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Security Assistance Reform: “Section 1206” Background and Issues for Congress

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Summary

Section 1206 of the National Defense Authorization Act (NDAA) for Fiscal Year 2006, as amended and regularly extended, provides the Secretary of Defense with authority to train and equip foreign military forces for two specified purposes—counterterrorism and stability operations—and foreign security forces for counterterrorism operations. Section 1206 authority now extends through FY2017.

The FY2014 NDAA (P.L. 113-66) expanded the scope of Section 1206 authority considerably. Previously, assistance for counterterrorism (CT) purposes was limited to foreign military forces and non-military maritime security forces. The expanded scope for CT assistance includes all types of security forces.

The Department of Defense (DOD) values this authority as an important tool to train and equip military partners. Funds may be obligated only with the concurrence of the Secretary of State. Through 2009, DOD used Section 1206 authority primarily to provide counterterrorism (CT) support. Since FY2010, Section 1206 authority has also been used to provide significant assistance to train and equip foreign military forces for military and stability operations in which U.S. forces participate. Currently, there is a cap of \$350 million on Section 1206 obligations per fiscal year.

Total funding thus far for Section 1206 programs since its inception in FY2006 is some \$2.2 billion. During this period, Section 1206 funding supported bilateral programs in over 40 countries, several multilateral programs, and an associated global human rights program.

The FY2014 programs notified to Congress thus far total over \$290 million. These provide assistance to enable 10 European countries to participate in the International Security Assistance Force (ISAF) in Afghanistan, as well as assistance to five African countries.

Some Members have been concerned with several issues related to Section 1206 authority, both narrow and broad. Specific current concerns have included whether Section 1206 funds are being used appropriately and effectively. Some of these concerns have been partially addressed. For instance, DOD has created a new assessment mechanism and a new delivery process for Section 1206 programs. Overarching issues include whether Congress should place Section 1206 train and equip (T&E) authority under the State Department with other T&E authorities. (Members have thus far refrained from codifying Section 1206 in permanent law, as requested by DOD.) Finally, some Members may wish to examine the status of Section 1206 in the context of broader security assistance reform.

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Among the issues related to U.S. assistance to foreign military and security forces that may be of interest to the 113th Congress is the status of Section 1206 of the FY2006 National Defense Authorization Act (NDAA), P.L. 109-163, as amended. This statute provides the Secretary of Defense with authority to train and equip foreign military forces and foreign maritime security forces for two specified purposes:

- To enable foreign military forces and foreign security forces to perform counterterrorism (CT) operations. (Nearly all Section 1206 assistance from FY2006 to FY2009 was for CT training and equipment.)
- To enable foreign military forces to participate in or to support military and stability operations in which U.S. Armed Forces are participating. (A significant portion of FY2010–FY2014 funds are provided for such assistance.)

Enacted in 2005 as a temporary authority, "Section 1206" authority, as it is known, has been regularly extended. The FY2014 NDAA (P.L. 113-66, Section 1201) extends the authority through FY2017. In a major expansion of the scope of the program, the FY2014 NDAA extended the authority to train and equip for counterterrorism purposes to all types of foreign security forces. The initial legislation permitted counterterrorism assistance only to foreign military forces, but that was amended in 2008 to include non-military foreign maritime security forces.¹

Section 1206 is the first major Department of Defense (DOD) authority to be used expressly for the purpose of training and equipping the national military forces of foreign countries. For almost the past half-century, DOD generally has trained and equipped foreign military forces under State Department Title 22 authority and through State Department programs. On occasion, Congress has given DOD authority to train and equip specified countries, and over the years Congress has provided DOD with specific Title 10 authorities or DOD funding to provide foreign military forces with opportunities to attend military schools, but Section 1206 is the first DOD global train-and-equip authority since the passage of the Foreign Assistance Act of 1961, which placed oversight for military assistance with the Secretary of State.

Congress's decision to grant DOD Section 1206 authority has been controversial. Some Members have stressed the need for a DOD authority that combatant commanders can use to respond to emerging threats that put the well-being of U.S. military personnel at risk or might eventually require robust, and costly, U.S. military action. But others have questioned whether Section 1206 funds are being used appropriately and effectively, and, above all, whether providing DOD with its own train-and-equip (T&E) authorities undermines the Secretary of State's statutory responsibility to ensure coherence of U.S. foreign policy.

While no other single DOD security assistance authority has generated as much controversy as Section 1206, some analysts have been concerned with the addition of a few new DOD security

¹ For many years, DOD had argued for authority to train and equip a variety of counterterrorism security forces outside the military structure. DOD's original proposal included "armies, guard, border security, civil defense, infrastructure protection, and police forces," but the initial Section 1206 legislation restricted the use of funds to military forces. Subsequent requests by DOD (in 2007 and 2008) proposed expanding Section 1206 authority to include other security forces. DOD's FY2009 NDAA proposal requested that a wide range of police and security forces be included, specifically gendarmerie, constabulary, internal defense, infrastructure protection, civil defense, homeland defense, coast guard, border protection, and counterterrorism forces. In 2008, Congress amended Section 1206 authority to include only non-military maritime security forces, such as coast guards, a category not named in the DOD request. (Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, P.L. 110-417, Section 1206).

assistance authorities after the September 11, 2001 (9/11), terrorist attacks on the United States, as well as the perceived expansion of pre-9/11 DOD security assistance and other foreign assistance-type activities. Of particular concern to some Members is Section 1208 of the FY2005 NDAA, an authorization to provide support to "foreign forces, irregular forces, groups, or individuals" that assist or facilitate U.S. military operations conducted by special operations forces (SOF) to combat terrorism.² Two other post 9/11 security assistance authorities of concern are the Regional Defense Counterterrorism Fellowship Program (CTFP), which funds foreign military officers and defense and security officials to attend U.S. military educational institutions, regional centers, and conferences and was later made permanent law, and the Coalition Support Fund (CSF), which funds countries assisting in U.S. military operations. The former is viewed by some analysts as overlapping with the State Department International Military and Education Training (IMET) program, and the latter is viewed by some as performing the same function as the State Department Economic Support Fund (ESF). Because of these overlapping functions, divided between agencies, some analysts judge that U.S. government-wide security assistance funding and programs are not sufficiently coordinated at all levels (strategy-making, planning, and implementation).

This report provides background on the pre-Section 1206 status of security assistance authorities and the factors contributing to the enactment of Section 1206. It then sets out the purposes of the legislation and scope of its activities, restrictions on its use, the DOD-State Department planning process, and funding. It concludes with a discussion of issues for Congress.

Background

For nearly 50 years, since the enactment of the Foreign Assistance Act of 1961, as amended (FAA), the Secretary of State has exercised the leadership role for foreign assistance, including military assistance, specifically military education and training.³ With the exception of a period from the mid-1960s to the mid-1970s inclusive of the Vietnam War, major foreign military assistance programs have been carried out under State Department authority, oversight, and guidance,⁴ with a DOD agency responsible for implementation.⁵ "Traditionally the State

² This authority was established by Section 1208 of the FY2005 NDAA, P.L. 108-375, entitled Support of Military Operations to Combat Terrorism, and is often referred to as "Section 1208" authority. The initial authorization was extended and amended several times. The authority is now in effect through FY2013. Amendments raised the spending limit from \$25 million to \$50 million, added a requirement for Chief of Mission concurrence (Section 1208, FY2009 NDAA, P.L. 110-417), and subjected the authority to more detailed reporting requirements (Section 1202, FY2010 NDAA, P.L. 111-84). Information concerning this program is classified.

