2008, Secretary of State Gates requested that Section 1207 authority be extended for five years and the amount be doubled to \$200 million. (April 15, 2008 HASC get cite)

bringing civilian expertise to operate alongside or in place of our armed forces,” SASC stated that the legislative intent of section 1207 authority was broader, and was meant “to enable the Secretary of Defense to support the provision by the Secretary of State of reconstruction, security, or stabilization assistance to a foreign country.” SASC further stated such assistance could include “providing early civilian resources to avert a crisis that could otherwise subsequently require U.S. military forces to assist or intervene.”⁶

In its report accompanying H.R. 5658 (H.Rept. 110-652), HASC stated that it “reaffirms that the resources provided under this authority are intended to meet immediate, short-term needs.” The committee reiterated the concern expressed in the conference report accompanying the original Section 1207 legislation (H.Rept. 109-360) that DOD should not provide long-term funding in order to enable the Department of State to “fulfill its statutory requirements.” This concern, according to H.Rept. 110-652, applied to both long-term development programs and to the broader security assistance initiatives “that would be better suited for traditional foreign military financing authorities.”

In addition to some Members of Congress, some outside analysts believe that Section 1207 activities would be better funded through the State Department. (DOD has never requested that Section 1207 be made permanent law, although it did, as mentioned above, request in 2008 that Congress extend the authority for five fiscal years.) While noting the utility of DOD Section 1207 funding, which enables the U.S. government “to meet critical needs and to take advantage of key opportunities,” the USIP report mentioned above urges that in the future Congress appropriate such quick reaction funding to the State Department. “The DOD could still participate in deciding on project proposals, but the money would be guaranteed and could be made available more quickly. This would require coordinating the efforts of various congressional committees, but it would restore the traditional role of the DOS [Department of State] in funding U.S. foreign assistance.”⁷

⁶ In February 2008, the State Department and DOD set forth guidance for Section 1207 proposals that clarified the uses of the fund and procedures for developing proposals and coordinating with other agencies and programs. This document specifies that programs should “clearly advance U.S. security interests by promoting regional stability and/or building governance capacity of foreign partners to address conflict, instability, and sources of terrorism,” “focus on security, stabilization, or reconstruction objectives in regions and countries where a failure to act could lead to the deployment of U.S. forces,” “address urgent or emergent threats or opportunities that conventional foreign assistance activities cannot address in the required time frame,” “seek to achieve short term security, stabilization, or reconstruction objectives that are coordinated with longer-term development efforts and that are expected to be sustained by the host government, international organizations, or other forms of U.S. foreign assistance,” and “address stability, security, and development goals from a holistic perspective, integrating initiatives across multiple sectors.” (See [<http://www.crs.state.gov/index.cfm?fuseactions=public.display&shortcut=4PRW>].)

⁷ Integrating Security Assistance, p. 11.

Section 1207 Funded Projects, by Country or Region, Fiscal Years 2006-2008

Country	Project's Purpose	Amount (\$ millions)		
		FY06	FY07	FY08
Afghanistan	Renovate the Pol-e-Charki prison.			10.0
Colombia	Help provide basic health, education, and infrastructure in areas recently reclaimed from insurgents through the Initial Government Response Program).		4.0	
Colombia	Support implementation of the Integrated Consolidation Plan for La Macarena Region (PCIM), a unified military and civilian strategy.			5.0
Democratic Republic of Congo	Extend central government authority to Eastern Congo by enhancing border police capabilities to control the border in Northern Katanga; extend reach of justice services and facilitate prosecution in remote areas; increase the activity and accountability of local governments.			9.1
Georgia	Rebuild the police force (\$20 million) and meet priority food, shelter, and livelihood requirements for internally displaced persons in Shida Kartli (\$30 million).			50.0
Haiti	Combine community policing with small-scale employment and infrastructure projects to improve security and stability and extend central government authority in Cite Soleil, Port au Prince's largest slum (Haiti Stabilization Initiative.)		20.0	
Lebanon	Clear unexploded ordnance posing an immediate threat to noncombatants (\$5 million). Help train and outfit additional Lebanese Internal Security Force (ISF) members (i.e., Lebanon's national police) to allow police to free Lebanese Army forces performing policing duties in the Bekaa Valley to enforce the Israeli-Hezbollah cease-fire in southern Lebanon (\$5 million).	10.0		
Lebanon	Strengthen the ISF communications capacity (\$5.0 million) and assist the ISF in introducing community and proximity policing in the Nahr al-Bared Palestinian refugee camp and surrounding areas (\$5 million).			10.0
Nepal	Extend the government's police presence to four districts at risk of communist domination and create community-based infrastructure projects in those districts.		10.0	
Somalia	Support civilian police reform, security and justice infrastructure rehabilitation, youth employment and income generation activities (\$17.5 million, Somalia Reconciliation and Stabilization Program), and enhance community-police coordination for cross-border security and to establish neutral zones (\$7.5 million).		25.0	

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Country	Project's Purpose	Amount (\$ millions)		
		FY06	FY07	FY08
Sri Lanka	Support programs to improve livelihoods for conflict-affected populations, assist government institutions, building the technical capacity of municipal and provincial governments, encourage citizen participation, and foster a bilingual environment in Sri Lanka's eastern province.			6.0
Tajikistan	Provide training and technical assistance to local government, local law enforcement representatives, and community leaders to enhance skills to promote stability in conflict-affected and unstable areas, including the Ferghana and Rasht Valleys and the Afghan border areas.			9.9
Yemen	Promote stability by assisting in areas where the central government is largely absent in order to deter youths from joining terrorist groups.		8.5	
Southeast Asia Region	Support the multi-year, interagency, "3-D" (diplomacy, development, and defense) Southeast Asia Tri-border Initiative to deter terrorist recruitment and deny terrorists sanctuary in Indonesia, Malaysia, and the Philippines.		17.0	
Trans-Sahara Region	Support Trans-Sahara Counter-Terrorism Partnership programs in Mali, Niger, and Mauritania to reduce terrorist recruiting and sanctuary areas.		15.0	
Totals		10.0	99.5	100.0

Source: Office of the Secretary of Defense. FY2006 and FY2007 figures verified March 2008; FY2008 figures verified November 2008.