

# A FOREIGN ASSISTANCE ACT FOR THE TWENTY-FIRST CENTURY

[Draft Outline]

The HELP Commission believes, like many other observers of U.S. foreign assistance, that the nearly 50-year old Foreign Assistance Act of 1961 (FAA) is a cumbersome and out-dated statement of the goals and objectives of American foreign aid. Moreover, the Act's convoluted content, consisting of endless layers of purposes, authorities, and restrictions added through frequent amendments and previous reform efforts, makes it a clumsy tool for defining foreign assistance policy and for serving as the statutory underpinning of an important American foreign policy instrument. We also believe that the process of producing a comprehensive and coherent rewritten FAA would provide the opportunity for the Executive branch and Congress to forge a more trusting and constructive relationship.

As the Commission stated in its report, a new FAA should include the following attributes:

- Establish broad practices and parameters for pursuing U.S. national interests through effective and efficient foreign development policies and program authorities;
- Allow for adequate Executive branch flexibility;
- Be leaner and more effective; and
- Provide a strong and streamlined Legislative branch role in oversight and information gathering.

Applying these principles, the HELP Commission staff drafted the following outline of a new FAA. It is an attempt to provide a broad concept of how a revised statute could offer a streamlined, clarified, and more focused legislative foundation for United States economic and humanitarian assistance programs. In addition, it incorporates several of the Commission's major recommendations for reform.

By no means does it cover all aspects and issues of what a new Act should include. Many of these need to be carefully discussed and negotiated within the Administration and between the Executive branch and Congress. On the issue of a new organizational structure, the draft FAA outline suggests a course of action using a Reorganization Plan to implement change, but does not recommend one single approach for a new structure. As discussed in the report, the HELP Commission debated several options for structural change, and although a majority of Commissioners supported the creation of an International Affairs Department, this was one area where the Commission did not achieve unanimity. The more generic proposals included in this draft, however, offers a legislative roadmap that could be followed once the fundamental structural decision was made.

For decades, many have called for a modernized and streamlined Foreign Assistance Act. Yet not since the Hamilton-Gilman Task Force in the late 1980s and the Clinton Administration's draft rewrite in 1993-1994 has a legislative proposal been introduced. We hope that our outline will mark a modest beginning of and a serious debate over a collaborative effort to enact a Foreign Assistance Act for the twenty-first century.

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**A FOREIGN ASSISTANCE ACT  
FOR THE TWENTY-FIRST CENTURY**  
[Draft Outline]

- TITLE I – U.S. FOREIGN ASSISTANCE FINDINGS, GOALS AND CORE PRINCIPLES**
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**TITLE I – U.S. FOREIGN ASSISTANCE FINDINGS, GOALS AND CORE PRINCIPLES**

**SEC. 1101. FINDINGS**

- (1) It is in the U.S. national interest to promote global economic growth and reduce poverty through a vigorous and well-executed foreign assistance program.
- (2) The world has changed and U.S. assistance programs have not kept pace.
- (3) Foreign assistance alone is not sufficient to help developing countries achieve long-term, sustainable economic growth.

(4) Long-term economic growth and job creation contribute the most to sustainable development.

(5) A clear and common vision for development across and throughout both branches of the United States Government is necessary.

(6) An integrated approach to development assistance policy is needed.

(7) The United States must play to its strengths and work with other bilateral donors, multilateral institutions, and non-governmental actors.

## **SEC. 1102. GOALS OF U.S. FOREIGN ASSISTANCE**

The United States foreign assistance program should emphasize four principal goals:

(1) Support and advance U.S. national security and foreign policy goals and objectives in measurable ways.

(2) Provide short- and medium-term emergency assistance to save lives in times of crisis and in environments of desperate need.

(3) Invest in recipients' economic growth and development in order to provide assistance to people who cannot fully help themselves; help recipients become self-reliant and achieve sustained economic development; and promote trade within and among nations.

(4) Promote democratic principles for well and justly governed nations that are accountable to their citizens.