³ As now stated in the FAA of 1961, as amended, Section 622(c) (22 U.S.C. 2382) states that the Secretary of State, under the direction of the President, "shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby."

⁴ Before the FAA, the Mutual Security Act of 1951 (P.L. 82-165, 65 Stat. 373) created a Mutual Security Agency in the Executive Office of the President, whose Director was responsible for the "continuous supervision, general direction, and coordination of all foreign aid—military, economic, and technical assistance." U.S. Congress, House. *U.S. Foreign Aid: Its Purposes, Scope, Administration and Related Information*, prepared by the Legislative Reference Service, Library of Congress. 86th Congress, 1st Session, House Document No. 116, Washington: USGPO, June 11, 1959, p. 69. During part of the 1950s, DOD administered the military assistance programs under the White House's policy direction and guidance. Congress subsequently moved responsibility for non-military aid to the State Department (P.L. 81-329, 63 Stat. 714). Two lower-ranking State Department officials were charged (consecutively) with coordinating with DOD (continued...)

Department plans, budgets and oversees security assistance programs and is the lead agency in charge of all U.S. foreign policy and global engagement," according to a recent report co-sponsored by The American Academy of Diplomacy and the Henry L. Stimson Center. "The DOD has supported overall foreign and national security policy by implementing these programs. This relationship was designed to ensure that security assistance was aligned with general U.S. foreign policy goals."⁶

For many years, DOD had little interest in security assistance activities, as they were regarded neither as a military mission nor as an activity of more than marginal value to ensuring national security. In particular, training foreign military forces was not considered a task for general purpose military forces, and until recently limited training was most often conducted by U.S. SOF, often under State Department authority.⁷

DOD perspectives on training foreign military forces slowly began to change after the terrorist attacks on the United States of September 11, 2001 (9/11). Defense officials began to regard the defeat of terrorist groups in the countries where they train and prepare as essential to U.S. national security. But some realized that these groups could not be disrupted and defeated solely with U.S. forces employed under existing U.S. arrangements. U.S. military forces lacked the language, country knowledge, and cultural sensitivity to conduct effective counterterrorist (CT) activities in many countries where threats could be expected to emerge. Some DOD officials realized that foreign military and security forces would have to take the lead in conducting such activities, and would need training to assume that role. At the same time, DOD officials considered the State Department as lacking the necessary expertise and capabilities to carry out an effective counterterrorism program. DOD officials also viewed the State Department's planning and implementation processes under authorities for traditional T&E programs⁸ as too slow and cumbersome to meet emerging threats.

In the mid-2000s, DOD officials developed a proposal for a "Global Train and Equip" authority to increase U.S. support for foreign military and security forces in order to disrupt terrorist

(...continued)

regarding military aid before the responsibility was finally bestowed on the Secretary of State. For more detail on the further evolution of Military Assistance Authority, see CRS Report RL34639, *The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress*, coordinated by Nina M. Serafino.

⁵ The Defense Security Cooperation Agency (DSCA), under the DOD Under Secretary for Policy, and its predecessor agency. While the original language in 1961 applied specifically to assistance authorized under the FAA, a 1976 amendment deleted this restriction.

⁶ The American Academy of Diplomacy and the Henry L. Stimson Center, *A Foreign Affairs Budget for the Future: Fixing the Crisis in Diplomatic Readiness*, Ambassador Thomas Boyatt, Project Chairman, October 2008, p. 22. Hereinafter referred to as *A Foreign Affairs Budget for the Future*.

⁷ Special Operations Forces also train together with foreign troops under a DOD authority, Title 10 U.S.C. Section 2011, Special Operations Forces: training with friendly foreign forces. The primary purpose of the Joint Combined Exchange Training program, conducted under this authority, is to provide training for the U.S. forces.

⁸ State Department programs under which foreign military forces are trained are the International Military Education and Training (IMET) and the Expanded IMET (E-IMET) programs. Equipment is provided to foreign governments through the State Department Foreign Military Sales/Foreign Military Financing (FMS/FMF) programs. According to DOD, this "traditional security assistance takes three to four years from concept to execution," while "Global Train and Equip authority allows a response to emergent threats or opportunities in six months or less." U.S. Department of Defense, *Fiscal Year 2009 Budget Request Summary Justification*, February 4, 2008, p. 103. Hereinafter referred to as *FY2009 DOD Summary Justification*. In practice, however, the time frame for a Section 1206 response is sometimes considerably longer than six months; see the section below on "Timeliness."

networks, to build the capacity of legitimate states to provide security within their sovereign territory to prevent terrorists from establishing footholds, and to build the capacity of legitimate states to participate in U.N., regional, and U.S. coalition military missions. This proposal called for a DOD lead, but also required State Department concurrence. Although this proposal was initially resisted by certain sectors at both DOD and the State Department, it won the support of Secretary of Defense Donald Rumsfeld and Secretary of State Condoleezza Rice, and the enthusiastic endorsement of geographic Combatant Commanders, according to one DOD official who promoted the legislation.⁹

At the same time, perspectives on the use of U.S. military forces to train foreign military forces began to evolve. Secretary of Defense Robert Gates has asserted that training foreign forces is a military mission for U.S. general purpose forces.¹⁰

In early 2005, DOD requested, and Congress granted, Section 1206 as a special contingency authority. Nevertheless, the armed services committees repeatedly expressed hesitation about conceding this authority to DOD and cautioned that it was to be regarded as a pilot program.

In April 2008 testimony before the House Armed Services Committee (HASC) that still stands as the DOD position on Section 1206, former Secretary of Defense Robert Gates described this authority as “a means to fill long-standing gaps in an effort to help other nations build and sustain capable military forces.” Explaining DOD’s need to carry out such activities, Secretary Gates stated that after the terrorist attacks on the United States of September 11, 2001 (9/11), “building partner capacity is a vital and enduring military requirement” for DOD to fulfill its national security mission. The “security of America’s partners is essential to America’s own security,” according to Gates, and Section 1206 is a preventive tool through which the United States helps allies and partners to “confront extremists and other potential sources of global instability within their borders ... before festering problems and threats become crises requiring U.S. military intervention.”

At the same time, Secretary Gates dismissed the idea that Section 1206 duplicates or could be viewed as a substitute for State Department Foreign Military Financing (FMF) programs. However, other government personnel state that Section 1206 has been used as a substitute for FMF, especially in the early years, given what many analysts believe is a shortage of FMF funds to meet legitimate foreign defense equipment needs.

According to the Obama Administration’s FY2010 Budget Request Summary Justification Document accompanying DOD’s May 2009 budget request, U.S. Combatant Commanders consider the Section 1206 program “the single most important tool for the Department to shape the environment and counter terrorism.”¹¹ According to that document, the Section 1206 program is important because it allows the United States to train and equip foreign military forces to

⁹ Jeffrey (Jeb) Nadaner, former Deputy Assistant Secretary of Defense for Stability Operations.

¹⁰ See, for instance: Robert M. Gates. *A Balanced Strategy: Reprogramming the Pentagon for a New Age*. Foreign Affairs, January/February 2009. In this article, Gates worries that the military personnel and promotions system is not able “to reflect the importance of advising, training, and equipping foreign troops—something still not considered a career-enhancing path for the best and brightest officers.”

