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Summary and Highlights: The Department of State, Foreign Operations, and Related Programs House Appropriations Bill, FY13

Executive Summary

- **The House bill's total budget for foreign assistance is $40.1 billion, which is $2 billion or 5 percent below last year's level or 14 percent below the fiscal year 2013 request from the administration.**
- **The bill does not fully fund the $770 million Middle East and North Africa Incentive Fund requested by the administration.** The Appropriations Committee instead allocates $200 million for a Middle East Response fund which includes $175 million for economic assistance and $25 million for military assistance. Of these amounts, $70 million is designated for the Middle East Partnership Initiative, $5 million for USAID's Office of Middle East Programs (OMEP), and $50 million for additional ESF to Jordan. This would leave $50 million in non-earmarked funds to respond to developments in the Middle East.
- **The bill places new conditions on direct Government-to-Government economic assistance, allowing such aid only "if such government is sincere in the pursuit of democracy."** A country's sincerity is to be measured by its performance on the indicators in the Millennium Challenge Corporation's ''Ruling Justly'' category.
- **The bill prohibits direct Government-to-Government economic assistance "if such government is actively and significantly interfering with the operation of civil society organizations."** The civil society clause effectively conditions Egypt's ESF on ending its campaign against international and domestic civil society organizations.
- **Conditions on Egypt's military assistance are strengthened.** The national security waiver on Egypt's FMF is only applicable to Egypt's commitment to democratic processes and freedoms, and cannot be applied if the Government of Egypt fails to meet its obligations under the 1979 Egypt-Israel Peace Treaty. Additionally, a new provision requires the administration to consult with Congress prior to issuing a national security waiver if they elect to issue a waiver in FY13 as they did in the previous fiscal year.

Introduction

On Thursday, the House Appropriations Committee approved the fiscal year 2013 State and Foreign Operations Appropriations bill. According to a committee press release, the bill totals $40.1 billion in regular discretionary funding, which is $2 billion or 5 percent below last year's level or 14 percent below the fiscal year 2013 request from the administration.

Appropriations Chairman **Hal Rogers** (R-KY) said, "The legislation makes sound investments across the globe – providing for critical national security and diplomatic efforts that promote democracy, encourage international development, provide humanitarian assistance, and help fight drug-trafficking and violent crime. But the bill also slices spending in many areas to more responsible and common-sense levels to help meet the very real and dangerous economic challenges we face here at home."

At the markup hearing in the State and Foreign Operations Appropriations Subcommittee, Chairwoman **Kay Granger** (R-TX) said in her opening statement, "Since the start of the Arab uprising we have been constantly watching the situation throughout the Middle East […] **While we are not providing the Administration with a new $770 million account as they requested, we are providing some flexibility to respond to the rapid change we have witnessed, but in ways that keep the Congress directly involved in the oversight of the funds."** This is reflected in a $200 million allocation for "Middle East Response," as noted in the committee report, which includes $175 million for economic assistance and $25 million for military assistance. Of these amounts, $70 million is designated for the Middle East Partnership Initiative, $5 million for USAID's Office of Middle East Programs (OMEP), and $50 million for additional ESF to Jordan. **This would leave $50 million in non-earmarked funds to respond to developments in the Middle East.** Under the $25 million in FMF under this heading, the committee report specifies it "supports making additional funds available" for Tunisia, Morocco, and Oman "from funds described under Middle East Response under this heading."

> In February, Deputy Secretary of State **Tom Nides** announced the Middle East and North Africa Incentive Fund**: "The notion is we're in a new world. The Arab Spring has come; we need to make sure we have the tools and the flexibility in which to fund these initiatives.** I cannot tell you today where that money will be spent because we'll be, obviously, in consultation with the Hill. We'll be coming up with initiatives that we'll then be discussing with the Hill. But this is something we coordinated and talked a lot about with our friends on the Hill, the idea is to have some flexibility to support everything from Tunisia, to support areas like potentially in Egypt and in areas where things are changing every

> day in Syria, things where changing, the world is evolving as we see it, and we felt it was important to have a pool of money."

