



Department of Defense “Section 1207” Security and Stabilization Assistance: Background and Congressional Concerns

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Summary

Section 1207 of the National Defense Authorization Act (NDAA) for Fiscal Year 2006 (P.L. 109-163) provides authority for the Department of Defense (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 transferred \$10 million in FY2006, \$99.7 million in FY2007, and \$100 million in FY2008 under this authority. For FY2009, Congress added special authority to transfer up to an additional \$50 million for Georgia. To date in FY2009, DOD has transferred to the State Department \$94.8 million in FY2009 Section 1207 funds. In all, these funds have supported projects in 14 countries and two regions.

The 111th Congress must decide whether to extend Section 1207, which expires on September 30, 2009. In its FY2010 budget submission, DOD has requested \$200 million in FY2010 appropriations for Section 1207, double the currently authorized amount. DOD does not appear to have made a decision on requesting an extension of Section 1207 authority beyond FY2010, as there is no Section 1207 language in the proposed NDAA that DOD sent to Congress on May 13, 2009. DOD indicated, however, that further requests for FY2010 NDAA language may be forthcoming.

In considering whether to extend Section 1207 again, the 111th Congress may wish to take into account various issues regarding the use of DOD funds for State Department activities. Principal among them are whether projects funded under Section 1207 authority are being used for the purposes intended by Congress, and whether funding intended for use by the State Department is better funded under the State Department budget.

This report will be updated as events warrant.

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Introduction

In its May 2009 budget submission, the Department of Defense (DOD) has requested \$200 million in DOD appropriations for transfer to the State Department to support civilian stabilization activities. Congressional approval of this appropriation would constitute an increase in the amount and an extension of the "Section 1207" authority Congress first provided in 2005 to DOD to make such transfers. (Section 1207 of the National Defense Authorization Act [NDAA] for Fiscal Year 2006, P.L. 109-163.) DOD is expected shortly to submit a corresponding authorization request.

Section 1207 of 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 first extended through FY2008 by Section 1210 of the FY2008 NDAA (P.L. 110-181) and again extended through FY2009 by Section 1207 of the FY2009 Duncan Hunter NDAA (P.L. 110-417). The FY2009 Duncan Hunter NDAA provides special authority for up to \$50 million to be spent under Section 1207 for Georgia, in addition to the up to \$100 million authorized for other countries.

Section 1207 authority has been used to fund activities of the State Department's Office of the Coordinator for Reconstruction and Stabilization (S/CRS, established in 2004) and activities implemented by other agencies that are coordinated by S/CRS, including activities of USAID. These funds have supported activities in 14 countries and in two regions. (For further information on these countries and projects, see the text below and **Table 1** at the end of this report.)

According to a United States Institute of Peace (USIP) report, Section 1207 was introduced "in response to requests from Defense Secretary Donald Rumsfeld and Secretary of State Condeleezza Rice to help jump start 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 program¹ 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.

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.

Funding Sources and Transfers

Section 1207 legislation does not specify a funding source. From FY2006 to FY2008, DOD tapped operations and maintenance (O&M) funds from the three military services and from the DOD defense-wide account to make these transfers. For FY2009, Congress appropriated \$100 million specifically for Section 1207 funding, although it had authorized up to \$150 million in Section 1207 spending.

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 \$99.7 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 Countries benefiting from FY2007 Section 1207 funds were Colombia, Haiti, Nepal, Somalia, and Yemen. In addition, FY2007 funds supported regional activities in Southeast Asia and in the Trans-Sahara region.

In FY2008, DOD provided \$100 million in transfers from the DOD budget. This included \$50 million for Georgia and \$50 million for activities in six other countries: Afghanistan, Colombia, Democratic Republic of Congo, Lebanon, Sri Lanka, and Tajikistan.

Thus far in FY2009, DOD has transferred a total of \$94.8 million to the State Department: \$50 million for activities in Georgia and \$44.7 million for activities in six other countries. The other countries are Bangladesh, Democratic Republic of Congo, Kenya, Lebanon, Philippines, and Sri Lanka.

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 Department of State until

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

⁴ For more on the conflict response fund, see CRS Report RL32862, *Peacekeeping/Stabilization and Conflict Transitions: Background and Congressional Action on the Civilian Response/Reserve Corps and other Civilian Stabilization and Reconstruction Capabilities*, by Nina M. Serafino.

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.

2009

In early May, DOD indicated in the DOD Summary Budget Justification document that it was requesting a \$200 million appropriation for Section 1207 FY2010 funding.⁶ The Obama Administration’s proposed National Defense Authorization Act for FY2010 does not contain a corresponding provision requesting that Congress extend Section 1207 authority through at least FY2010 and increase the authorized transfer amount by \$100 million. DOD’s cover letter transmitting the proposed legislation to Congress states, however, that DOD will submit

⁵ In testimony before Congress in April 2008, Secretary of Defense Gates requested that Section 1207 authority be extended for five years and the amount be doubled to \$200 million. House Committee on Armed Services, *Hearing on Building Partnership Capacity and Development of the Interagency Process*, April 15, 2008. Video and audio versions of the hearing are available through <http://armedservices.house.gov/comdocs/schedules/2008.shtml>, last accessed June 1, 2009.