¹¹ U.S. Department of Defense, *Fiscal Year 2010 Budget Request Summary Justification*, May 2009, pp. 1-13.

respond to “urgent and emergent threats,” and because it “provides opportunities to solve problems before they become crises.”¹²

Section 1206 in Action

Purpose, Scope, and Funding

As noted above, Congress provided Section 1206 authority for two purposes. One is to enable foreign military and security forces to perform counterterrorism (CT) operations. The other is to enable foreign military forces to participate in or to support military and stability operations in which U.S. Armed Forces are participating. In proposing the expansion of Section 1206 authority to include all security forces, HASC explained in its committee report (H.Rept. 113-102, to accompany H.R. 1690) that it “expects this authority to be used sparingly when it is clear that these forces are the most suitable for the task.”

Despite Section 1206’s dual purpose, through FY2009, almost all Section 1206 funding was used to provide counterterrorism equipment and related training. The types of equipment provided include radios and communications systems; surveillance and reconnaissance systems; trucks, ambulances, boats, and other vehicles; aircraft; small arms and rifles; night vision goggles and sights; and clothing. From FY2010 on, Section 1206 has also provided considerable funding to train and equip foreign military forces for stability operations, in particular to support the International Security Assistance Force (ISAF) in Afghanistan. Currently, there is a cap of \$350 million on Section 1206 funding per fiscal year.

Section 1206 programs are funded from the DOD operations and maintenance (O&M) account. During the first two years of the program, DOD transferred funds from lower-priority missions to fund activities under Section 1206, according to the Office of the Secretary of Defense/Policy (OSD/P). Since then, Congress has largely appropriated funds under the defense-wide O&M account. The current authorized limit for Section 1206 spending is \$350 million. Of this, no more than \$100 million may be spent to build stabilization and peacekeeping capacity of foreign military forces.

Section 1206 FY2015 Funding Conditions

DOD budget documents available to date estimate FY2015 Section 1206 funding plans as about \$5 million under the \$350 million authorized level. The FY2014 NDAA states that no more than \$262.5 million of FY2015 funds may be obligated or expended on Section 1206 programs until the Secretary of Defense, with the concurrence of the Secretary of State, reports on proposed planning and execution of programs to build the counterterrorism capacity of a foreign country’s security forces during FY2015.

¹² Ibid.

Section 1206 Programs and Funding, FY2014

Thus far in FY2014, DOD has notified \$290.2 million for 20 programs in 15 countries. The single largest recipient is Yemen, with a \$46.5 million program to provide an intelligence, surveillance, and reconnaissance (ISR) aircraft with precision strike capability, and \$17.5 million of an unmanned aerial system, for a total of \$64 million. The next largest recipient is Niger, with a total of \$39.5 million, of which \$24.8 million provides aircraft and an ISR capability, and \$14.7 million will be used to stand up a counterterrorism battalion. Some \$99 million is provided to train and equip Central and Eastern European countries to support NATO International Security Assistance Force (ISAF) operations in Afghanistan.

Trends FY2006-FY2014

Total funding thus far for Section 1206 programs since its inception in FY2006 is some \$2.2 billion. (For a breakdown by country of FY2012-FY2014 funding, see below.) During this period, Section 1206 funding supported bilateral programs in over 40 countries, several multilateral programs, and an associated global human rights program. The largest recipient has been Yemen,¹³ with some \$400 million. Among the other largest recipients over time have been Lebanon, Pakistan, and the Philippines, but of these only Lebanon received funding in FY2013–FY2014. Pakistan ceased to receive Section 1206 funding after special counterinsurgency funds dedicated to that country were created. The Philippines, through FY2014, received funding in all but the first year.

In the past few years, programs in Africa have increased substantially. Kenya, Mauritania, Niger, Uganda, and Burundi have become large recipients, part of a trend that has seen Section 1206 assistance to Africa increase significantly to support counterterrorism operations against the Lord's Resistance Army, al-Shabaab, al-Qa'ida, and Al Qa'ida affiliates, as well as to prepare African troops to support the African Union peacekeeping missions in Somalia (AMISOM).¹⁴ Countries in the Asia-Pacific region, which received substantial assistance through FY2010, have received no funding in FY2013 and FY2014

Initially, virtually all 1206 funding was provided for counterterrorism purposes. Since FY2010, Section 1206 has provided substantial assistance to train and equip Eastern and Central European forces to participate in NATO's ISAF coalition operations.

¹³ See CRS Report RL34170, *Yemen: Background and U.S. Relations*, by Jeremy M. Sharp.

¹⁴ See CRS Report R41070, *Al Qaeda and Affiliates: Historical Perspective, Global Presence, and Implications for U.S. Policy*, coordinated by John W. Rollins; CRS Report R42094, *The Lord's Resistance Army: The U.S. Response*, by Alexis Arieff and Lauren Ploch Blanchard; and CRS Report R41473, *Countering Terrorism in East Africa: The U.S. Response*, by Lauren Ploch Blanchard.

Table I. Section 1206 Funding: FY2011-FY2013, by Country and Program
 (\$U.S. Millions, FY2012 and FY2013 Obligation, FY2014 as Notified to Congress)

Recipient(s)	Program	FY2012	FY2013	FY2014
Total HR/RCA Training		1.1	0.9	0.9
Burkina Faso	Counterterrorism (CT) Capability Enhancement		5.9	
	Logistics Company (CT Support)			9.6
Burundi	Mobility Support Company		7.1	
	National Defense Force Advanced Infantry Development			12.1
Chad	Logistic Company (CT Support)		7.3	
Kenya	Special Operations Regiment CT Capability Enhancement		7.0	
	Aircraft and ISR Capability		15.7	15.7
	Light Armor Reconnaissance Company			11.5
	Maritime Mobility Training & Equipment			0.3
Libya	Special Operations Forces (SOF) Support Company		8.4	
Mauritania	Logistics Support Package for CT	7.0		
	Aircraft and Intelligence, Surveillance and Reconnaissance (ISR) Capability		21.7	
	Contract Logistics Support		0.5	
	Aviation & Medical Capabilities Enhancement			14.4
Niger	Air Logistics and Communications Enhancement	11.7		
	Logistics Company (CT Support)		8.5	
	Counterterrorism Battalion			14.7
	Aircraft & ISR Capability			24.8
Tunisia	Maritime Security Capability	6.9		
Uganda	Tactical Unmanned Aerial Systems Capability		4.2	
	Engineer Support Company		7.4	
	Mobility Support Company		7.1	
Uganda and Burundi	CT Support for Deployment to Somalia	18.8		
Total Africa		44.4	100.7	104.9
Bulgaria	ISAF Deployment Enhancement	3.2		
	Command and Control Capability		7.2	
	Tactical Vehicle Transport and Unmanned Aerial System			24.3
Croatia	Operations Mentor and Liaison for Afghanistan	5.2		
	ISAF Deployment Enhancement		5.5	9.6