In response to the argument that the administration still has flexibility to respond to events through existing ESF funds, POMED’s Executive Director **Steve McInerney** said, “The administration won't be able to use that flexibility without significant cuts to existing programs. Without some support from Congress, it's really tough to get it off the ground."

In the Senate, the spokesman for State and Foreign Operations subcommittee chairman Sen. **Patrick Leahy** (D-VT), said, "Sen. Leahy does intend to include some amount for the fund, for the reasons the administration requested it -- to provide flexibility to respond to changing events in the ME and NA regions." Senate Foreign Relations Committee chairman **John Kerry** (D-MA) also supports the Fund: **"This is something that's been percolating a long time on the Hill and in the administration and it's really a no-brainer.** We're witnessing a period of historic change in the Middle East, and it's impossible to predict what will happen next month, let alone next year, which is why the State Department should have the flexibility to deal with unforeseen contingencies. Positive incentives for economic and democratic reforms also make sense. **American assistance in itself may not convince governments that are resisting reform to change, but in places that have already begun to chart a new course, like Tunisia, Egypt, and Libya, it can help empower moderates and reformers."**

Click for a summary of the legislation, full text, and accompanying committee report. Below we have tried to identify all sections of the bill directly related to U.S. engagement with the Middle East and North Africa and issues of democracy and human rights in the MENA region, accompanied by relevant quotes from Congressional hearings as well as background information and context.

Title I – Department of State and Related Agency Department of State

Contributions to International Organizations

The bill includes $1.31 billion for membership in international multilateral organizations, a reduction of 9.7 percent from the FY12-enacted level of $1.45 billion.

International Peacekeeping Activities

The bill includes $1.8 billion for international peacekeeping activities maintenance or restoration of international peace and security, a renewal of the FY12-enacted funding level. Of the current UN peacekeeping operations in the region, the final spending level determined would potentially affect funding to: the United Nations Mission for the Referendum in Western Sahara

(MINURSO), the United Nations Disengagement Observer Force (UNDOF) in the Golan Heights in Syria, the United Nations Interim Force in Lebanon (UNIFIL), United Nations Mission in the Sudan (UNMIS), and the United Nations Truce Supervision Organization (UNTSO) in the Middle East.

Broadcasting Board of Governors' International Broadcasting Operations

The bill includes $740 million for the Broadcasting Board of Governors (BBG), "to carry out international communication activities, and to make and supervise grants for radio and television broadcasting to the Middle East." This figure represents a renewal of the FY12-enacted level.

United States Institute of Peace, National Endowment for Democracy, and the United States Commission on International Religious Freedom

The bill includes $37.4 million for the United States Institute of Peace, which represents a 22 percent increase from the FY12-enacted level and is the same as the administration's request. The bill includes $122 million for the National Endowment for Democracy, which a four percent increase from the FY12-enacted level and 15 percent above the administration's request. Of the $122 million, $104 million is allocated for the core institutes of the National Democratic Institute, International Republican Institute, Center for International Private Enterprise, and the Solidarity Center, and $18.76 million is designated for "democracy, human rights, and rule of law programs." The bill also includes $3 million for the United States Commission on International Religious Freedom, the same level as FY12 and 14 percent below the administration's request. As noted in the committee report, the USCIRF "conducts independent reviews, reports on facts and circumstances of violations of religious freedom abroad, and recommends options for United States policies with respect to foreign countries engaging in or tolerating violations of religious freedom."

Title II – United States Agency for International Development

The bill allocates $1.02 billion for operating expenses of the United States Agency for International Development (USAID), representing a 7 percent decrease the FY12-enacted level. These funds are the costs of administration and operation for USAID, separate from the foreign assistance funds programmed by the agency.