## **TITLE II – DEVELOPMENT ASSISTANCE**

### **CHAPTER 1 – DEVELOPMENT ASSISTANCE AUTHORITIES**

#### **SEC. 2101. STATEMENT OF POLICY**

- Set forth a general statement of the rationale and objectives of Development Assistance

#### **SEC. 2102. GENERAL AUTHORITY AND POLICIES CONCERNING DEVELOPMENT ASSISTANCE**

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- Establish a single overarching authority for all Development Assistance sectors and activities; combine and rationalize existing Development Assistance authorities in the Foreign Assistance Act of 1961 (FAA), FREEDOM Support Act, Millennium Challenge Act of 2003, SEED Act, U.S. Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003, and other Development Assistance authorizing and appropriations legislation.
- Make permanent Development Assistance authorities enacted in annual appropriations acts.
- Suggestions of Development Assistance priorities and their rationale and objectives, to serve as a guide to program developers and country partners. Priorities to include, but not be limited to:
  - Agriculture
  - Economic Growth
  - Education
  - Governance and anticorruption
  - Health, including HIV/AIDS and malaria
  - Infrastructure
  - Financial markets and microfinance
  - Rule of Law
  - Trade Capacity
  - Water

## **SEC. 2103. AUTHORIZATION OF FUNDS**

- Consolidate funding for Development Assistance into a single Development Assistance authorization.
- Eliminate existing Development Assistance authorizations and accounts including the following:
  - Developments Assistance
  - Child Survival and Health Programs
  - Development Credit Authority
  - Assistance for Eastern Europe and the Baltic States
  - Assistance for the Independent States of the Former Soviet

- Union
  - Millennium Challenge Corporation
  - Global HIV/AIDS Initiative
  - International Organizations and Programs
  - Non-emergency food aid in PL-480, Title II
- Consider folding into the single Development Assistance authorization account all Budget Function 150 development aid funding authorizations, including programs managed by the Department of the Treasury, the Overseas Private Investment Corporation, and other independent agencies.
- Incorporate Operating Expense (OE) funds into program appropriations and eliminate the separate OE account; include rigorous reporting requirements to Congress to permit close oversight of administrative costs.

## **CHAPTER 2 – TRADE AND INFRASTRUCTURE**

### **SEC. 2201. AUTHORIZE EXPANSION FOR DUTY-FREE AND QUOTA-FREE ACCESS**

- Grant duty-free, quota-free access to U.S. markets to those countries that are eligible for a Millennium Challenge Corporation Compact or Threshold program.
- Provide the same duty-free, quota-free status to those countries with a per capita GDP under \$2,000, except for those otherwise ineligible for U.S. foreign assistance.
- Encourage duty-free quota-free eligible countries to embrace trade liberalization by committing to: (1) reducing their trade barriers gradually toward Most Favored Nation (MFN) status (2) providing greater respect for worker rights; and (3) enhancing environmental protections.
- Authorize improved and expanded Trade Adjustment Assistance (TAA) to help displaced American workers and communities retrain and retool for the future.
- Promote labor rights and environmental protections in bilateral trade negotiations with developing nations.

- Promote trade capacity building in the governments, regulatory agencies, and trade and business associations of developing nations.

## **SEC. 2202. AGRICULTURAL SUBSIDIES**

- The U.S. should exert leadership within the G8 to encourage its members, individually and collectively, to take practical and immediate actions to minimize the adverse effects of their respective domestic agricultural subsidies and practices on the economies of developing countries and their own agricultural industries.

## **SEC. 2203. REMOVE PHYSICAL TRADE BARRIERS THROUGH INFRASTRUCTURE**

- U.S. policy should:
  - Increase the profile of infrastructure in U.S. development programs and be receptive when countries make requests for infrastructure support.
  - Give priority to landlocked countries and regions.
  - Lead the G8 countries in supporting an increase in infrastructure investment in developing nations.
  - Urge the World Bank to continue to support infrastructure lending and investment.

## **CHAPTER 3 – SMALL AND MEDIUM ENTERPRISES**

### **SEC. 2301. SMALL AND MEDIUM ENTERPRISE INITIATIVE**

- Authorize a rigorous and systematic Small and Medium Enterprise Initiative to maximize the opportunities for small and medium enterprises (SMEs) in developing countries which would:
  - Provide technical assistance from the U.S. Government to aspiring small business owners in developing countries.
  - Authorize modest-sized U.S. Government loans, loan guarantees, and equity investments to support the growth of financial, commercial, and industrial enterprises. All

investment capital must be repaid to the Treasury.

## **CHAPTER 4 – DEVELOPMENT APPLICATIONS RESEARCH INSTITUTE (DARI)**

### **SEC. 2401. AUTHORITY**

- Establish a new organization, the Development Applications Research Institute (DARI) to develop and apply innovative new technologies to development problems.