Recipient(s)	Program	FY2012	FY2013	FY2014
Czech Republic	Counter-IED enhancement for ISAF participation	4.0		
	ISAF Deployment Enhancement		16.9	
	Unmanned Aerial System			9.6
Estonia	ISAF Deployment Enhancement	7.0	4.6	
	Special Operations Training for ISAF	1.8		
	Special Operations Forces Enhancement			2.2
	NATO Mission Support System			2.7
Georgia	Infantry Battalion Deployment to ISAF	3.8		
	Equipment Repair		0.1	
Hungary	Joint Tactical Air Comptroller for ISAF	13.3		
	Special Operations Task Group Deployment		7.9	
	ISAF Deployment Package			2.1
Latvia	Build military force capacity to support ISAF	3.2		
	ISAF Deployment Enhancement		5.2	
	ISAF/Resolution Support Package			11.7
Lithuania	SOF Deployment Enhancement Program	12.8	8.6	
	Special Operations Forces Capabilities Enhancement			11.1
Malta	Maritime and Intelligence Capability Enhancement	4.6		
Poland	ISAF Deployment Enhancement	14.0		
	ISAF Deployment Enhancement		11.1	
	Special Operations Forces Counter-IED Survivability Enhancement			4.8
Romania	ISAF Deployment Enhancement	14.3	10.1	
	Special Operations Forces Enhancement & Training			20.9
	ISAF Deployment Enhancement		10.0	
Multiple Recipients	Training for ISAF Deployments – Albania, Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia	13.0		
Total Greater Europe		100.3	87.1	99.0
Malaysia	Deployment Enhancement for ISAF	0.2		
Philippines	Insertion and Extraction Capability	7.5		
Total Asia and the Pacific		7.7	0	0
Bahrain	Biometric Collection Program		0.4	
Bangladesh	Ministry of Defense-Ministry of Home Affairs Interoperability	14.4		
Lebanon	Border Security Program		8.7	9.3
Yemen	SOF CT Enhancement	14.0		

Recipient(s)	Program	FY2012	FY2013	FY2014
	Fixed-Wing and Rotary-Wing Aircraft and Related Items and Support to Enable Yemeni National Military to Support CT Units	23.4		
	Integrated Border and Maritime Security Program		46.0	
	Unmanned Aerial System			17.5
	ISR Aircraft with Precision Strike Capability			46.5
Total Middle East and South Asia		51.8	55.2	73.3
Total Western Hemisphere		0	0	0
	Transportation and Pre-Shipment Consolidation Costs	12.0	12.0	12.0
Totals		218.6	\$255.8	290.2

Source: Section 1206 Fiscal Year 2012 and Fiscal Year 2013 reports submitted pursuant to Section 1206(f) of the National Defense Authorization Act for Fiscal Year 2006 (P.L. 109-163), as amended by Section 1204(b) of the National Defense Authorization Act for Fiscal Year 2012 (P.L. 112-81); congressional notifications on Section 1206 programs for Fiscal Year 2014 submitted December 17, 2013, and March 5, 2014.

Note: Totals may not add due to rounding.

Conditions on Section 1206 Programs

Section 1206 of the FY2006 NDAA requires that programs conducted under its authority observe and respect human rights, fundamental freedoms, and the “legitimate civilian authority within that country.” The authority may not be used to provide any *type* of assistance that is otherwise prohibited by any provision of law. It also may not be used to provide assistance to any *country* that is otherwise prohibited from receiving such assistance under any other provision of law. The legislation also requires a 15-day advance notification to the congressional defense, foreign affairs, and appropriations committees before initiating each program. This notification must specify, among other things, the program country, budget, and completion date, as well as the source and planned expenditure of funds.

Required Report

The FY2014 NDAA requires the Secretary of Defense, in consultation with the Secretary of State, to submit a report within 120 days of enactment addressing four topics: (1) a statement of the purposes for which assistance maybe provided consistent with the Presidential Policy Directive on U.S. Security Sector Assistance (PPD-23) issued April 5, 2013; (2) a description of the types of activities appropriately within the scope of capacity building assistance under Section 1206 authority; (3) a description and assessment of the monitoring and evaluation procedures for such assistance, including appropriate measures of effectiveness applicable to counterterrorism capacity building activities; and (4) a prioritized list and discussion of the primary security threats as of the day of the report against which counterterrorism capacity building efforts may be directed.

Joint DOD-State Department Selection and Approval Process¹⁵

Section 1206 programs are developed and selected under a “dual-key” process that culminates with the signature of both the Secretary of Defense and the Secretary of State. As modified by the FY2007 John Warner NDAA, Section 1206 authority permits the Secretary of Defense to provide Section 1206 support with the “concurrence” of the Secretary of State. According to DOD and State Department officials, that term has been interpreted to mean the Secretary of State’s approval. Section 1206 also requires both secretaries to jointly formulate any program and coordinate in its implementation. Coordination for the first year programs in FY2006 was reported to be spotty,¹⁶ but since then DOD and the State Department agencies have developed an extensive joint review process.

Early in the fiscal year, the DOD Joint Staff and the State Department’s Bureau of Political-Military Affairs (PM) kick off the process with a call for proposals issued with identical guidance. Most recommendations originate at the field level, where geographic Combatant Commands (COCOMs) and U.S. embassy country teams jointly formulate proposals, although the degree of collaboration may vary. For proposals originated by the military, the COCOM forwards the proposal to Joint Staff and the Office of the Secretary of Defense. For proposals originated in State Department channels, the Embassy forwards it to the State Department. The relevant Ambassador and Combatant Commander each must personally sign off on a proposal.

At the Pentagon and the State Department, staff conduct an extensive review process to prioritize the many proposals (they have numbered in the hundreds in recent years). The OSD Office of the Deputy Assistant Secretary of Defense for Special Operations Capabilities and Counterterrorism¹⁷ takes the DOD lead. It coordinates reviews for feasibility, political-military considerations, and legal status with OSD and Joint Staff regional and functional offices. At the State Department, the Bureau for Political-Military affairs consults with the Office of the Coordinator for Counterterrorism (S/CT), the regional bureaus, and the Office of the Director of U.S. Foreign Assistance (F), and then forwards proposals to the State Department legal and congressional liaison offices for vetting. The offices of the Deputy Secretaries of Defense and of State may also indicate their priorities. Selection criteria include the urgency of the threat, the ability of the host nation to address that threat from its own resources, the ability of the host nation to sustain the capability, either from its own resources or through FMF funding, and the risks of inaction.¹⁸

Once prioritized within each agency, the DOD and State lead offices convene a joint DOD-State review board to select those proposals that will be recommended to the Secretaries. Either Secretary can veto a project.

¹⁵ A joint report by the DOD and State Department Inspectors General dedicates Chapter 2 to the approval process and recommends several changes intended to strengthen and formalize the process. Inspectors General U.S. Department of Defense and U.S. Department of State, *Interagency Evaluation of the Section 1206 Global Train and Equip Program*, Department of Defense and Department of State, Department of Defense Report No. IE-2009-007 and Department of State Report No. ISP-I-09-69, August 31, 2009, pp. 9-15, <http://oig.state.gov/documents/organization/129491.pdf>. Hereinafter referred to as *Inspectors General Report*.

¹⁶ U.S. Government Accountability Office, *Section 1206 Security Assistance Program—Findings on Criteria, Coordination, and Implementation*, GAO-07-416R, February 28, 2007. See p. 3.

¹⁷ This office is located under the Under Secretary of Defense for Policy, Office of the Assistant Secretary of Defense for Special Operations/Low Intensity Conflict and International Cooperation (SO/LIC&IC).

¹⁸ Author’s interviews with Department of State officials, September 2009, and e-mail exchanges with DOD and State Department officials, October and November 2009.

Once program memoranda are signed by both secretaries, DOD sends congressional notifications to the armed services, foreign affairs, and appropriations committees. No funds can be obligated until 15 days after these committees are notified and given the opportunity to review the projects.