Title III – Bilateral Economic Assistance

The bill designate approximately $50 million to "Transition Initiatives," managed by the USAID Office of Transition Initiatives (OTI), which is described as aiming "to support transition to democracy and to long-term development of countries in crisis […] such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict." This allocation represents a renewal of the FY12 level. Notably, the bill does not include any designation for the "complex crises fund" which as funded at $10 million in FY12 "to support programs and activities to prevent or respond to emerging or unforeseen complex crises overseas," despite a $50 million request for the fund from the administration.

The bill allocates $2.91 billion in Economic Support Funds (ESF), which is a 2.3 percent reduction from FY12 levels and 40 percent below the administration's request. These funds capture the majority of United States bilateral assistance to countries in the region, and the policy language on those budget outlays articulates restrictions to receiving such assistance.[1]

Egypt[2]

The bill includes $250 million for economic assistance for Egypt, including $35 million for education programs.

Jordan

The bill allocates $360 million in ESF for assistance to Jordan, as expected according to the current multi-year Memorandum of Understanding (MOU) governing U.S. assistance to Jordan. In the subcommittee mark-up of the bill, the subcommittee voted to earmark an additional $50 million for Jordan from the "Middle East Response" fund, described below. Subcommittee Chairwoman **Kay Granger** (R-TX) stated in her opening statement in that markup, **"We direct the State Department to provide an additional $50 million to help Jordan as they face ongoing unrest in the region.** Jordan is a critical partner in the war on terrorism and time and again, Jordan proves to be a regional leader by bringing the Israelis and Palestinians back to the negotiating table. I applaud King Abdullah for his leadership, for making political reforms in Jordan, and his commitment to peace in the Middle East."

Tunisia

The committee report **"notes the positive steps taken in Tunisia toward a peaceful democratic transition" and includes $10 million under this heading.**

Middle East Response, Middle East Partnership Initiative (MEPI)

From the committee report:

[1] Additional ESF line items and policy language are discussed in Title VII, below.
[2] Additional ESF line items and policy language on Egypt are discussed in Title VII, below.

> **The Committee recommendation does not include the Middle East and North Africa Incentive Fund as requested, but provides $175,000,000 under this heading and $25,000,000 under Foreign Military Financing to promote regional peace and security, political and economic reform, and stabilization efforts in the Middle East and North Africa. Of these funds, the Committee directs $70,000,000 for the Middle East Partnership Initiative (MEPI), $5,000,000 for USAID's Office of Middle East Partnerships[3], and not less than $50,000,000 for Jordan.**

Syria

The committee report notes, **the "Committee is troubled by the ongoing violence in Syria and notes that funds under this heading should continue to be made available to assist the Syrian people," subject to notification procedures.** It also notes "[r]ecent events in the Middle East, from the Arab Spring and unrest in Syria to the continued transition in Iraq, have intensified the challenges facing minority communities, including Armenian and other Christian populations, within these areas of conflict, instability, and transition. The Committee urges the Secretary of State to continue support of humanitarian and resettlement assistance for members of these vulnerable communities." Finally, under the heading Syrian Refugees: "[a]s the situation in Syria deteriorates, the Committee urges the Department of State to work with neighboring countries to keep borders open to those fleeing violence and to provide access to schools and medical facilities."

Democracy Fund

The bill allocates $119.77 million to the President's Democracy Fund, which is a 4 percent increase above the FY12-enacted level of $114.77 million. These are funds used to support democracy and governance programs worldwide, and they are divided between the State Department's Bureau of Democracy, Human Rights, and Labor (DRL) and the USAID Office of Democracy, Conflict, and Humanitarian Assistance. The bill allocates democracy assistance funding between DRL at $70.5 million and USAID at $49.27 million.

Millennium Challenge Corporation

The bill designates $898.2 million for the Millennium Challenge Corporation (MCC), a renewal of the FY12-enacted level. In a recent signing ceremony with the Tunisian Ambassador to the

[3] As written in the committee report. This is likely referring to the USAID Office of Middle East Programs (OMEP)

United States **Mohamed Salah Tekaya**, Secretary **Hillary Clinton** noted, "last fall, Tunisia became eligible for the Millennium Challenge Corporation's Threshold Program, which will support sustained, broad-based economic growth throughout the country" Furthermore, the MCC signed a five-year, $275.1 million compact with Jordan in October 2010 and signed a five-year, $697.5 million compact with the Kingdom of Morocco in August 2007.