### **SEC. 2402. PURPOSE**

- Model DARI on the Defense Advanced Research Projects Agency (DARPA) and focus on building technology in all relevant development areas, including agriculture, health and education.

## **CHAPTER 5 – AGRICULTURAL DEVELOPMENT PROGRAMS**

### **SEC. 2501. PRINCIPLES**

- Encourage innovation in agricultural development programs.
- Support public-private partnerships in designing and implementing agricultural programs
- Design and implement programs with the full participation of developing country national and local government leaders.
- Use a flexible design and a fully integrated approach to spread new technology through the population providing assistance for incentives and channels such as:
  - Policy reform supported by technical assistance to the central government.
  - Technical assistance to farmers to support adaptation of the new technology.

- Farm to market roads and irrigation systems.
- Reform of the financial sector to increase credit flow to seed, fertilizer, and equipment suppliers to allow consolidators to purchase many small crops and move them more efficiently to large urban markets.
- Reform of land tenure policies to secure the rights of farmers to use or own the land to encourage them to make the long-term investments that the land requires to achieve food security.

## **CHAPTER 6 – ENHANCING EDUCATION TO BUILD HUMAN CAPITAL**

### **SEC. 2601. INVOLVEMENT OF U.S. CITIZENS**

- Encourage U.S. citizens across multiple disciplines -- farmers, business leaders, and local government officials -- to help train their counterparts in developing countries
- Encourage U.S. citizens, in partnership with the recipient country, to apply available technological tools and look for innovative new approaches.

## **TITLE III — HUMANITARIAN ASSISTANCE**

### **CHAPTER 1 – HUMANITARIAN ASSISTANCE**

#### **SEC. 3101. STATEMENT OF POLICY**

- Set forth a general statement of the rationale and objectives of Humanitarian Assistance.

#### **SEC. 3102. PURPOSES**

- State the rationale and objectives of specific Humanitarian Assistance priorities and activities.

#### **SEC. 3103. AUTHORITY**

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- Consolidate existing authorities for humanitarian and emergency programs including:
  - International Disaster and Famine Assistance
  - Transition Initiatives
  - Migration and Refugee Assistance
  - United States Emergency Refugee and Migration Assistance Fund
  - Emergency PL-480 food assistance

**SEC. 3103. AVAILABILITY OF FUNDS**

- Consolidate funding for all humanitarian assistance into one authorization

**CHAPTER 2– HUMANITARIAN CRISIS RESPONSE FUND**

**SEC. 3201. AUTHORITY**

- Establish a permanent Humanitarian Crisis Response Fund modeled after the existing Emergency Refugee and Migration Assistance Fund (ERMA) to respond to natural disasters.

**SEC. 3202. PRESIDENTIAL ADVANCE FINDING AND JUSTIFICATION**

- Require Presidential finding, justification, and program implementation plan to be presented in advance to Congress.

**SEC. 3203. CONGRESSIONAL OVERSIGHT AND INFORMATION REQUESTS**

- Delineate the process for oversight and the information requests from Congress.

**SEC. 3204 REPLENISHMENT**

- Require, for each utilization, a request by the Executive branch to Congress for replenishment of the funds at the first supplemental budget request or the annual budget request, whichever come first.

## **TITLE IV – ASSISTANCE FOR POST-CONFLICT AND FAILING STATES**

### **CHAPTER 1 – ASSISTANCE FOR POST-CONFLICT AND FAILING STATES**

#### **SEC. 4101. STATEMENT OF POLICY**

- Set forth a general statement of the rationale and objectives of Assistance for Post-Conflict and Failing States.

#### **SEC. 4102. PURPOSES**

- State the rationale and objectives of specific priorities and activities of Assistance for Post-Conflict and Failing States.

#### **SEC. 4103. AUTHORITY**

- Consolidate, delete and rationalize existing authorities of Assistance for Post-Conflict and Failing States.

#### **SEC. 4104. AVAILABILITY OF FUNDS**

- Consolidate funding for Assistance for Post-Conflict and Failing States into one authorization

### **CHAPTER 2 – FOREIGN CRISIS FUND**

#### **SEC. 4201. AUTHORITY**

- Establish a permanent Foreign Crisis Fund modeled after the

existing Emergency Refugee and Migration Assistance Fund (ERMA) to allow for maximum flexibility when confronted with security challenges.

#### **SEC. 4202. PRESIDENTIAL ADVANCE FINDING AND JUSTIFICATION**

- Require Presidential finding, justification, and program implementation plan to be presented in advance to Congress.