A DOD document described this joint review process in 2008 as the "gold standard" for interagency planning and cooperation.¹⁹ Nonetheless, some participants have described their experiences with the process as competitive and time-consuming, absorbing staff hours that are needed for other priorities. Some have expressed frustration that considerable time can be spent developing projects that are not approved. (Hundreds more proposals have been developed than approved, according to some participants.) Some participants state that the process has improved as those involved in developing projects get a better understanding of the intended purposes of Section 1206 and do not offer inappropriate projects. A recent Senate Foreign Relations Committee report recommends that the Combatant Commands, after consultation with the State Department, should appraise Embassy staff whether a project is likely to be approved before Embassy staff invest too much time in developing it.²⁰

Section 1206 Human Rights Component

Section 1206 programs include a two-day training course on human rights and international humanitarian law. The course is conducted by the Defense Institute for International Legal Studies (DIILS), located in Newport, RI. According to material provided by DIILS, course components include a seminar on observing and respecting human rights and respect for civilian authority, material on regional human rights agreement if relevant, and a session on the right against torture and other cruel, inhuman, or degrading treatment. Also included are sessions on gender violence, rules for the use of force, rules of engagement, and law pertaining to international armed conflict and internal armed conflict.

Issues for Congress

Congress established Section 1206 as a flexible funding mechanism in order to provide the U.S. government with a means to respond rapidly to emerging (and some would say urgent) threats to U.S. security, including threats to the security of U.S. military forces, that would pose too great a risk if left unattended. First established as a "pilot program," Section 1206 authority is subject to continuous congressional scrutiny. Issues range from the specific questions about the effectiveness of Section 1206 programs and whether it should be expanded or limited to the broader questions of whether DOD should retain its own T&E authority and whether it should be reconsidered in the context of broader security assistance reform.

¹⁹ *FY2009 DOD Summary Justification*, p. 103.

²⁰ U.S. Congress, Senate Committee on Foreign Relations, *Following the Money in Yemen and Lebanon: Maximizing the Effectiveness of U.S. Security Assistance and International Financial Institution Lending*, committee print, 111th Cong., 1st sess., January 5, 2010, S. Prt. 111-38 (Washington: GPO, 2010), pp. 13 and 24. Hereinafter cited as *Following the Money*.

Are Section 1206 Funds Being Used Effectively?

With Section 1206 in its ninth year of funding, a major question is whether Section 1206 programs are effective. An April 2010 GAO report cast Section 1206 response timeframes, overall, as an improvement over other equipping programs, stating that Section 1206 funds enabled DOD and State "to respond to urgent and emergent needs more quickly than they have been able to do with FMF and other security assistance programs." GAO found that these agencies "have often formulated and begun implementing projects within 1 fiscal year, while FMF projects have usually required up to 3 years of planning."²¹ Nevertheless, Members have had a number of concerns about effectiveness, centering on the need for a means to assess the degree to which programs were accomplishing their objectives, to improve the timeliness of deliveries, and to ensure that the capabilities put in place by Section 1206 programs are sustained. Over the past few years, DOD has put in place several new measures to address these concerns.

Assessing Accomplishments

Concerns of some Members have centered on the lack of criteria for determining program results. In the late 2000s, several reports were generally positive, but two of them also urged the development of metrics or other evaluation tools.²² There was some skepticism that a useful measure of accomplishments could be developed, as some analysts noted that establishing the outcomes of programs that are essentially preventive in nature is impossible, not unlike trying to prove a negative. Some, however, suggested that a possible indicator of utility would be an estimate of the cost to the U.S. military of compensating for the lack of the capability provided under Section 1206 or of carrying out that function itself; this indicator was incorporated as one measure of utility in the Section 1206 program assessment methodology developed for DOD by SAIC.

In mid-February 2013, DOD presented its congressional oversight committees with its new assessment framework for evaluating Section 1206 programs. According to DOD, the purpose of the assessments is to measure implementation of 1206 programs, assess the quality and timeliness

²¹ GAO-10-431, p. 4.

²²A July 2008 assessment of Section 1206 assistance to four countries was generally positive, citing improvements in operational capacity, greater information-sharing and cooperation, and troop morale, but also noting problems in two of those recipients. *CNA Corporation Assessments*. The recipient countries were Lebanon, Pakistan, Yemen, and Sao Tome and Principe. The study was conducted in response to a request from the OSD Global Security Affairs Office. The report noted that in some cases it relied on secondary source reporting. See the Executive Summary, pp. 1-4. Likewise, an August 2009 joint report by the DOD and State Department inspectors general found the projects that it examined in eight countries (all conducted with FY2006 funds, as noted above) to be "effective in building partner nation capacity for counterterrorist and military or stability operations and helped those nations increase control over their borders and ungoverned spaces and counter terrorism."²² Nevertheless, this same report recommended that the Under Secretary of Defense for Policy, together with Joint Staff and Combatant Commands "should develop metrics of effectiveness for building Section 1206 partnership capacity and establish clearly defined *outputs* and *outcomes*." *Inspectors General Report*, p. iv, Recommendation 9. In an April 2010 report, the Government Accountability Office (GAO) found that Section 1206 authority offers a unique and more timely mechanism than the State Department's FMF for responding to U.S. military priorities that require training and equipping foreign military forces, but expressed concerns about the extent of monitoring and evaluation, as well as program sustainability. According to that GAO report, DOD and State "have conducted little monitoring and evaluation" of Section 1206 programs, with reporting consisting generally of anecdotal information, and "have not consistently defined performance measures for their Section 1206 projects." United States Government Accountability Office, *DOD and State Need to Improve Sustainment Planning and Monitoring and Evaluation for Section 1206 and 1207 Assistance Programs*, GAO-10-431, Washington, D.C., April 15, 2010, pp. 5, 32. Accessible through <http://www.gao.gov>. Hereinafter referred to as GAO-10-431.

of program implementation, measure the effects of programs, and estimate the return on investment. Assessments are qualitative, built on in-depth interviews with personnel from the units receiving assistance as well as with U.S. government personnel.

From this first round of assessment, DOD identified three programs as "successes" and concluded that, on a whole, the programs selected for assessment "have generally enhanced the capability of the recipients to conduct CT or stability operations" and that equipment provided for Section 1206 programs "for the most part" has been "used for appropriate purposes."²³ Among the lessons learned were that "program design often lacks appreciation for operational conditions or understanding of complete system," that partner nation absorptive capacity varies, and that sustainment "is always a challenge," both in putting in place processes for maintenance and in securing funds for maintenance and spare parts.

A second round of assessments is nearing completion.

Timeliness of Deliveries

The Defense Security Cooperation Agency (DSCA),²⁴ which implements many security cooperation programs, including Section 1206, has taken steps to improve the timeliness of Section 1206 deliveries. Although a primary rationale for Section 1206 funding was that it would enable the U.S. government to respond more quickly to emerging needs than possible under the FMF process, the delivery of Section 1206 equipment has not always proved as expeditious as originally expected. (DOD stated in a FY2009 budget request document that Section 1206 authority "allows a response to urgent and emergent threats or opportunities in six months or less.")²⁵ Especially in Section 1206's first several years, the actual delivery time for much equipment has in some situations been much longer.²⁶ Subsequently, DOD revised its target delivery time as within 18 months and preferably 12 months for routine deliveries, and 6 months when needed to meet surge requirements.

There have been multiple causes for delays, not all of which can be remedied. Delivering defense articles and services to U.S. representatives in multiple partner nations, with national customs and import processes, presents unique challenges. According to DSCA, in FY2013, there were 130 deliveries (with an estimated value of \$250 million) to 29 Section 1206 programs in 26 countries. These deliveries included aircraft, armored vehicles, communications equipment, weapons,

²³ Department of Defense, *1206 Assessment Process*, December 2012. Quotes in this paragraph taken from DOD briefing slides.