Libya

The committee report "directs the Secretary of the Treasury, in consultation with the Secretary of State, to report to the Committees on Appropriations on the amount of Qaddafi family assets that remain blocked by the United States Government pursuant to Executive Order 13566."

Title IV – International Security Assistance

Foreign Military Financing (FMF) is defined by the Defense Security Cooperation Agency (DSCA) as:

> "the U.S. government program for financing through grants or loans the acquisition of U.S. military articles, services, and training, [which] supports U.S. regional stability goals and enables friends and allies to improve their defense capabilities [...] FMF helps countries meet their legitimate defense needs, promotes U.S. national security interests by strengthening coalitions with friends and allies, cements cooperative bilateral military relationships, and enhances interoperability with U.S. forces."

Bahrain

The committee report "notes the importance of Bahrain to the United States regional security strategy. **The Committee expects the Secretary of State to report to the Committees on Appropriations, not less than 60 days after enactment of this Act, on the steps taken by the Government of Bahrain to protect freedom of expression and association, and due process of law."**

Egypt[4]

The bill includes $1.3 billion for Foreign Military Financing (FMF) for Egypt. As noted in the committee report, the "Committee recognizes that continued military-to-military cooperation between the United States and Egypt is critical during this period of transition. The Committee notes, however, that **changes within Egypt over the last year necessitate additional oversight**

[4] Additional FMF line items and policy language are discussed in Title VII, below.

of these funds by the Congress. Additional clauses on Egypt's assistance are described in title VII, below.

Jordan

The bill authorizes $300 million in FMF for Jordan, without any restrictions.

Libya[5]

The committee report requires "certain conditions be met prior to the obligation of funds for Libya," subject to notification.

Morocco

The committee report allocates $8 million in FMF for Morocco, which is the same as the administration's request. Additionally, "the Committee supports making additional funds available for Morocco from funds described under Middle East Response under this heading," subject to notification.

Oman

The committee report allocates $8 million in FMF for Oman, which is the same as the administration's request. Additionally, "the Committee supports making additional funds available for Oman from funds described under Middle East Response under this heading," subject to notification.

Tunisia

The committee report allocates $15 million in FMF for Tunisia, which is the same as the administration's request. Additionally, "the Committee supports making additional funds available for Tunisia from funds described under Middle East Response under this heading," subject to notification.

Yemen[6]

The committee report requires "certain conditions be met prior to the obligation of assistance to Yemen," subject to notification.

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[5] Additional FMF line items and policy language are discussed in Title VII, below.
[6] Additional FMF line items and policy language are discussed in Title VII, below.

Middle East Response

As noted in Title IV, the committee report allocates $25 million "to promote regional peace and security, as well as stabilization efforts, in the Middle East and North Africa." As noted above, the committee specifies support for additional funds to Morocco, Oman, and Tunisia from this $25 million allocation.

Title V – Multilateral Assistance

No relevant sections.

Title VI – Export and Investment Assistance

The bill includes $38 million "for the cost of direct loans, loan guarantees, insurance, and tied-aid grants" for the Export-Import Bank of the United States, which is 35 percent reduction of the FY12-enacted level and the same as the administration's request. The Export-Import Bank is a key component of the "Egypt: Forward" program, which serves "as an immediate response to support economic growth and stability in Egypt as it undergoes an historic transition."

The bill designates $25 million for the subsidy appropriation for the direct and guaranteed loan credit programs of the Overseas Private Investment Corporation (OPIC), a renewal of the FY12-enacted level. Immediately after President **Barack Obama**'s May 19, 2011 speech on the region, the administration announced, "**OPIC will provide up to $2 billion in financial support to encourage private sector investments in the Middle East and North Africa**, building partnerships between U.S. and Arab businesses to promote growth, and regional job creation. OPIC will prioritize small and medium-sized enterprises and is prepared to grant proposed projects "fast track" approval status (provided due diligence requirements are met) to mobilize capital quickly."