#### **SEC. 4203. CONGRESSIONAL OVERSIGHT AND INFORMATION REQUESTS**

- Delineate the process for oversight and the information requests from Congress.

#### **SEC. 4204. REPLENISHMENT**

- Require, for each utilization, a request by the Executive branch to Congress for replenishment of the funds at the first supplemental budget request or the annual budget request, whichever come first.

### **TITLE V – ECONOMIC SECURITY ASSISTANCE**

#### **SEC. 5101. STATEMENT OF POLICY**

- Set forth a general statement of the rationale and objectives of Economic Security Assistance emphasizing that:
  - Economic Security Assistance be robustly funded
  - Economic Security Assistance is for short-term economic needs
  - Development Assistance be ring-fenced to protect funding for long-term development goals.

#### **SEC. 5102. PURPOSES**

- State the rationale and objectives of specific priorities of Economic and Security Assistance.

### **SEC. 5103. AUTHORITY**

- Combine, delete, and rationalize existing authorities for Economic Security Assistance including:
  - Economic Support Fund
  - International Narcotics Control and Law Enforcement
  - Andean Counterdrug Initiative
  - Non-Proliferation, Anti-terrorism, Demining, and Related Programs (NADR)

### **SEC. 5104. AVAILABILITY OF FUNDS**

- Consolidate funding for Economic Security Assistance into one authorization.

## **TITLE VI – PUBLIC DIPLOMACY AND DEVELOPMENT EDUCATION**

### **SEC. 6101. STATEMENT OF POLICY**

(1) For the Foreign Assistance program to succeed, the American people need to be engaged in support of development and humanitarian assistance programs.

(2) American citizens, companies, philanthropies, NGOs, cooperatives, universities, and faith-based organizations can be very effective at promoting understanding, in the United States, of positive change in developing countries.

(3) It is critical that the U.S. Government be proactive in its outreach to and coordination with the full range of actors outside the public sector, With proactive coordination, the United States can capitalize on the respective strengths of private entities and the U.S. Government.

### **SEC. 6101. PUBLIC DIPLOMACY**

- Expand and reform the public diplomacy function of the foreign assistance program to:
  - Enhance the public diplomacy capabilities of U.S. field personnel by strengthening the training and coordination of country spokesmen, expanding collaborative efforts between U.S. and foreign governments or NGOs.
  - Develop country-specific overall communications strategies that are coordinated over the long term and for which metrics are established.
  - Increase the use of integrated media campaigns in host countries to increase awareness of U.S. assistance programs.
  - Harmonize public diplomacy efforts by all US Government agencies engaged in overseas development. Focus branding messages on a single core message such as “From the American People.” Select and apply only one or two prominent identifiers for all civilian assistance (e.g., the American flag or “clasped hands”) as opposed to using the logos of many agencies.
  - Brand with sensitivity. Ambassadors should be able to waive branding regulations when it might be dangerous for employees or for other reasons appropriate to local circumstances.

## **SEC. 6102. DEVELOPMENT EDUCATION**

- Clarify the current legislative prohibition on U.S. Government publicity or propaganda within the United States to permit and encourage Executive agencies to more fully explain U.S. development activities to the American people in order to raise the American people’s understanding about and support for foreign assistance.
- Expand and re-invigorate the Biden-Pell Act to better promote engagement of Americans and foreign nationals living in the United States regarding development.

## **TITLE VII – UNIFIED POLICY, BUDGETING, AND EVALUATION PROCESS**

## **SEC. 7101. STATEMENT OF POLICY**

To generate effective development and humanitarian programs and the support to fund them, the policy, budgeting and evaluation process must:

(1) Develop a clear picture of the circumstances that cause poverty in each country, driven by a local assessment of the country's own poverty reduction strategy paper (PSRP), and by an assessment of our nation's ability to work with the country to address these issues. Produce Country Development Estimates based on this input.

(2) Create a coherent long-term strategy that acknowledges conditions in each region and country and sets forth specific and realistic development targets that Americans can support.

(3) Formulate budgets based on our nation's strategy and desired level of effort, the country's commitment, and other donor activities.

(4) Monitor our efforts, evaluate their impact, and feed this knowledge back into the management and resource allocation processes.

(5) Commit to funding these plans over the long term, in concert with the Congress.