²⁴ The DSCA is a defense agency (under the Under Secretary of Defense for Policy) that administers and implements a wide variety of security assistance programs, including Foreign Military Financing, Foreign Military Sales, International Military Education and Training, Excess Defense Articles, and drawdowns, as well as Section 1206. More information on the DSCA is available at <http://www.dsca.mil>.

²⁵ FY 2009 Budget Request Summary Justification, p. 103.

²⁶ A January 2009 DOD letter to certain Members of Congress states that "Section 1206 authority can provide training and equipment in one to two years, or less." A copy of the letter was provided by DOD, with the permission of a congressional recipient. It is signed by the former Under Secretary of Defense for Policy Eric S Edelman, who occupied that post as of the date of the letter, January 16, 2009. Hereinafter referred to as *OSD letter of January 16, 2009 responding to Members of Congress*. An August 2009 joint report of the DOD and State Department Inspectors General indicated a 6- to 18-month timeline for delivery of Section 1206 equipment and supplies provided through FY2006 funds and stated that DSCA agency actions were needed to reduce procurement and shipping delays to respond more quickly to actual or emerging terrorist threats, and to ensure all approved case funds are obligated before funding authorization expires. *Inspectors General Report*, pp. ii and iv (Recommendation 3).

ammunition, and individual equipment. In some cases, programs are held up because of events in the recipient country. In other cases, however, the causes have been systemic processing problems at DSCA and at the military services contracting offices that affect Section 1206 timelines. These problems have been increasingly addressed over the past few years.

To address systemic processing problems, the Section 1206 program has provided dedicated staff to oversee the delivery process,²⁷ developed a computer-based delivery tracking tool, and in particular, established a working partnership with the U.S. Transportation Command, and instituted a centralized delivery system that expedited Section 1206 orders.²⁸ Now, instead of shipping items individually as they become available, most types of Section 1206 items²⁹ are delivered to a central shipping depot or "consolidation point," where they are bundled into larger shipments, which are easier to track, for surface or air transport.³⁰ This has provided greater accountability and predictability, according to those interviewed on this topic. DSCA also created an online Security Cooperation Management Suite (SCMS) to track funds, including Section 1206 funds, as well as a web portal to share Section 1206 data.

The winding down of the U.S. military presence in Afghanistan has also had a positive effect on the timeliness and cost of deliveries. With demand down for their services, commercial shippers are now competing for business, facilitating rapid delivery and reducing costs.

Sustainability

For Section 1206 CT programs to be effective, most believe that they must be sustained over the long run. Sustainment includes the ability to maintain equipment in working condition as well as to provide appropriate personnel to operate it. The GAO flagged sustainment as a major issue in its April 2010 report: "The long-term impact of Section 1206 projects is at risk because U.S. agencies have not fully addressed how to sustain these projects," according to the GAO.³¹

Some policy makers have expressed concern that recipient countries will not continue to provide support to sustain capabilities put in place by Section 1206 programs when Section 1206 funding ends. Because Section 1206 authority was established to meet immediate needs, Section 1206 must cease when a threat is no longer "emerging," however that may be defined. The 2009 joint

²⁷ During Section 1206's early years, DSCA had no staff dedicated to that program. Over time, the number of dedicated Section 1206 staff increased to four, but as of this writing it stands at three.

²⁸ The centralized delivery system was created especially for Section 1206 deliveries to Pakistan in 2008 and then extended to the entire Section 1206 program in 2010. As of 2006, when the Section 1206 program commenced, the existing delivery system had been designed for large items purchased by or provided to foreign countries under the Foreign Military Sales/Foreign Military Financing Program, which largely depended on the recipient country or a commercial firm to handle delivery. This system was problematic for Section 1206 deliveries because they consist largely of smaller and more numerous items than FMS/FMF deliveries and they rely on U.S. personnel in recipient countries to receive and account for the articles.

²⁹ Among the types of items not shipped from the consolidation point are arms, ammunition, and patrol boats.

³⁰ U.S. carriers are preferred. Generally surface transport is less expensive but slower, while air transport is more expensive but faster. Large items like Humvees are put on surface transport, while air transport is preferred for sensitive items such as communications equipment, night vision equipment, and lasers.

³¹ GAO-10-431, p. 4. Pointing out that 76% of Section 1206 projects are in low- to lower-middle income countries, the GAO judged these projects to be "potentially threatened: by the unwillingness or limited means" of recipient countries to sustain them. "Only 35 (26 percent) of the 135 approved project proposals we reviewed explicitly address the recipient countries' ability to sustain the projects, and 9 (7 percent) of those 135 proposals provided specific estimates of the costs involved," the GAO reported. GAO-10-431, p. 4.

State Department and DOD Inspectors General report recommends that, during the planning process, host nation governments commit to a program and demonstrate the capability to sustain it.³²

According to DOD's January 2009 letter to Members of Congress, mentioned above, DOD and the State Department determine that the ability of recipient governments to sustain programs is taken into account in program planning, and at times programs have been cut back to ensure a recipient government could sustain the program. In addition, Section 1206 programs all provide "two-year spare parts packages and training to operate and sustain equipment, including train-the-trainer support."

Nevertheless, some analysts have urged that more could be done to help recipient countries sustain and maintain Section 1206 capabilities. One change Section 1206 authority enacted in 2012 by Section 1201(a) of the FY2013 NDAA (P.L. 112-239) responds to this perception by adding small-scale military construction to the list of allowable expenditures (formerly equipment, supplies, and training). Section 1201(a)(2) permits small-scale military construction of up to \$750,000 per program and up to \$25 million for all programs for each fiscal year. Such funds can be used, for instance, for the construction of small boat houses to shelter (and thus help maintain) patrol boats and other watercraft supplied by Section 1206 funding.

Some analysts also propose that Section 1206 provide short-term sustainment assistance by designating a certain percentage of each fiscal year's funding to sustain prior year programs.

Some analysts also would use the State Department's FMF account for sustainment funding, as has been done on occasion in the past. GAO has cautioned, however, that "U.S. law potentially limits the availability of FMF funds for sustainment,"³³ and the FY2012 appropriations report language stated that FMF funds were not to be used to maintain Section 1206 projects without the approval of the congressional appropriations committees.³⁴ (This restriction continues to apply under the FY2013 continuing resolution [P.L. 112-175] which expires March 27, 2013.)

Should DOD Retain Section 1206 Train and Equip Authority?

Because Congress has bestowed responsibility on the Secretary of State for the oversight of all foreign assistance, including military education and training programs, and for ensuring foreign policy coherence,³⁵ many analysts argue that Section 1206 authority should be transferred to the

³² *Inspectors General Report*, p. iii (Recommendation 1) and p. iv (Recommendation 8). Recommendation 1 suggests that DOD and the State Department revise the Section 1206 proposal submission template to require a statement describing the actual or potential terrorist threat in detail, as well as the "bilateral consultation and coordination process for formulating the proposal" and the "partner nation's commitment and capability to sustain project implementation." Recommendation 8 states that the Under Secretary of Defense for Policy, "in coordination with the Director of the Joint Staff and Department of State's Bureau of Political Military Affairs, should direct Security Cooperation Officers to work with partner nations to develop a full Concept of Operations by the final approval of the project."

³³ GAO-10-431, p. 4.

³⁴ The Consolidated Appropriation Act, 2012, P.L. 112-74, Title IV, under the heading Foreign Military Financing Program, states that "none of the funds made available under this heading shall be made available to support or continue any program initially funded under the authority of section 1206 ... unless the Secretary of State, in coordination with the Secretary of Defense, has justified such program to the Committees on Appropriations...."

