

How Can U.S. Congress Use Section 502B: A Four-Step Process

1 Congress Requests Report on Human Rights in Target Country

PATH A: Any member of Congress introduces a **simple resolution** requesting information about human rights conditions in a target country from the Secretary of State.

The simple resolution would be privileged in the Senate under the International Security Assistance and Arms Export Control Act of 1976, allowing any member of the Senate to discharge the resolution from committee after 10 days.

PATH B: The Senate Foreign Relations Committee or House Foreign Affairs Committee **requests by letter** "a statement... with respect to the country designated in such request."

In 1976, the chair of the House Foreign Affairs Committee invoked Section 502B(c) in a letter, indicating that the concurrence of both the chair and ranking member is not necessary.

2 Secretary of State Prepares Report on Human Rights in Target Country

The Secretary of State & Assistant Secretary of State for Democracy, Human Rights, and Labor prepare a report laying out:

- **all available information about human rights and fundamental freedom in the target country** and a description of the government's human rights practices;
- public or private steps the U.S. has taken to promote human rights in that country, call attention to and disassociate the U.S. and any security assistance provided for such country from human rights violations;
- whether, in the opinion of the Secretary of State, extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, if so, a description of such circumstances and the extent to which such assistance should be continued;
- **other information that the committee or chamber requests** through the processes described in Step 1.

3 Report Transmitted to Congress

PATH A- The Secretary of State **transmits their report** to the Senate Foreign Relations Committee and House Foreign Affairs Committee. Based on precedent, the report should be public.

PATH B- If a **report is not transmitted within 30 days** of a request, **no security assistance shall be delivered** to the target country (unless it is thereafter specifically authorized by law) until the report is transmitted.

4 Congress Introduces Joint Resolution of Disapproval

Any time after receiving a Section 502B(c) report, Congress may adopt a **joint resolution terminating, restricting, or continuing security assistance** for a country that was the subject of a Section 502B(c) report. The resolution would be privileged under section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, allowing any Senator to discharge the resolution from committee after 10 days.

What Else You Need to Know About Section 502B



Central Prohibition

Section 502B **prohibits providing security assistance to “any country the government of which engages in a consistent pattern of gross violation of internationally recognized human rights.”**

- The provision **defines gross violations of internationally recognized human rights** to include: torture or cruel, inhuman, or degrading treatment or punishment; prolonged detention without charges and trial; causing the disappearance of persons by the abduction and clandestine detention of those persons; and other flagrant denial of the right to life, liberty, or the security of person.
- Section 502B **defines security assistance** to include: military assistance, economic support funds, military education and training, or antiterrorism assistance; sales of defense articles or services; and licenses for defense articles or services or 600-series items on the Commerce Control List.

The Country Reports on Human Rights Practices

- Section 502B established the mandate for the annual Country Reports on Human Rights Practices, which began in 1977.
- Each year, the country reports describe gross violations of human rights in many countries. For some countries, the reports have described gross violations across many years, but security assistance has nevertheless continued, likely in violation of Section 502B.

Courts Leave Enforcement to Congress

Courts have declined to hear cases against the executive branch for violations of Section 502B's central prohibition, so it is up to Congress to enforce the law through legislation.

- In Crockett v. Reagan (1982), the D.C. District Court granted the Reagan administration's motion to dismiss a Section 502B lawsuit by members of Congress under the equitable discretion doctrine. The court described the doctrine as follows: “Where a congressional plaintiff could obtain substantial relief from his fellow legislators through the enactment, repeal, or amendment of a statute, this court should exercise its equitable discretion to dismiss the legislator's action.” The D.C. Court of Appeals affirmed the ruling in 1983.
- In Clark v. United States (1985), the Maryland District Court concluded that taxpayers who sued the Reagan administration for allegedly violation of Section 502B did not have standing because they did not suffer any actual or threatened injury as a result of the government's conduct.

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