## **SEC. 7102. COUNTRY DEVELOPMENT ESTIMATES**

- Establish a Country Development Estimate (CDE) for each country assisted by the United States as a collaborative effort between the U.S. and recipient governments. In preparing the CDE:
  - Draw on the Poverty Reduction Strategy Paper (PRSP).
  - Consider recipients' relationships with other bilateral and multilateral donors.
  - Include information on a variety of important factors, such as policies, infrastructure, education, healthcare, quality of governance, security, political leadership, macroeconomic conditions, business environment, natural resource and geographic endowments, trade position, and geopolitical position.
  - Produce a CDE for all countries once every five years, or when a major event occurs.
  - Extend CDEs over a combined 20-year horizon.

## **SEC. 7103. STRATEGY DOCUMENTS TO GUIDE DEVELOPMENT GOALS**

- Create two new strategy documents, in addition to the existing National Security Strategy (NSS), to articulate specific development goals:
  - National International Affairs Strategy (NIAS): A derivative document of the National Security Strategy providing a further elaboration of U.S. international affairs objectives on both global and regional levels as well as on a country-by-country basis.
  - Quadrennial Development and Humanitarian Assistance Review (QDHR): Every four years, the QDHR would propose any needed changes to objectives and to approaches. The QDHR should influence both the NSS and NIAS and should be modeled on the Quadrennial Defense Review.

## **SEC. 7104. BUDGET PROCESS**

- Consider creating a Unified National Security Budget that includes both the Defense and International Affairs budget functions.
- Provide funding for a new unified accounting system for all U.S. Government departments and agencies for long-term planning, near-term budget formulation, current budget execution, and real-time and historical reporting for development activities, regardless of organizational location.
- Establish a single point of contact within the U.S. Government for reporting to the public and the Congress on financial, program and budget information

## **SEC . 7105. MONITORING AND EVALUATION**

- Reestablish and provide with sufficient funding an independent Office of Monitoring and Evaluation (OME) within the agency

- responsible for U.S. foreign assistance operations, accountable to Congress as well as to the Executive branch,.
- Harmonize the reporting formats, benchmarks and frequencies to eliminate unreasonable burdens on foreign assistance recipients.
  - Collaborate with other donors to adopt the good donor initiatives that have been established through multilateral agreements.
  - Adopt best practices in monitoring and evaluation by working closely with the private sector, educational institutions, private voluntary organizations and NGOs.
  - Ensure that evaluation strategies rely as much as possible on control groups and randomization.
  - Consider new ways evaluators can assess projects, including using professional associations or accreditation agencies.
  - Build, in collaboration with other bilateral and multilateral donors, the capacities of recipient governments to create and report on reliable baseline data.

## **TITLE VIII – REFORMING THE ORGANIZATIONAL STRUCTURE OF FOREIGN ASSISTANCE**

### **CHAPTER 1 – PURPOSES**

The purposes of this title are to:

- (1) Elevate development to a more equal footing with defense and diplomacy.
- (2) Enable the U.S. Government to define and promote an integrated foreign assistance strategy by having one organization responsible for coordination across the government and speaking with one voice.
- (3) Provide access to all the tools necessary to implement the long-range strategic vision for U.S. foreign assistance in a cohesive manner.
- (4) Ensure that policy formulation, program design, implementation and operations reside within the same organization with clear lines of authority, accountability and responsibility for the management of foreign assistance.
- (5) Provide Congress with means for ensuring accountability through the clear alignment of goals, accounts, and performance metrics.



(6) Enable strong partnerships with the many American private sector and non-governmental organizations that increasingly are engaged in addressing development challenges.

(7) Ensure that policies and programs are rooted in the realities of what foreign assistance can and cannot do.

## **CHAPTER 2 – EXECUTIVE OFFICE OF THE PRESIDENT**

- Recommend that the President establish a high-level policy coordinating mechanism in the Executive Office of the President (EOP) responsible for coordinating all U.S. Government agencies involved in development and humanitarian policies and programs and for ensuring policy coherence.

## **CHAPTER 3 – REORGANIZATION**

### **SEC. 8301. REORGANIZATION PLAN AND REPORT**

#### **(a) Submission of plan and report**

The President shall transmit to the appropriate congressional committees a reorganization plan and report regarding:

- (1) the establishment, if any, of a new foreign assistance agency;
- (2) the abolition, if appropriate, of the United States Agency for International Development (USAID);
- (2) the abolition or termination of functions of each covered agency as may be necessary to effectuate the reorganization under this title, and the termination of the affairs of each agency abolished under this chapter;
- (4) the transfer to the new foreign assistance agency the functions and personnel of each covered agency; and
- (5) the consolidation, reorganization, and streamlining of the Department of State or other agency in connection with the transfer of such functions and personnel in order to carry out such functions.

