

# **George W. Bush Presidential Library**

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## Statement by the President

I have today signed into law H.R. 1646, the "Foreign Relations Authorization Act, Fiscal Year 2003." This Act authorizes appropriations, and provides important new authorities, for diplomatic and related activities of the U.S. Government. Many provisions in the Act will strengthen our ability to advance American interests around the globe, including nonproliferation of weapons of mass destruction, and to meet our international commitments, including those to the United Nations. Regrettably, the Act contains a number of provisions that impermissibly interfere with the constitutional functions of the presidency in foreign affairs, including provisions that purport to establish foreign policy that are of significant concern.

The executive branch shall construe as advisory the provisions of the Act, including sections 408, 616, 621, 633, and 1343(b), that purport to direct or burden the conduct of negotiations by the executive branch with foreign governments, international organizations, or other entities abroad or which purport to direct executive branch officials to use the U.S. voice and vote in international organizations to achieve specified foreign policy objectives. Such provisions, if construed as mandatory rather than advisory, would impermissibly interfere with the President's constitutional authorities to conduct the Nation's foreign affairs, participate in international negotiations, and supervise the unitary executive branch.

The executive branch shall also construe provisions in the Act that mandate submission of information to the Congress or the public, such as sections 204, 215, 603, 613(b), 615 and 1602, in a manner consistent with the President's constitutional authority to withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. The Secretary of State will, of course, continue as a matter of comity to keep the Congress appropriately informed of the Nation's foreign affairs activities.

Several provisions of the Act, including sections 650, 1205(d)(5), and 1501(7) call for executive branch officials to submit to the Congress recommendations for legislation. The executive branch shall implement these provisions in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to recommend to the Congress such measures as the President judges necessary and expedient.

Section 214, concerning Jerusalem, impermissibly interferes with the President's constitutional authority to conduct the Nation's foreign affairs and to supervise the unitary executive branch. Moreover, the purported direction in section 214 would, if construed as mandatory rather than advisory, impermissibly interfere with the President's constitutional authority to formulate the position of the United States, speak for the Nation in international affairs, and determine the terms on which recognition is given to foreign states. U.S. policy regarding Jerusalem has not changed.

The executive branch shall implement sections 325 and 687 in a manner consistent with the equal protection requirements of the Due Process Clause of the Fifth Amendment to the Constitution.

Section 505 of the Act excludes U.S. Government employees abroad assigned to duty as correspondents for the Voice of America (VOA) from the statutory responsibilities of the Secretary of State for security of certain U.S. Government personnel abroad and of chiefs of U.S. missions for direction of such personnel. Pursuant to the constitutional authority of the President to conduct the Nation's foreign affairs and to supervise the unitary executive branch, the Secretary of State may provide such direction as may be necessary with respect to the security and conduct of U.S. Government employees abroad assigned to duty as VOA correspondents.

Section 604 purports to require the imposition of certain sanctions on the Palestinian Liberation Organization or Palestinian Authority based on the determinations that the President makes or fails to make in the report provided for in section 603. Although a waiver authority is also provided, I note that some of these sanctions, in particular with respect to visas and the status of representational offices, bear on the President's power with respect to the timing and nature of diplomatic communications. Accordingly, I shall construe these requirements in a manner consistent with my constitutional responsibilities for the conduct of foreign affairs.

Section 645 of the Act purports to require the President to implement a law through a particular subordinate officer in the Department of Commerce. The executive branch shall implement this provision in a manner consistent with the President's authority to supervise the unitary executive branch, including the authority to direct which officers in the executive branch shall assist the President in faithfully executing the law.

Section 686 makes seven additional plaintiffs with judgments against Iran eligible for payments under the Victims of Trafficking and Violence Protection Act of 2000. While U.S. victims of international terrorism are deserving of compensation in accordance with the law, the continued piecemeal legislative approach that addresses some victims and not others is neither equitable nor practicable. The Congress should develop a comprehensive proposal that provides compensation for all victims, following the principles my Administration outlined in June of this year. Such a proposal should not draw upon blocked assets to fund victim compensation, so as to preserve the prerogatives of the President in the area of foreign affairs.

Sections 321 and 322, which provide certain retirement benefits to discrete groups of Federal employees, undermine fundamental principles underlying Federal retirement systems. These sections introduce serious inequities in the operation of those systems, and set undesirable precedents. My Administration will submit to the Congress appropriate legislation to repeal section 321 and to adopt remedial legislation in lieu of section 322 that would not undermine the integrity, equity, and sound funding principles of our Federal retirement systems.

Section 1206 could be misconstrued to imply a change in the "one China" policy of the United States when, in fact, that U.S. policy remains unchanged. To the extent that this section could be read to purport to change United States policy, it impermissibly interferes with the President's constitutional authority to conduct the Nation's foreign affairs.