Title VII – General Provisions

The bill prohibits any ESF or FMF funding "to finance directly any assistance or reparations for the governments of Cuba, North Korea, Iran, or Syria." **As written, this language could be interpreted to restrict funding to the government of Syria, even if that government was one that emerged during FY2013 to replace the regime of the President of Syria Bashar al-Assad, and in that case could be interpreted to contradict support for economic assistance to the Syrian people under Title III.**

Limitation on Direct Government-to-Government Assistance

The bill prohibits any foreign assistance "used for direct Government-to-Government assistance unless the Secretary of State certifies to the Committees on Appropriations that—

1. The Government of the United States and the government of the recipient country have agreed, in writing—
   a. that the government of the recipient country will publicly disclose on an annual basis its national budget, to include income and expenditures.
2. The recipient country has demonstrated a commitment to democracy and democratic principles.
3. The recipient agency or ministry is not headed or controlled by an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

The bill also designates $5 million of ESF "to assist the central governments of countries named in the list required by paragraph (1) to improve budget transparency or to support civil society organizations in such countries that promote budget transparency."

<u>Promotion of Democracy</u>

The bill designates a new allocation of $2.8 million for "promotion of democracy," defined as "programs that support good governance, human rights, independent media, and the rule of law, and otherwise strengthen the capacity of democratic political parties, governments, nongovernmental organizations and institutions, and citizens to support the development of democratic states, institutions, and practices that are responsive and accountable to citizens." **The bill also renews the clause that "[w]ith respect to the provision of assistance for democracy, human rights and governance activities in this Act, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the government of any foreign country."** In addition, the bill adds significant new clauses, including:

> (5) With respect to the provision of assistance to build institutional capacity of a government, **assistance should only be available if such government is sincere in the pursuit of democracy.**
> (6) Funds appropriated by this Act that are made available to promote democracy and human rights shall also be made available to support freedom of religion, especially in the Middle East and North Africa.
> **(b) None of the funds appropriated or otherwise made available by title III of this Act may be obligated for direct Government-to-Government assistance if such government is**

actively and significantly interfering with the operation of civil society organizations.

As noted in the committee report: "[i]n subsection (a), **the Committee intends for the Department of State to determine a country's sincerity by its performance on the indicators in the Millennium Challenge Corporation's ''Ruling Justly'' category, and expects that a country receiving direct Government-to-Government assistance should show a positive trend of improvement on the overall Ruling Justly category over the past three years."**

Subsection (b) applies to title III, which includes $250 million for Egypt's economic assistance, and therefore **can be read as conditions on Egypt's ESF to end its campaign against international and domestic civil society organizations.**

Palestinian Statehood

The bill prohibits ESF funding to support the Palestinian Authority "if the Palestinians obtain, after the date of enactment of this Act, the same standing as member states or full membership as a state in the United Nations or any specialized agency thereof outside an agreement negotiated between Israel and the Palestinians, though contains a waiver on these provisions if the President certifies that "the Palestinians have entered into direct and meaningful negotiations with Israel."

Egypt

The bill includes $250 million in ESF and $1.3 billion in FMF for assistance to Egypt. The House bill restricts this assistance on a certification by the Secretary of State that the Government of Egypt is: meeting its obligations under the 1979 Egypt-Israel Peace Treaty. In addition, the Secretary of State must certify the Government of Egypt:

> (i) has completed the transition to civilian government, including holding free and fair elections; and
> ii. is implementing policies to protect freedom of expression, association, and religion, and due process of law.
>
> (C) The Secretary of State may waive the requirements of paragraph (B) if the Secretary determines and reports to the Committees on Appropriations that to do so is in the national security interest of the United States: Provided, That such determination and report shall include a detailed justification for such waiver: Provided further, That the Secretary of State shall

consult with the Committees on Appropriations prior to waiving
such requirements.

