

Supplemental Funding for Ukraine: Department of State, Foreign Operations, and Related Programs (SFOPS)

March 8, 2022

The Administration's Request for Emergency Supplemental Funding

On March 2, 2022, the Biden Administration submitted to Congress [a request for \\$5 billion in emergency supplemental funding](#) for Department of State, Foreign Operations, and Related Programs (SFOPS) appropriations accounts to address the [crisis](#) caused by [Russia's invasion of Ukraine](#). Such funds were requested as part of a broader package that would provide a total of \$10 billion for Ukraine and \$22.5 billion for response activities related to the Coronavirus Disease 2019 (COVID-19) pandemic. (The remaining \$5 billion for Ukraine would be for the Departments of Defense [\$4.8 billion], Commerce [\$21 million], Energy [\$39 million], Justice [\$59 million], and Treasury [\$91 million].)

The \$5 billion for SFOPS would be divided among four appropriations accounts to “bolster U.S. security and economic assistance to Ukraine as well as regional allies and partners” and “support lifesaving humanitarian assistance, including emergency food assistance, and additional support for vulnerable populations and communities,” according to the request. Proposed funding includes

- \$500 million in military assistance from the Foreign Military Financing account;
- \$1.75 billion for economic assistance from the Economic Support Fund account, with transfers authorized to the Transition Initiatives (TI), International Narcotics Control and Law Enforcement (INCLE), and Nonproliferation, Anti-terrorism, Demining, and Related Programs (NADR) accounts, and to State Department and U.S. Agency for International Development operational accounts to support diplomatic efforts, necessary evacuations of personnel and other “at risk” persons, and consular activities; and
- \$2.75 billion for humanitarian assistance, of which \$2 billion would be for the International Disaster Assistance account and \$750 million would be for the Migration and Refugee Assistance account.

The Administration also has proposed increased flexibility for SFOPS funding through changes to existing authorities, new transfer authorities to move funds between SFOPS accounts, and the authority to

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reprogram (i.e., to move funds within an account) both FY2022 and prior-year funds. The Administration asserts in the request that these changes would afford it “maximum flexibility in supporting Ukraine, our European allies and partners, and other emergent global needs.” Specific proposals include the following:

- **Amending Section 506(a)(1) the Foreign Assistance Act of 1961 (FAA, P.L. 87-195).** Section 506(a)(1) states that the President may direct the drawdown of up to \$100 million in defense articles if he determines and reports to Congress that “(A) an unforeseen emergency exists which requires the immediate military assistance to a foreign country or international organization; and (B) the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law.” Congress increased the drawdown maximum to \$200 million in the second continuing resolution (CR) for FY2022 (P.L. 117-70) and further adjusted it to \$300 million in the most recent CR (P.L. 117-86, in effect through March 11). The Administration proposes raising the drawdown maximum by \$1.2 billion.
- **Amending Section 614 of the FAA.** Section 614 authorizes the President to provide FAA and Arms Export Control Act (AECA) assistance if he notifies and justifies to Congress that to do so is in the U.S. national security interest. This authority is not to exceed \$750 million in AECA sales, \$250 million in FAA or AECA assistance, and more than \$100 million of foreign currencies accrued under FAA or any other law. The Administration proposes increasing the authority in Section 614 by \$250 million but does not specify in the request how the increase would apply to the various categories of assistance listed in the section (e.g., AECA sales versus FAA or AECA assistance).
- **Amending Sections 516(f) and 516(g)(1) of the FAA.** Section 516(f) directs that the President must wait 30 days between the date on which he notifies Congress of a transfer of excess defense articles (EDA) valued at \$7 million or more and the transfer itself. Section 516(g)(1) states that the value of EDA transfers may not exceed \$500 million in any fiscal year. While the Administration does not cite such sections specifically in its request, it proposes waiving both the notification requirement and the \$500 million limit on the provision of EDA.
- **Reprogramming regardless of Appropriations Directives.** Annual SFOPS appropriations laws include numerous provisions that direct certain funds to specific priorities, whether related to sectors, countries, or regions. The Administration requests the authority to “reprogram FY2022 and prior-year funds for Ukraine regardless of existing appropriations directives,” which could potentially reduce or eliminate funding to unspecified programs and activities for which Congress has already appropriated funds.

Outlook

While some news organizations have [reported bipartisan congressional support](#) for emergency supplemental funding for Ukraine, there appears to be disagreement over how such funds should be allocated. [Some Members](#) have advocated for more funding for defense purposes, while others have recommended a greater emphasis on humanitarian and economic assistance for Ukrainians in need. It also remains unclear whether Congress will incorporate emergency funds into a full-year appropriations measure for FY2022 (anticipated by March 11, when the current CR expires) or pursue a stand-alone emergency supplemental measure. The requested additional funds to combat COVID-19 may also affect the way in which Congress approaches emergency funding for Ukraine; some lawmakers [have questioned the need and requested further justification for new COVID-19-related funding](#).

Whether or not lawmakers accept the Administration's proposed changes to authorities and requested new transfer and reprogramming authorities remains to be seen. A key consideration for Congress is how much funding and decisionmaking flexibility to grant the executive branch. Congress may choose to enact supplemental funding but not any of the requested authorities, requiring the Administration to follow all existing requirements on such funds. Congress also may choose to grant certain authorities on a time-limited basis, such that they apply only to the funds enacted in the supplemental package. This approach would grant executive agencies some additional flexibilities to address this crisis—and potentially set precedent for future such emergencies—but not change statute in the long term. Finally, Congress may accept the proposed changes in full and without a time limitation, with potentially broader implications for the allocation and congressional oversight of assistance for years to come.

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