Section 1406 of the Act requires that actions to remove items from the munitions list be subject to reprogramming notifications to committees of Congress. By its plain

terms, this provision does not subject such actions to any committee approval requirements, which would be impermissible under the constitutional separation of powers, and accordingly, the executive branch shall so implement it.

My approval of the Act does not constitute my adoption of the various statements of policy in the Act as U.S. foreign policy. Given the Constitution's commitment to the presidency of the authority to conduct the Nation's foreign affairs, the executive branch shall construe such policy statements as advisory, giving them the due weight that comity between the legislative and executive branches should require, to the extent consistent with U.S. foreign policy.

GEORGE W. BUSH  
THE WHITE HOUSE,  
September 30, 2002.

# # #

THE DEPUTY SECRETARY OF STATE  
WASHINGTON

JUN 12 2002

Dear President Cheney:

I am writing to express the Administration's commitment to working with Congress to ensure that victims of terrorism receive appropriate financial assistance following a terrorist attack and to provide our views on legislation pending in Congress on this issue.

As you know, pending legislation would create compensation funds modeled on the September 11th Victim Compensation Fund for certain victims of terrorist attacks. The Administration believes, however, that based on our experience with managing the September 11th fund, we can make substantial improvements to any future program to compensate victims of international terrorism in order to ensure more equitable, expeditious assistance. Recognizing the many substantial concerns voiced by Americans to the structure of the September 11th fund, the Administration proposes to model any additional program for compensation for victims of international terrorism after the federal benefit provided to the families of public safety officers killed in the line of duty (see 42 U.S.C. 3796), and to fund the program out of the International Affairs 150 Account.

The Honorable  
Richard B. Cheney,  
President of the Senate.

Last fall, recognizing the tremendous sacrifices of our nation's public safety officers, overwhelming majorities in Congress voted to streamline the Public Safety Officer Benefit program and to increase payments under the program from approximately \$150,000 to \$250,000, indexed for inflation. This program has been a tremendous success in providing prompt compensation to the families of public safety officers killed on September 11th and other public safety officers killed in the line of duty. We believe that designing a program for victims of international terrorism based on the public safety officer benefit model will make the following important improvements to the September 11th program:

First, this approach will ensure that the victim compensation program provides victims with lower incomes the same awards that it provides to victims with higher incomes. While wealthy plaintiffs in tort suits may receive greater awards than do victims with lower incomes, the federal government generally does not draw such distinctions in victim compensation programs.

Second, the claims process under this approach will be quick, streamlined, and simple, in order to help victims' families in their time of need. We should not create a lengthy administrative process that will prevent victims from quickly receiving assistance and that will force victims to submit complicated financial records or to relive their tragedies. The need for a prompt compensation process further weighs against providing different amounts to different victims based upon their individual financial circumstances, because any program with differential awards necessarily would require an administrative claims process.

Third, the amount of compensation should be on par with that provided to families of public safety officers killed in the line of duty. Like the Public Safety Officer Benefit program, the approach we are proposing would provide fixed amounts of compensation, without offsetting collateral sources or requiring victims to waive rights to civil litigation. (In order to prevent double recovery, the government should have a right of reimbursement if an individual

actually receives compensation from the defendants in a lawsuit for the same injuries for which they were compensated under this program.)

Importantly, this approach would preserve the President's ability to conduct foreign policy. The Administration opposes the use of blocked assets to fund victim compensation or to satisfy judgments. Using blocked assets would preclude their use to pressure regimes to improve their policies on terrorism, risk taxpayer liability for third-party claims against the assets, eliminate their availability to satisfy current U.S. Government claims (currently more than \$2 billion), and put at risk diplomatic property.

This letter has been approved by the Office of Management and Budget and represents the Administration's policy on compensating U.S. victims of international terrorism.

We recognize the Congressional interest in this matter, as reflected in Section 626 of Public Law 107-77, and we look forward to working with the Congress on a proposal that would meet those principles.

Sincerely,



Richard L. Armitage

The Honorable Richard Chaney  
The Honorable Patrick J. Leahy  
The Honorable C.W. Bill Young  
The Honorable Dave R. Obey  
The Honorable Ernest F. Hollings  
The Honorable F. James Sensenbrenner  
The Honorable Frank R. Wolf  
The Honorable Henry J. Hyde  
The Honorable J. Dennis Hastert  
The Honorable Jesse A. Helms  
The Honorable John Conyers, Jr.  
The Honorable Jose E. Serrano  
The Honorable Joseph R. Biden, Jr.  
The Honorable Judd Gregg  
The Honorable Mitch McConnell  
The Honorable Nita M. Lowey  
The Honorable Orrin G. Hatch  
The Honorable Robert C. Byrd  
The Honorable Ted Stevens  
The Honorable Thomas A. Daschle  
The Honorable Tom Latos  
The Honorable Trent Lott  
The Honorable Jim Kolbe