³⁵ The Foreign Assistance Act of 1961, as amended (FAA), Section 622(c)(22 U.S.C. 2382), states that the Secretary of State, under the direction of the President, "shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to (continued...)"

Department of State, perhaps as a subset of FMF authority. On the other hand, those who believe DOD should retain Section 1206 authority, and even that Congress should make it a permanent DOD authority under Title 10 (Armed Services) of the U.S. Code, argue that Section 1206 serves very different purposes than FMF or Title 22 (Foreign Assistance) military education and training.

Those who believe DOD should retain Section 1206 authority emphasize its perceived importance as a military tool, as explained above, and differentiate the general purposes of Section 1206 and FMF. According to many accounts, defense and military officials, including geographic combatant commanders, have come to regard Section 1206 funding as vital to the U.S. defense efforts.³⁶ The January 2009 letter from the Under Secretary of Defense to Members of Congress (cited above) states that Section 1206 funds meet the military needs determined by the geographic Combatant Commanders “for tools to build capable, reliable, and interoperable partners as they prepare for—and seek to minimize the necessity for—military missions in the AORs [Areas of Responsibility].” Section 1206, according to the letter, is a flexible, *strategic* tool “to meet urgent and emergent threats and opportunities to build partner capacity... [and] ... to address critical counterterrorism needs as defined by the U.S. Government.”

In contrast, the DOD letter presents FMF as a *political* tool “critical ... for executing our foreign policy” and “key to improving bilateral relationships, encouraging behavior in the U.S. interest, increasing access and influence, and building capacity where host-nation and U.S. interests align.” While Section 1206 responds to needs identified by the U.S. government, FMF is often used to meet the security needs of foreign countries as perceived by their governments or military institutions. “Because many countries rely on FMF as a major resource for their military procurement budgets,” FMF allocations are “affected by host-nation preferences and political engagement,” the letter states.

One indicator of differing uses of Section 1206 and FMF assistance, at least in some regions, may be the relative size of funds spent in Sub-Saharan Africa, a region whose insecure borders and ungoverned spaces present, many argue, an ideal habitat for terrorist groups and thus a threat to U.S. military forces and U.S. national security. Estimated FY2009 FMF obligations in Africa were less than 2% of total obligations (\$8.3 million compared to \$4.6 billion overall). Section 1206 allocations for Africa were relatively greater, representing some 14% of total FY2009 allocations (\$48.7 million of \$339.9 million).

In the letter, DOD denied that Section 1206 programs are “as some have claimed, programs historically conducted by the State Department.” The United States “has not conducted programs like this before.”

(...continued)

determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.” The Armed Export Control Act, which as of 1968 authorizes the FMS/FMF program, similarly mandates that the Secretary of State, under the direction of the President, be responsible for “the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this chapter....” (P.L. 90-629, as amended, Chapter 1, Section 2(b), 22 U.S.C. 2752).

³⁶ According to a DOD document, the “geographic Combatant Commanders consider global train and equip authority the Department’s single most important tool for building partner operational capacity, shaping the environment, and countering terrorism outside Iraq and Afghanistan.” *FY2009 Budget Request Summary Justification*, p. 102.

On the other hand, some analysts have questioned whether the purposes for which FMF and Section 1206 can be used are as different as described by DOD. Some also wonder whether items provided under Section 1206 assistance could not just as well be provided through FMF, a State Department fund, if that pot of money were increased. These critics view Section 1206 as one of a number of programs that signal the "militarization" of U.S. foreign assistance,³⁷ which they judge detrimental to U.S. relations with foreign governments and damaging to the U.S. image with foreign populations.

Advocates of placing Section 1206 under the State Department's authority and budget see an inevitable difference of perspective between a military commander and those vested with authority for foreign policy. A military commander, they argue, rightfully focuses on the objectives of the current mission, without necessarily taking into account the long-term implications for foreign relations. Providing DOD with authority and funding for Section 1206 and other foreign assistance-type activities outside of active combat zones gives DOD undue influence over shaping and conducting foreign relations and U.S. diplomacy, which are the responsibility of the Ambassador and the State Department, proponents argue. Some also state that DOD Section 1206 authority "weakens congressional oversight, including human rights protections."³⁸

Several foreign policy research institutions have advocated placing Section 1206 programs under State Department authority and the oversight of the Secretary of State.

- The American Academy of Diplomacy and the Henry L. Stimson Center argue that "the Secretary of State has and should have responsibility for assuring that all foreign and security assistance is carried out in accord with U.S. foreign policy, including setting overall policy, approving countries to receive assistance, and setting the budget for such assistance."³⁹ The authors of this report, drawing on a panel comprised of former Ambassadors and other State Department personnel, stated that to do otherwise would undermine the Secretary of State's responsibility for the "fundamental direction of U.S. foreign policy."⁴⁰
- The Center for Strategic and International Studies (CSIS) Task Force on Nontraditional Security Assistance, while recognizing Section 1206's importance to DOD, nevertheless voiced concern that Section 1206 "has the potential to impinge on State Department leadership in U.S. foreign policy and the authorities given the secretary of state under the Foreign Assistance Act (FAA)."⁴¹

³⁷ I.e., Congress's grant to DOD of several new or expanded DOD authorities and funding accounts such as the Regional Defense Combating Terrorism Fellowship Program (CTFP), the Commander's Emergency Response Program (CERP),

³⁸ Adam Isacson, *The Pentagon's military aid role grows*, on the Just the Facts website <http://justf.org/blog>, January 26, 2010.

³⁹ *A Foreign Affairs Budget for the Future*, p. 23.

⁴⁰ *A Foreign Affairs Budget for the Future*, p. 12.

⁴¹ Representative Robert Andrews and Representative Mark Kirk, co-chairs, *Integrating 21st Century Development and Security Assistance: Final Report of the Task Force on Nontraditional Security Assistance*, Center for Strategic and International Studies, January 2008, p. 7. (On the same page, the report further notes: "A number of legislators on Capitol Hill have expressed fear that Section 1206 could undermine the coherence of U.S. foreign policy, by allowing combatant commanders to assist foreign security forces without taking account of broader U.S. considerations at stake in bilateral and regional relationships.") Hereinafter referred to as *Integrating 21st Century Development and Security Assistance*.

- A Massachusetts Institute of Technology (MIT) report expresses concrete concerns regarding coherence, transparency, and fiscal discipline. Authors Cindy Williams and Gordon Adams argue that authority for Section 1206 (as well as for other security assistance programs) should be vested in the State Department “in order to ensure that security assistance does not drive or conflict with overall U.S. international engagement.”⁴² They view Section 1206 and other recent security assistance authorities as generally parallel to or duplicating State Department’s traditional security assistance programs.⁴³ “The risks in this parallel system of authorities and programs are that security assistance becomes more complex and confusing, that it is disconnected from overall, long-term U.S. diplomacy and national security strategy, and that money is wasted through overlapping, uncoordinated, or conflicting efforts,” they wrote.⁴⁴

Despite this widespread perception, some may argue that there may be ways in which DOD-controlled Section 1206 assistance can benefit U.S. interests. For instance, recipients may perceive DOD assistance as representing a serious, enduring U.S. security interest in that country, facilitating military-to-military contacts.

What Will Be the Effect of the New Section 1206 T&E Authority for Security Forces?

In the FY2014 NDAA, Congress broadened Section 1206 authority to include the training and equipping of all security forces for counterterrorism purposes. Prior to that, Section 1206 counterterrorism authority was limited to training and equipping military forces and maritime security forces. According to some sources, the intent of broadening the legislation is to permit DOD to train and equip counterterrorism forces that are assigned to a foreign Ministry of the Interior. As of early 2014, there appeared to be no plans to immediately use this new authority.