#### **(b) Covered agencies**

For the purpose of this title, “agency” means an Executive department, a Government corporation, or an independent establishment. The agencies covered by this section are the following:

- (1) The African Development Foundation.

- (2) The Department of State
- (3) The Inter-American Foundation
- (4) The Millennium Challenge Corporation
- (5) The Overseas Private Investment Corporation
- (6) The Peace Corps
- (7) The Trade and Development Agency
- (8) The United States Agency for International Development (USAID)
- (9) The Department of Treasury's Multilateral Development Banks, Technical Assistance, and Debt Offices

**(c) Plan elements**

The plan transmitted under subsection (a) of this section shall contain, consistent with this chapter, such elements as the President deems appropriate, including elements that:

- (1) identify the function of any new foreign assistance agency;
- (2) identify the functions of each covered agency that will be abolished or transferred under the plan;
- (3) specify the steps to be taken to reorganize internally the functions of the Department of State or other agency that will be required under the plan in order to permit the Department or other agency to carry out the functions transferred to it under the plan;
- (4) specify the funds available to each covered agency that will be transferred to another agency as a result of the transfer of functions of a covered agency to another agency;
- (5) specify the proposed allocations of unexpended funds transferred in connection with the transfer of functions under the plan; and
- (6) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of each covered agency in connection with the transfer of the functions of such agency.

**(d) Modification of plan**

The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan transmitted under subsection (a) of this section until that part of the plan becomes effective in accordance with subsection (g) of this section.

**(e) Report**

The report accompanying the reorganization plan shall describe the implementation of the plan and shall include—

- (1) a detailed description of—
  - (A) the actions necessary or planned to complete the reorganization,
  - (B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and
  - (C) any preliminary actions which have been taken in the implementation process;
- (2) the number of personnel and positions of each covered agency (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred, separated from service with such agency, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;
- (3) a projected schedule for completion of the implementation process; and
- (4) recommendations, if any, for legislation necessary to carry out changes made by this chapter relating to personnel and to incidental transfers.

**(f) Effective date**

(1) Effective date by Presidential determination  
An effective date under this paragraph for a reorganization plan described in this section is such date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 90 calendar days after the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a) of this section.

(2) Statutory construction  
Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balance of appropriations, or other assets of a covered agency on a single date.

(3) Supersedes existing law  
Paragraph (1) shall apply notwithstanding section 905 (b) of title 5.

(4) Publication  
The reorganization plan described in this section shall be printed in the Federal Register after the date upon which it first becomes effective.

## **SEC. 8302. REORGANIZATION AUTHORITY**

### **(a) Effect of reorganization plan**

The reorganization plan under this chapter may have the effect of:

- (1) creating a agency;
- (2) modifying the terms of any statute that establishes or defines the functions of any bureau, office, or officer of an agency.

### **(b) Limitations on reorganization plan**

The reorganization plan under this chapter not have the effect of—

- (1) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made.
- (2) increasing the term of an office beyond that provided by law for the office.

### **(c) In general**

The head of any agency is authorized, subject to the requirements of this chapter, to allocate or reallocate any function transferred to the agency under this chapter, and to establish, consolidate, alter, or discontinue such organizational entities within the agency as may be necessary or appropriate to carry out any reorganization under this chapter, but this subsection does not authorize the head of the agency to modify the terms of any statute that establishes or defines the functions of any bureau, office, or officer of the Department.

## **SEC. 8303. TRANSFER AND ALLOCATION OF APPROPRIATIONS**

### **(a) In general**

Except as otherwise provided in this chapter, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under this title), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof, transferred by any subchapter of this chapter shall be transferred to the Secretary of State for appropriate allocation.

**(b) Limitation on use of transferred funds**

Except as provided in subsection (c) of this section, unexpended and unobligated funds transferred pursuant to any subchapter of this chapter shall be used only for the purposes for which the funds were originally authorized and appropriated.

**(c) Funds to facilitate transition**

**(1) Congressional notification**

Funds transferred pursuant to subsection (a) of this section may be available for the purposes of reorganization subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under 22 USC 2706.

**(2) Transfer authority**

Funds in any account appropriated to the Department of State may be transferred to another such account for the purposes of reorganization, subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 22 USC 2706. The authority in this paragraph is in addition to any other transfer authority available to the Secretary of State.