These conditions are almost identical to last year's conditions, though before the Secretary of State could use the national security waiver on Egypt meeting its international obligations under the 1979 Egypt-Israel Peace Treaty and completing the democratic transition with free and fair elections and protecting basic freedoms. **In this year's bill, the national security waiver is only applicable to Egypt's commitment to democratic processes and freedoms, and cannot be applied if the Government of Egypt fails to uphold the peace treaty.**

One small but additional addition is "Provided further, That the Secretary of State shall consult with the Committees on Appropriations prior to waiving such requirements." **This provision requires the administration to consult with Congress prior to issuing a national security waiver if they elect to issue a waiver in FY13 as they did in the previous fiscal year.**

<u>Lebanon</u>

The House bill restricts all security assistance to Lebanon on a certification by the Secretary of State that "the Lebanese Armed Forces (LAF) is not headed, controlled by, or closely collaborating with Hezbollah or any other foreign terrorist organization," a renewal of the conditions on Lebanon's FMF from the FY12 appropriations act.

<u>Libya</u>

The bill restricts any assistance to Libya on a certification by the Secretary of State that: "(A) that such funds shall only be made available to support programs that promote democracy, transparent and accountable governance, human rights, transitional justice, and the rule of law; (B) that such funds shall be made available, to the maximum extent practicable, on a cost-matching basis

<u>Yemen</u>

The bill restricts any assistance to Yemen on a certification by the Secretary of State that: "the Armed Forces of Yemen— (1) are not controlled by a foreign terrorist organization, as defined by section 219 of the Immigration and Nationality Act; and (2) are cooperating with the United States on counterterrorism efforts against Al Qaeda and other terrorist organizations.

<u>United Nations Human Rights Council</u>

The House bill prohibits any funding "in support of the United Nations Human Rights Council unless the Secretary of State determines and reports to the Committees on

Appropriations that participation in the Council is in the national security interest of the United States and that the Council is taking steps to remove Israel as a permanent agenda item." As noted in the committee report, the appropriations committee "also notes with disappointment the ascension to the UNHRC of countries with poor human rights records."

A fact sheet released by the U.S. State Department last year on "Key U.S. Accomplishments at the UN Human Rights Council 18th Session" touted: "**U.S. engagement thus far has resulted in significant improvements to the Human Rights Council as a multilateral forum for promoting and protecting human rights**." The fact sheet notes U.S. success in suspending Libya from the Human Rights Council; the U.S. delegation subsequently blocked the candidacy of Syria to fill the seat vacated by Libya on the council. On Syria, the U.S. pointed to the "prompt formation of the Commission of Inquiry mandated at the August 2011 Special Session on Syria" as a major success of the body. And on Yemen, the "United States worked with delegations from Yemen and the Netherlands, as well as others on a consensus resolution that calls for a rapid political transition and transfer of power, as outlined in the plan drawn up by the Gulf Cooperation Council."

Reconciliation & Women in Development

The House bill allocates $26 million for people-to-people reconciliation programs which bring together individuals of different ethnic, religious and political backgrounds from areas of civil strife and war, of which $10 million is designated for such programs in the Middle East. The bill also allocates $20 million "for programs to improve women's leadership capacity in recipient countries." The committee report notes that "empowering women to be leaders in their communities has transformative economic and social benefits."

Title VIII – Global War on Terrorism, Department of State

The House bill designates additional funding: $101 million for contributions to international organizations, $6.5 million for transition initiatives, $258 million for USAID operating expenses, approximately $2.2 billion for ESF, and $1.1 billion for FMF "designated as being for the global war on terrorism pursuant to section 301 of H.Con.Res.34 (112^{th} Congress)."

The committee report describes this additional funding as "support for contingency operations in Afghanistan, Pakistan, and Iraq" as the main theaters in the global war on terrorism. For example, this includes "funds to strengthen democracy and civil society, build government capacity, and expand anti-corruption efforts" in Iraq as well as continuing "efforts to encourage the incorporation of women in stabilizing Iraq and creating its government institutions."