⁶ U.S. Department of Defense, *Fiscal Year 2010 Budget Request Summary Justification*, May 2009, p. 1-13. Hereafter referred to as *FY2010 Budget Justification*..

additional legislative provisions to be added to the bill in the coming weeks. An additional request regarding Section 1207 is expected shortly.

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, May 12, 2008), SASC stated that DOD had "inappropriately restricted" the uses for which Section 1207 services or funds can be provided to the State Department. Pointing to the Secretary of Defense's April 15, 2008, testimony at a HASC hearing that Section 1207 authority "is primarily for 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."⁷ In May 2009, DOD seemed to reply to this statement in its FY2010 Budget Request Summary Justification document, in which it asserts that Section 1207 funding is "for reconstruction, security, or stabilization assistance—primarily to put civilian professionals alongside warfighters, or to provide early civilian resources to avert crises that could require U.S. military forces to intervene."⁸

In its report accompanying H.R. 5658 (H.Rept. 110-652, May 16, 2008), HASC stated that the committee "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."

⁷ 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>.)

⁸ *FY 2010 Budget Justification*, May 2009, pp. 1-13. This statement continues: "These programs help to promote stability and to reduce terrorist space and influence. The programs are often executed in the same place where U.S. forces are operating or may be forced to operate if conditions worsened."

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."⁹

Thus far, the Obama Administration does not appear to have decided whether DOD should continue funding Section 1207 beyond FY2010. In his May 13 testimony before HASC, Secretary of Defense Gates judged Section 1207 "a very worthwhile program" and one that "has served a very valuable purpose..."¹⁰ He indicated, however, that no decision had yet been made on the future of DOD funding for Section 1207 beyond FY2010, and that the decision would be contingent on the availability of funding elsewhere for stabilization and reconstruction purposes from other sources. "I think that's something that I'll need to sit down with Secretary Clinton [to talk about] and also talk within our own building in terms of the longer range future for 1207."¹¹

⁹ Integrating Security Assistance, p. 11.

¹⁰ U.S. House of Representatives, House Armed Services Committee, *Hearing on the Fiscal Year 2010 Defense Department Budget Request*, May 13, 2009, CQ Transcriptions: Congressional Quarterly, Inc. 2009, p. 57.

¹¹ *Ibid.*

Table I. Section 1207 Funded Projects, by Country or Region, FY2006-FY2008

Country	Project's Purpose	Amount (\$ millions)			
		FY06	FY07	FY08	FY09
Afghanistan	Renovate the Pol-e-Charki prison.			10.0	
Bangladesh	Provide mentoring, training, and technical assistance to enhance community-based policing skills, and to provide outreach to communities and training to local volunteer groups in order to strengthen ties between communities and government authorities.				8.0
Colombia	Help provide, with FY07 funds, basic health, education, and infrastructure in areas recently reclaimed from insurgents through the Initial Government Response Program. FY08 funds support implementation of the Integrated Consolidation Plan for La Macarena Region (PCIM), a unified military and civilian strategy.		4.0	5.0	
Democratic Republic of Congo	Extend central government authority to Eastern Congo. FY08 funds used to enhance 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. FY09 funds improve the prosecution and adjudication of gender-based violence and other crimes, and reinforce provincial government capacity to provide key services.			9.1	2.8
Georgia	With FY08 funds, rebuild the police force (\$20 million) and meet priority food, shelter, and livelihood requirements for internally displaced persons in Shida Kartli (\$30 million). FY09 funds provide stabilization assistance in the aftermath of the August 2008 conflict with Russia. Assistance includes resettlement and livelihood support, and vocational training for Internally Displaced Persons; rebuilding of schools and municipal infrastructure; landmine surveys and clearance; and restoration of Georgian Coast Guard infrastructure.			50.0	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		
Kenya	In the areas most affected by post-election violence in late 2007 and early 2008, support leadership development and positive civic engagement among disaffected youth, improve morale within police units and foster trust between police and local communities; enhance Kenyan military's ability to provide security and stability, help train military engineers in civil affairs; and provide equipment for rebuilding infrastructure damaged by post-election violence.				8.0
Lebanon	With FY06 funds, 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). With FY07 funds, strengthen the ISF	10.0		10.0	10.0

Country	Project's Purpose	Amount (\$ millions)			
		FY06	FY07	FY08	FY09
	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). With FY09 funds, strengthen ISF forces ability to provide security by implementing a nation-wide communications system that will help them perform police duties and reduce vulnerability to outside interference and surveillance.				
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		
Philippines	Support community policing, improve three model police stations, and upgrade capabilities of the Regional Crime Lab in Zamboanga City, Mindanao. Also construct roads and boat landings in Mindanao.				14.0
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		
Sri Lanka	With FY08 funds, 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. With FY09 funds, complement Section 1207-funded FY08 projects by improving basic policing skills and practices in the East by training civilian police officers.			6.0	2.0
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.		8.8		
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.		16.9		
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	99.7	100.0	94.8

Source: Office of the Secretary of Defense. FY2006-FY2009 figures verified June 1, 2009.

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