**SEC. 8304. TRANSFER, APPOINTMENT, AND ASSIGNMENT OF PERSONNEL**

**(a) Transfer of personnel between agencies**

Not later than the date of transfer of any function from one agency to another agency under the reorganization plan, all personnel performing such functions and all positions associated with such functions shall be transferred to the gaining agency at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

**(b) Assignment authority**

The head of a gaining agency, for a period of not more than 6 months commencing on the effective date of the transfer of personnel under subsection (a) of this section, is authorized to assign such personnel to any position or set of duties in the agency regardless of the position held or duties performed by such personnel prior to transfer, except that, by virtue of

such assignment, such personnel shall not have their grade or class or their rate of basic pay or basic salary rate reduced, nor their tenure changed. The head of the agency shall consult with the relevant exclusive representatives with regard to the exercise of this authority. This subsection does not authorize the head of the agency to assign any individual to any position that by law requires appointment by the President, by and with the advice and consent of the Senate.

**(c) Superseding other provisions of law**

This section shall be exercised notwithstanding any other provision of law.

**SEC. 8305. INCIDENTAL TRANSFERS**

The Director of the Office of Management and Budget, when requested by the Secretary of State, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this chapter. The Director of the Office of Management and Budget, in consultation with the Secretary of State, shall provide for the termination of the affairs of all entities terminated by this chapter and for such further measures and dispositions as may be necessary to effectuate the purposes of any subchapter of this chapter.

**SEC. 8306. AUTHORITY OF SECRETARY OF STATE TO FACILITATE TRANSITION**

Notwithstanding any provision of this chapter, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this chapter, may transfer the whole or part of such functions prior to the effective dates established in this chapter, including the transfer of personnel and funds associated with such functions.

**SEC. 8307. SAVINGS PROVISIONS**

**(a) Continuing legal force and effect**

**(b) Pending proceedings**

- (c) **No effect on judicial or administrative proceedings**
- (d) **Nonabatement of proceedings**
- (e) **Continuation of proceeding with substitution of parties**
- (f) **Reviewability of orders and actions under transferred functions**

## **TITLE IX – SPECIAL ASSISTANCE AUTHORITIES, RESTRICTIONS, AND REPORTS**

### **CHAPTER 1 – SPECIAL AUTHORITIES FOR PROVIDING ASSISTANCE**

- Special Waiver Authority. Consolidate and realign the numerous special authorities in the Foreign Assistance Act, Seed Act, FREEDOM Support Act and other authorizing legislation and appropriation acts to provide assistance that might otherwise be prohibited, e.g., various “notwithstanding” authorities; provide for advance Congressional notification and consultation, and for rigorous Congressional oversight.

### **CHAPTER 2 – RESTRICTIONS ON PROVIDING ASSISTANCE**

- Consolidate, eliminate, and realign the many restrictions on assistance found in authorizing and appropriations legislation including restrictions on assistance.
- Continue those “hard” prohibitions; i.e., those that prohibit assistance, that are based on major policy concerns, including human rights violators, military coups, terrorist countries, major illicit drug producing and transit countries,
- Include in one place the “soft” prohibitions that require that the Executive branch take into consideration in providing assistance recipient’s commitment to development.
- Exemption of assistance through non-governmental organizations from restrictions.
- Exemption from restrictions for assistance to address certain special needs, including child survival, health, and humanitarian programs.

## **CHAPTER 3 – REPORTS AND NOTIFICATIONS TO CONGRESS**

### **SEC. 9301. CONGRESSIONAL BUDGET JUSTIFICATION**

- Require submission of a comprehensive Foreign Assistance Congressional Budget Justification (CBJ) at the time of the President's Federal Budget proposal. Include justification for all U.S. foreign assistance programs.
- Consider creating the option for the Executive branch to submit a revised CBJ mid-calendar year that would revise and update current program operations and adjust the pending budget request to reflect changed circumstances and consultations with Congress.

### **SEC. 9302. ALLOCATION REPORT**

- Within 30 days of enactment of foreign assistance appropriations and following extensive consultation with relevant Congressional Committees, the Executive branch shall inform Congress of all country and program allocations.

