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

Events in 2019 in Sudan and Venezuela have focused renewed attention on a provision that has appeared in annual State, Foreign Operations and Related Programs (SFOPS) appropriations legislation since 1986 that restricts U.S. foreign assistance following a coup d’état. The provision intends to discourage and express U.S. disapproval of military seizures of control of governments.

What Is Section 7008?
In its current form (P.L. 116-6, Division F), Section 7008 states that 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’état or decree or, after the date of enactment of this Act, a coup d’état 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: Provided further, that funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

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.”

The restriction is not a general one; it applies to selected types of aid, including the following:

- Foreign assistance funds provided to the government, including military assistance and economic assistance implemented through or in cooperation with host governments.
- Funds administered by the State Department and U.S. Agency for International Development (USAID).
- “Global train-and-equip” funds authorized to be provided by the Department of Defense under 10 U.S.C. 333, as the authority prohibits assistance “that is otherwise prohibited by any provision of law.”

The restriction has generally not applied to

- aid implemented by nongovernmental organizations rather than the government, or
- foreign assistance that is authorized or appropriated “notwithstanding” any other provision of law, which in FY2019 includes most humanitarian assistance; aid for democracy promotion and education; funds provided through the Assistance for Europe, Eurasia, and Central Asia (AEECA) account; aid to some specific countries (e.g., Egypt and Pakistan); and aid for some specific purposes (counter-narcotics, counter-crime, and counter-extremism, for example), or aid that the President has authority to provide in certain conditions notwithstanding restrictions in law, subject to notification.

Section 7008 does not include waiver authority, and the proviso regarding resumption of aid after certification that a democratically elected government has taken office does not set a time parameter for such a certification.

Legislative History
Legislation restricting foreign assistance after coups was first considered in the context of congressional concern about a possible coup in El Salvador. The Foreign Assistance and Related Programs Appropriations Act, FY1985 (P.L. 98-473), prohibited any appropriation from being obligated to El Salvador if the elected President of that country was deposed by military coup (§537). The following year, the enacted foreign aid appropriation, P.L. 99-190, expanded the provision to prohibit funds “to any country whose duly elected Head of Government is deposed by military coup or decree” (§513). Some version of the “coup provision” has been included in every foreign aid appropriations measure since FY1986. Congress has made several changes to the section over time, however, the most significant of which are depicted in Figure 1.

Figure 1. Section 7008: Key Changes

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<td>Coups provision first appears, applying only to El Salvador.</td>
<td>Provision expanded to apply to “any country.”</td>
<td>Proviso added allowing for the resumption of aid after democratic elections.</td>
<td>Application narrowed by changing “any country” to “government of any country.”</td>
<td>Title changes from Military Coup to Coup d’État.</td>
<td>Provision modified to apply to “a coup d’état or decree in which the military plays a decisive role.”</td>
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Source: Created by CRS using information from annual Foreign Operations appropriations legislation.

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Military aid and other assistance to the governments of Egypt, Burkina Faso, and Algeria was not restricted due to the events described. For Egypt, Congress enacted new language in SFOPS appropriations measures from FY2014 onward, making assistance funds available for the government “notwithstanding any provision of law restricting assistance,” subject to certain conditions (currently, Section 7041(a) of P.L. 116-6, Division F).

Policy Questions
As Congress considers SFOPS appropriations for FY2020 and beyond, and contemplates U.S. policy toward foreign governments that assume power by coup, it may revisit Section 7008 and consider whether the existing provisions support congressional intent. Congress may consider:

Waiver. Should waiver authority be added to the provision, or do existing work-arounds—such as the notwithstanding provisions for Egypt and for certain types of assistance, which may be created after the fact—provide sufficient policy flexibility?

Determination. Should a determination of the coup provision’s applicability be required within a specified time period? If so, should the determination be fully delegated to the Administration, including the interpretation of events and the role of the military? Is there a role for Congress in such determinations?

Intention. Is the current proviso on a resumption of aid sufficient to adequately support the U.S. policy of objecting to a coup d’etat? Should the overthrow of non-“duly elected” leaders be punished? Should policymakers be granted the ability to lift the provision if the military relinquishes control, as U.S. officials have called for in Sudan, even if the civilian government is not elected?

Policy and Program Implications. Should the resumption of aid following an election in a country where the provision has been applied spur other U.S. policy responses, such as an evaluation of the status of democracy in the country and whether governance or security sector reform programs are merited? Should any additional U.S. actions to help deter future depositions of duly elected governments be pursued?

Further Reading on Selected Countries
Algeria: CRS In Focus IF11116, Algeria: In Focus
Côte d’Ivoire Post-Gbagbo: CRS Report RS21989, Côte d’Ivoire Post-Gbagbo: Crisis Recovery
Egypt: CRS Report RL33003, Egypt: Background and U.S. Relations
Honduran Political Crisis: CRS Report R41064, Honduran Political Crisis, June 2009-January 2010
Crisis in Mali: CRS Report R42664, Crisis in Mali
Sudan: CRS In Focus IF10182, Sudan
Thailand: CRS In Focus IF10253, Thailand: Background and U.S. Relations
Zimbabwe: CRS Insight IN10819, Zimbabwe: A Military-Compelled Transition

Alexis Arieff, aarieff@crs.loc.gov, 7-2459
Marian L. Lawson, mlawson@crs.loc.gov, 7-4475
Susan G. Chesser, schesser@crs.loc.gov, 7-9547