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

Events in Africa and Burma have brought attention to a provision in annual State, Foreign Operations and Related Programs (SFOPS) appropriations legislation that restricts U.S. foreign assistance following a coup d'état.

What Is Section 7008?

In its current form (P.L. 117-328, Division K), Section 7008 provides the following:

(a) Prohibition.--None of the funds appropriated or otherwise made available pursuant to titles III through VI of this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup d'etat or decree or, after the date of enactment of this Act, a coup d'etat or decree in which the military plays a decisive role: Provided, That assistance may be resumed to such government if the Secretary of State certifies and reports to the appropriate congressional committees that subsequent to the termination of assistance a democratically elected government has taken office: Provided further, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes, or to support a democratic transition: Provided further, That funds made available pursuant to the previous provisos shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

(b) Waiver.--The Secretary of State, following consultation with the heads of relevant Federal agencies, may waive the restriction in this section on a program-by-program basis if the Secretary certifies and reports to the Committees on Appropriations that such waiver is in the national security interest of the United States: Provided, That funds made available pursuant to such waiver shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

The waiver provision was added in FY2023 (**Figure 1**).

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

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

The titles that Section 7008 references encompass Bilateral Economic Assistance (III), International Security Assistance (IV), Multilateral Assistance (V), and Export and Investment Assistance (VI). Such funds are generally

administered by the State Department and U.S. Agency for International Development. The restriction is not a general one; it applies to selected types of aid, including:

- Foreign assistance provided *to the government*, i.e., implemented through or with host governments.
- Military training and equipment authorized to be provided by the Department of Defense under 10 U.S.C. §333, as that authority prohibits assistance "that is otherwise prohibited by any provision of law."

In practice, military aid is often most directly affected.

Section 7008 explicitly exempts aid to promote democracy. Congress also has authorized or appropriated certain assistance to be provided "notwithstanding" legal restrictions such as Section 7008, including:

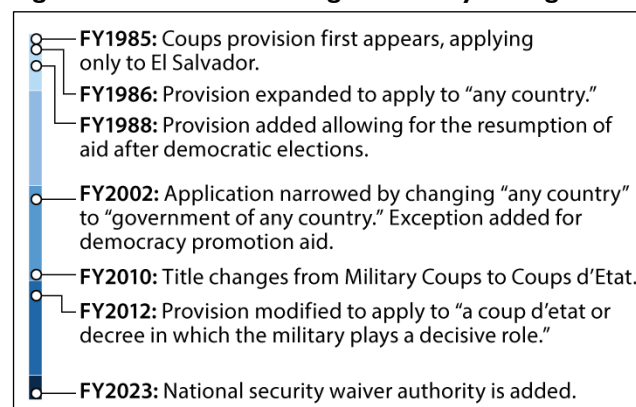
- most aid implemented by nongovernmental entities,
- aid for certain specific purposes (e.g., humanitarian assistance, certain internal security force assistance, debt restructuring, and education),
- funds provided through the Assistance for Europe, Eurasia and Central Asia (AEECA) account, and for some specific countries (e.g., Egypt, Pakistan, and certain aid to Burma and Sudan), or
- aid that the President determines to be necessary for national security, subject to congressional notification.

Section 7008 sets no time parameter or format for certifying either that a coup has taken place, or subsequently that a "democratically elected government has taken office."

Legislative History

Legislation restricting foreign assistance after coups was first considered in the 1980s in the context of congressional concern about a possible coup in El Salvador. Congress has made several changes to the section over time (**Figure 1**).

Figure 1. Section 7008: Origins and Key Changes



Source: CRS graphic, based on SFOPS appropriations measures.

Interpretation and Application of Section 7008

Cases in which the executive branch has applied Section 7008 have generally involved the military ouster of an elected president. Section 7008 is currently in effect for **Burkina Faso** (since a coup in 2022), **Guinea** (2021), **Burma** (2021), **Mali** (2020), and **Sudan** (1989). Once invoked, Section 7008 can be lifted only if the Secretary of State reports to Congress that a democratically elected government has taken office. Regarding **Burma**, Congress has enacted annual SFOPS provisions making certain types of aid available “notwithstanding” any other provision of law. In the case of **Sudan**, after a 2019 change in government, Congress authorized certain types of aid, for certain purposes, “notwithstanding” many legal restrictions (Subtitle G of Title XII, P.L. 116-283).

