



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

20 APR 2004

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Department of Defense requests that the Congress enact the enclosed legislative initiative as part of the National Defense Authorization Bill for Fiscal Year 2005.

The purpose of the proposal is stated in the accompanying section-by-section analysis.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presenting of this legislative proposal for your consideration and the consideration of the Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "D J Dell'Orto".

Daniel J. Dell'Orto
Acting

Enclosure:
As Stated





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The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

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**SEC. ____ . SUPPORT OF SENSITIVE MILITARY OPERATIONS TO COMBAT
TERRORISM.**

1 (a) **AUTHORITY.**—Notwithstanding any other provision of law, except as specified in
2 subparagraph (d) below, funds available to the Department of Defense for operations and
3 maintenance for Fiscal Year 2005 may be used, subject to the concurrence of the Secretary of
4 State, to provide support to foreign forces, irregular forces, groups, or individuals for the
5 purposes of facilitating military operations by Special Operations Forces to combat terrorism.
6 Such support may include the provision of equipment, supplies, services, funding or other
7 logistical support.

8 (b) **LIMITATION ON SUPPORT.**—Funds may not be obligated in excess of \$25,000,000 in
9 Fiscal Year 2005 to carry out the activities described in this section.

10 (c) **ADDITIONAL AUTHORITY.**—The authority to provide support under this section is in
11 addition to any other authority to provide support to foreign forces, irregular forces, groups or
12 individuals.

13 (d) **INTELLIGENCE AND SPECIAL ACTIVITIES.**—This section does not constitute authority
14 to conduct any activity which, if carried out as an intelligence activity by the Department of
15 Defense, would require a notice to the Select Committee on Intelligence of the Senate and the
16 Permanent Select Committee on Intelligence of the House of Representatives under title V of the
17 National Security Act of 1947 (50 U.S.C. 413 et seq.). The Department of Defense will have the
18 concurrence of the Director of Central Intelligence prior to providing support to a foreign
19 intelligence or security service.

Section-by-Section Analysis

This section would allow the Department of Defense (DoD), with the concurrence of the Secretary of State and, as applicable, the Director of Central Intelligence, to provide support to foreign forces, irregular forces, groups, or individuals that will assist U.S. Special Operations Forces to combat terrorism. The authority is for Fiscal Year 2005 and the total value of support will not exceed \$25 million.

Under existing law, DoD lacks adequate authority to provide non-traditional, time-sensitive support to foreign forces, irregular forces, groups, or individuals assisting U.S. Special Operations Forces in approved U.S. military operations related to combating global terrorism. This provision would supply DoD with a needed tool to facilitate rapid, flexible military support necessary to gain cooperation, build infrastructure, and sustain foreign forces, irregular forces, groups, or individuals that act in concert with DoD in supporting and executing approved special operations related to prosecuting the global war on terrorism. Some support authorized by this section would be similar to foreign military assistance.

Support provided under this section could include all aspects of military operations, for example, operating and personnel costs, military equipment, supplies, services, and payments or other logistical support.

DoD intends to use this vital tool to facilitate approved current and future sensitive operational missions in the war on terrorism, address future threats posed by the proliferation of weapons of mass destruction to terrorists, and adjust to the changing nature of the threat against the U.S. While DoD has existing authority under which it may provide support to foreign forces assisting in U.S. efforts and operations to combat terrorism, under some circumstances, reliance on operational authorities complicates implementation needlessly and this type of clear authority will permit DoD to respond quickly and effectively.

Infrastructure development and support requirements for U.S. special operations tend to be numerous, but relatively small in terms of dollar value. While DoD has limited authority, in some circumstances, to provide support to foreign forces assisting in U.S. efforts and operations to combat terrorism, this section will permit DoD to provide such support in other situations as well, and to respond more quickly and effectively.