

Administration of Barack Obama, 2011

Statement on Signing the Department of Defense and Full-Year Continuing Appropriations Act, 2011

April 15, 2011

Today I have signed into law H.R. 1473, the "Department of Defense and Full-Year Continuing Appropriations Act, 2011".

Section 1112 of the Act bars the use of funds for the remainder of fiscal year 2011 to transfer Guantanamo detainees into the United States, and section 1113 bars the use of funds for the remainder of fiscal year 2011 to transfer detainees to the custody or effective control of foreign countries unless specified conditions are met. Section 1112 represents the continuation of a dangerous and unprecedented challenge to critical executive branch authority to determine when and where to prosecute Guantanamo detainees, based on the facts and the circumstances of each case and our national security interests. The prosecution of terrorists in Federal court is a powerful tool in our efforts to protect the Nation and must be among the options available to us. Any attempt to deprive the executive branch of that tool undermines our Nation's counterterrorism efforts and has the potential to harm our national security.

With respect to section 1113 of the Act, the restrictions on the transfer of detainees to the custody or effective control of foreign countries interfere with the authority of the executive branch to make important and consequential foreign policy and national security determinations regarding whether and under what circumstances such transfers should occur in the context of an ongoing armed conflict. We must have the ability to act swiftly and to have broad flexibility in conducting our negotiations with foreign countries. The executive branch has sought and obtained from countries that are prospective recipients of Guantanamo detainees assurances that they will take or have taken measures reasonably designed to be effective in preventing, or ensuring against, returned detainees taking action to threaten the United States or engage in terrorist activities. Consistent with existing statutes, the executive branch has kept the Congress informed about these assurances and notified the Congress prior to transfers. Requiring the executive branch to certify to additional conditions would hinder the conduct of delicate negotiations with foreign countries and therefore the effort to conclude detainee transfers in accord with our national security.

Despite my continued strong objection to these provisions, I have signed this Act because of the importance of avoiding a lapse in appropriations for the Federal Government, including our military activities, for the remainder of fiscal year 2011.

Nevertheless, my Administration will work with the Congress to seek repeal of these restrictions, will seek to mitigate their effects, and will oppose any attempt to extend or expand them in the future.

Section 2262 of the Act would prohibit the use of funds for several positions that involve providing advice directly to the President. The President has well-established authority to supervise and oversee the executive branch, and to obtain advice in furtherance of this supervisory authority. The President also has the prerogative to obtain advice that will assist him in carrying out his constitutional responsibilities, and do so not only from executive branch officials and employees outside the White House, but also from advisers within it.

Legislative efforts that significantly impede the President's ability to exercise his supervisory and coordinating authorities or to obtain the views of the appropriate senior advisers violate the separation of powers by undermining the President's ability to exercise his constitutional responsibilities and take care that the laws be faithfully executed. Therefore, the executive branch will construe section 2262 not to abrogate these Presidential prerogatives.

BARACK OBAMA

The White House,
April 15, 2011.

NOTE: H.R. 1473, approved April 15, was assigned Public Law No. 112–10.

Categories: Bill Signings and Vetoes : Department of Defense and Full-Year Continuing Appropriations Act, 2011, statement

Subjects: Budget, Federal : Appropriations :: Continuation; Budget, Federal : Appropriations :: Defense, Department of; Cuba : Guantanamo Bay, U.S. Naval Base :: Detention of alleged terrorists; Legislation, enacted : Department of Defense and Full-Year Continuing Appropriations Act, 2011; Presidency, U.S. : Constitutional role and powers; Terrorism : Counterterrorism efforts; Terrorism : Review and disposition of detainees at Guantanamo Bay; Terrorism : Terrorists :: Detention policies and standards, reform; Terrorism : Terrorists :: Prosecution; Terrorism : Transfer of detainees at Guantanamo Bay.

DCPD Number: DCPD201100263.