During the past decade, the provision was temporarily in effect for the following countries:

- **Fiji** (2006 coup; lifted after 2014 elections)
- **Madagascar** (2009 coup; lifted after 2014 elections)
- **Guinea-Bissau** (2012 coup; lifted after 2014 elections)
- **Mali** (2012 coup; lifted after 2013 elections)
- **Thailand** (2014 coup, lifted after 2019 elections)

In some other cases, the executive branch has not invoked Section 7008, on various grounds. For example:

- **Honduras 2009.** The State Department referred to the military’s arrest and forced exile of the sitting president as a “coup d’état,” but asserted that these events were not, strictly speaking, a “military coup,” citing the “complexity” of actors involved, including the courts and legislature (which endorsed the military’s actions). Congress subsequently changed the title of the provision from “military coups” to “coups d’état” (**Figure 1**).
- **Niger 2010.** The State Department determined that Niger’s president, who was ousted by the military, had ceased to be “duly elected” because he had overstayed his original constitutional tenure.
- **Egypt 2013.** Amid protests, the military deposed an elected president, suspended the constitution, and installed an interim president. The State Department did not issue a determination as to whether a coup occurred.
- **Burkina Faso 2014.** Military commanders pressured the president to step down amid protests, and retained influence in a civilian-led transitional government. U.S. officials referred to events as a “popular uprising.”
- **Zimbabwe 2017.** The army seized control of key facilities and pressed President Robert Mugabe to resign. The ruling party then removed Mugabe as its leader, after which he resigned. The State Department did not refer to events as a coup d’état. The Department had previously stated that Mugabe’s 2013 reelection “did not represent the will of the Zimbabwean people.”
- **Algeria 2019.** The army chief of staff called on parliament to impeach the president, who then resigned. U.S. officials did not publicly comment on whether these events constituted a coup d’état.
- **Chad 2021.** A military council seized power, bypassing the constitutional line of succession, after the battlefield death of the president. U.S. officials called for a “peaceful democratic transition of power to a civilian-led government” but did not refer to events as a “coup.”

In two of these cases (**Honduras** and **Niger**), U.S. officials chose, as a matter of policy, to suspend aid *consistent* with the provisions of Section 7008. While producing a similar result, this allowed flexibility for the executive branch to restart some aid at its discretion. In the case of **Zimbabwe**, aid that could have been restricted under Section 7008 was already prohibited under other legislation. Regarding **Egypt**, Congress enacted new language in SFOPS appropriations measures from FY2014 onward, making funds available, subject to certain conditions, “notwithstanding” any other provision of law.

Selected Policy Questions

As Congress considers SFOPS appropriations for FY2024 and beyond, it may revisit Section 7008 and consider whether its application supports congressional intent. Notably, the addition of waiver authority in FY2023 may introduce new flexibility for the executive branch to provide otherwise prohibited assistance, subject to consultation with and notification to the Committees on Appropriations. Congress may consider:

National Security Waiver. How often is the new waiver authority under Section 7008 invoked, and with what impact on country-specific and global policy goals? Does the option of a waiver prompt more forthright designation of coups? Does the notification requirement enable adequate congressional oversight?

Determination. Should a determination of Section 7008’s applicability be required within a specified timeframe? Does the provision’s characterization of a coup match congressional intent? Is there a role for Congress, or nonpartisan third parties, in the determination process?

Intention. Do current provisions adequately support a policy of deterring coups d’état? Should Congress target other actions, such as the overthrow of non-“*duly elected*” leaders? Should policymakers be able to lift restrictions if a civilian-led government is seated, even if unelected?

Oversight and Implications. Does Congress receive sufficient information on the impact of Section 7008? Should the resumption of aid in a country where Section 7008 has been applied trigger other U.S. actions, such as an evaluation of whether governance or security sector assistance may be warranted?

Selected CRS Resources

CRS Insight INI1854, “An Epidemic of Coups” in Africa? Issues for Congress
 CRS In Focus IF10434, *Burkina Faso: Conflict and Military Rule*
 CRS In Focus IF12331, *Burma: Background and U.S. Relations*
 CRS In Focus IF11817, *Chad: Implications of President Déby’s Death and Transition*
 CRS Report RL33003, *Egypt: Background and U.S. Relations*
 CRS Report R41064, *Honduran Political Crisis, June 2009-January 2010*
 CRS In Focus IF10116, *Crisis in Mali*
 CRS In Focus IF10182, *Sudan*
 CRS In Focus IF10253, *Thailand: Background and U.S. Relations*

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