### **SEC. 9303. NOTIFICATION OF PROGRAM CHANGES**

- Through extensive Executive-Congressional consultations, establish common procedures for all foreign assistance agencies for notifying Congress of changing circumstances that require alterations in resource distribution.
- Through extensive consultation among Committees of Congress with foreign assistance oversight and funding responsibility, establish common Congressional procedures for reviewing and acting on Executive notifications of program changes.
- Such common Executive and Congressional procedures should cover the following types of notifications and actions:
  - Reprogrammings.
  - Transfers.
  - Congressional holds



## **SEC. 9304. CONGRESSIONAL REPORTS**

- Consolidate, eliminate and realign the numerous reporting requirements in order to meet Congress's need for information in the most productive and efficient manner.

## **TITLE X – GENERAL AND ADMINISTRATIVE AUTHORITIES**

### **CHAPTER 1 – GENERAL AUTHORITIES**

#### **SEC. 10101. ADMINISTRATIVE USE OF FUNDS**

#### **SEC. 10102. ALLOCATION OF FUNDS AND REIMBURSEMENT AMONG AGENCIES**

#### **SEC. 10103. USE OF LOCAL CURRENCIES**

#### **SEC. 10104. REIMBURSABLE GOODS AND SERVICES**

#### **SEC. 10105. FALSE CLAIMS**

### **CHAPTER 2 – PROCUREMENT AND ASSISTANCE AUTHORITIES**

#### **SEC. 10201. GENERAL PROCUREMENT AND ASSISTANCE AUTHORITY**

#### **SEC. 10202. REFORM OF THE PROCUREMENT AND ASSISTANCE FUNCTION**

- Recognize contract personnel as key contributors to program success.
- Provide U.S. foreign assistance agencies with sufficient staff and related funding so that grant and contract operations can proceed appropriately. Require transparent and competitive processes to the maximum extent possible.

- Limit size, range of activity, and number of umbrella contracts and grants. Ensure large, multi-year, multi-million dollar projects are subject to full and open competition.
- Harmonize procurement practices, guidelines, and policies across all major foreign assistance programs and incorporate state-of-the-art procurement practices.
- Minimize “tied aid” procurement rules.
- Require, except under extraordinary circumstances, that only direct-hire employees write Requests for Proposals (RFPs) and Requests for Applications (RFAs).
- Authorize new procurement processes and vehicles.
- Provide authority to include host country recipients, civil society, and government officials as substantive participants in the grant and contract scoring and award processes to assure “country ownership” of the projects.

## **CHAPTER 3 – PERSONNEL**

### **SEC. 10301. EMPLOYMENT OF PERSONNEL**

### **SEC. 10302 REFORM OF THE FOREIGN ASSISTANCE WORKFORCE**

#### **(1) Principles to consider:**

- Substantially increase and better train the U.S. foreign assistance agency’s direct-hire workforce.
- Adopt the best practices of modern human resources management within the U.S. foreign assistance agency, including mid-career hires, unpaid sabbaticals, granting employees the option to leave and then return, and other flexible employment practices.
- Lengthen overseas assignments of foreign assistance agency staff when feasible.
- Recruit and train the foreign assistance agency workforce to the same standard of language and cross-cultural sensitivities as its counterpart in the Foreign Service at the U.S. Department of State. Provide sufficient funding for training in critical competencies.

- Train U.S. foreign assistance personnel in change management techniques.

### **SEC. 10303. STATUTORY OFFICERS**

### **SEC. 10304. EXPERTS AND CONSULTANTS**

### **SEC. 10305. DETAILS OF PERSONNEL**

### **SEC. 10306. OVERSEAS MISSIONS AND STAFF**

## **TITLE XI – REPEALED AND AMENDED STATUTES**

### **SEC. 1101. REPEALED STATUTES**

- Repeal the Foreign Assistance Act of 1961, as amended.
- Repeal the Foreign Affairs Agencies Consolidation Act of 1998.
- Repeal other foreign assistance legislation superceded by a new FAA, such as the SEED Act, U.S. Leadership Against HIV/AIDS, Tuberculosis and Malaria Act, the Millennium Challenge Act Of 2003, and other stand-alone FAA authorizing statutes.

### **SEC. 11102. AMENDED STATUTES**

- Amend the Foreign Service Act of 1980, as amended.
- Amend the State Department Basic Authorities Act of 1956, as amended
- Amend title 5 of the U.S. Code.
- Amend other legislation, as necessary.

## **TITLE XII – MISCELLANEOUS PROVISIONS**

### **SEC. 12101. EFFECTIVE DATE**

### **SEC. 12102. SAVINGS PROVISIONS**

## **SEC. 12103. OTHER MISCELLANEOUS PROVISIONS**

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