Because foreign counterterrorism units sometimes are configured as civilian forces under foreign Ministries of the Interior rather than as military forces, some analysts argue that the lack of authority to train and equip foreign security forces impedes the United States’ ability to build foreign capacity for counterterrorism. In January 2008, the final report of the Task Force on Nontraditional Security Assistance at the Center for Strategic and International Studies (CSIS) recommended the expansion of 1206 authority to include non-military security forces because of “the operational necessity of working with foreign security forces to advance key counterterrorism objects.”⁴⁵

However, some analysts argue that Congress should reserve funding for civilian security force training to the State Department. Some argue that there are fundamental differences in training civilian and military personnel and U.S. military forces are suited solely for training the latter.

⁴² Cindy Williams and Gordon Adams, *Strengthening Statecraft and Security: Reforming U.S. Planning and Resource Allocation*, MIT Security Studies Program Occasional Paper, Massachusetts Institute of Technology, June 2008, p. 21. Hereinafter referred to as *Strengthening Statecraft and Security*.

⁴³ Other DOD security assistance authorities specifically discussed in this report are Coalition Support Funds, CERP, and CTFP.

⁴⁴ *Strengthening Statecraft and Security*, p. 70.

⁴⁵ *Integrating 21st Century Development and Security Assistance*, p. 10.

Some stress that the use of U.S. military forces to train civilian police and other security forces conveys an undesirable blurring of police and military roles and functions. In some countries, where there may be tensions between military and police forces, such a blurring may cause resentments and complicate bilateral relations. In addition, DOD training of police personnel can put a military face on U.S. assistance in a sensitive area, undermining the concept that civilians should be in the lead on internal security affairs. In some countries, where there may be tensions between military and police forces, such a blurring may complicate bilateral relations.

Should Congress Consider Broader Security Assistance Reform?

Discussion about Section 1206 often takes place in the context of a perceived need for broad security assistance reform. Section 1206 represents a significant part of the security assistance package, but many analysts are concerned with the problems involving the whole gamut of security assistance programs under both State Department and DOD authorities.⁴⁶ Indeed, some relate the establishment of Section 1206, as well as perceived problems with it, to problems experienced with traditional State Department authorities: "The current [State Department] mechanisms, some of which reflect statutory requirements, are antiquated and slow to respond to changing security threats, one of the explanations for DOD's expanded assistance portfolio in recent years," according to one report.⁴⁷ Some analysts question whether Section 1206 authority would be needed at all if the systems carrying out traditional security assistance authorities were provided sufficient funds and personnel, and were reorganized to operate more efficiently.

Several recent reports have reviewed current security assistance programs, authorities, and resources, and recommended substantial reform. The MIT report mentioned in a section above advocates the creation of "a new architecture that is agile, flexible and adequately funded to deal with the new security challenges" and that "can and should make ample use of DOD's capabilities."⁴⁸ Specific recommendations call for changes that would improve strategic planning, policy coherence, interagency coordination, budgeting procedures, transparency, and discipline, and congressional oversight. Among their suggestions where Congress has a direct role are the following.⁴⁹

- Restructure security assistance authorities by grouping State Department and DOD authorities to create new programs.
- Expand contingency authority for all security assistance, and provide multiyear funding in order to provide the State Department and DOD with broader discretion to reallocate and target funds as requirements change.

⁴⁶ According to the report by the American Academy of Diplomacy and the Henry L. Stimson Center, one of "the most striking trends during the past two decades has been the growing role of the Defense Department in providing foreign assistance under its own statutory authorities.....by the end of the 1990s ... DOD was directly managing 15 security assistance programs accounting for well over \$1 billion annually." *A Foreign Affairs Budget for the Future*, p. 22.

⁴⁷ *A Foreign Affairs Budget for the Future*, p. 23.

⁴⁸ *Strengthening Statecraft and Security*, p. 71. This recommendation would place the new architecture under State Department authority, however.

⁴⁹ This section draws principally on specific recommendations made in three reports: *Strengthening Statecraft and Security*, *A Foreign Affairs Budget for the Future*, and *Integrating 21st Century Development and Security Assistance*, although other reports may have similar proposals. Related proposals are contained in *Beyond Assistance: The HELP Commission Report on Foreign Assistance Reform*, December, 2007, and Project on National Security Reform, *Forging a New Shield*, November 2008, as well as other publications.

- Consolidate security assistance budgets, with the executive branch agencies presenting a single, multiagency, security assistance budget. (Some would emphasize the need for a single counterterrorism budget.)⁵⁰
- Undertake reforms within the State Department to “right-size” the Bureau of Political Military (PM) Affairs, as well as the Office of the Director of Foreign Assistance, to enable the State Department to oversee budgeting for security assistance programs.⁵¹
- Review the DSCA structure and processes to “to right-size its bureaucracy and reduce inflexibility.”⁵²
- Consider joint congressional hearings on security assistance programs, involving both defense and foreign policy authorization and appropriations committees.⁵³

Recommendations for systemic reforms that are largely within the purview of the executive branch include

- Provide White House oversight of security assistance by establishing a permanent interagency group under the National Security Council (NSC);⁵⁴ and
- Provide for stronger State/DOD joint strategic planning and coordination at the regional level.

In line with the State Department/USAID QDDR report of December 2010, which proposed as a pilot project an integrated interagency pooled fund for security and related assistance to address emerging needs, Congress authorized a Department of State-DOD Global Security Contingency Fund (GSCF) in the FY2012 National Defense Authorization Act (P.L. 112-81, Section 1207). Some see this as a possible successor to Section 1206 authority. (For more on the GSCF, see CRS Report R42641, *Global Security Contingency Fund: Summary and Issue Overview*, by Nina M. Serafino.)

⁵⁰ See *Integrating 21st Century Development and Security Assistance*, p. 38, which recommends that “DOD, State and USAID present relevant congressional committees with a joint CT security assistance budget as part of a broader effort to require executive branch transparency on how State, USAID, and DOD budgets fit together.” (p. 38)

⁵¹ *Strengthening Statecraft and Security*, p. 73. In *A Foreign Affairs Budget for the Future*, the American Academy of Diplomacy and the Stimson Center also express concern about State Department staffing levels for security assistance, in particular the number of foreign service personnel who specialize in political-military affairs. (p. 23)

⁵² *Strengthening Statecraft and Security* suggests creating three new programs: (1) a more flexible train and equip program combining FMF, Section 1206, and the State Department’s peacekeeping account (PKO); (2) a more coherent foreign military education program by combining IMET and the DOD Counterterrorism Fellowship Program; and (3) a revamped support program combining the coalition support and the economic support (CSF and ESF) funds. It also suggests redistributing responsibility for activities carried out under the Commander’s Emergency Response Program (CERP) and other DOD “foreign assistance” programs, assigning responsibility for longer-term governance and development programs to the State Department and USAID, and reserving to DOD responsibility for shorter-term, urgent projects closely related to combat needs or to operations in insecure areas. (p.74)

⁵³ *Strengthening Statecraft and Security*, p. 75.

⁵⁴ *Strengthening Statecraft and Security* recommends that this group be co-chaired by the Office of Management and Budget (OMB) in order to ensure “the integration of security assistance policies and programs into the broader national security strategy,” to resolve “policy and program disagreements between the Departments of State and Defense,” and to provide “overarching policy guidance to improve consistency with overall national security strategy... .” (pp. 72-73).

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