



# The Pakistan Aid Dilemma

## Historical Efforts at Conditionality and Current Disputes Converge in the U.S. Congress

Colin Cookman and Bill French

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### Introduction

After a year of successive blows to the U.S.-Pakistan relationship and growing mutual mistrust, the prospect of continued American military and economic aid to Pakistan in the coming fiscal year is now increasingly contentious. This month Congress is considering how much money to provide to Pakistan as well as what kind of strings to attach for fiscal year 2012, which began in October but is now being funded by Congress on a month-by-month basis. Informing the debate over record-level aid to Pakistan are disputes between Washington and Islamabad over the transition and reconciliation processes in Afghanistan, the discovery of Osama bin Laden's presence in Pakistan and Pakistan's anger over multiple unilateral actions on its territory, and a renewed American domestic political focus on cutting government spending costs at home.

This sort of controversy is by no means new. American aid to Pakistan has gone through a series of peaks and valleys over the past 30 years as American strategic priorities shifted from nuclear counterproliferation (beginning in 1979) to cooperation against the Soviet Union (1980 to 1989) to concern over military rule (1999 to 2008) to counterterrorism and the conflict in Afghanistan (2001 onwards). Along the way a variety of laws and amendments to those laws have dictated how Congress and the executive branch dealt with this aid: sometimes boosting it, often cutting it, occasionally ending it only to kick-start it again as foreign policy priorities swiftly shifted in the region.

This issue brief offers a history of U.S. assistance to Pakistan, with a particular focus on the legislation in Congress that supported and in some cases forced these shifts to occur. As we detail, the provision or restriction of aid itself has historically resulted in only limited success in aligning U.S. and Pakistani strategic priorities over time. The inconsistent application of conditions on U.S. assistance to Pakistan produced mistrust on both sides despite the high level of American aid overall over the past three decades. Add

to this U.S. and Pakistani support for opposing sides in the Afghanistan conflict, which has raised tensions considerably over the past two years, and there now is the increased chance of a total breakdown in the relationship.

This breakdown is possible despite continuing cooperation on counterterrorism and a mutual interest in preserving the stability and integrity of the nuclear-armed Pakistani state. Amid the latest tensions and the increasing risk of escalating conflict over divergent views about the future of Afghanistan in Washington and Islamabad, the United States maintains an interest in engagement with Pakistan, and must be careful in considering how it structures and enforces new promises of assistance or threats of a cutoff.

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## Cold War era of cooperation and concern

In April 1979, upon confirmation by the Central Intelligence Agency of the existence of Pakistan's nuclear enrichment program, President Jimmy Carter terminated U.S. economic and military assistance to Pakistan, which at the time totaled \$85 million (approximately \$250 million in current dollars) and was weighted principally toward economic aid. President Carter's move was pursuant to the 1976 Symington amendment to the Arms Export Control Act (Public Law 90-629, Section 101), which banned U.S. economic and military assistance to any state engaging in certain nuclear-enrichment activities.

President Carter's suspension of aid was not strictly mandatory. The law included a "necessity of continued assistance" clause that allowed the president to continue aid if its cessation "would have serious adverse effects" on U.S. national security and if "reliable assurances" had been received that the state in question "will not acquire or develop nuclear weapons," or help others to do so.

Less than a year later, after the Soviet Union's invasion of Afghanistan brought U.S. and Pakistani strategic concerns closer in alignment, President Carter exercised that clause. A \$400 million assistance package (more than \$1 billion in current dollars) was initially offered to Pakistan to help counter Soviet influence and fund Afghan guerrilla forces, but was rejected by Islamabad as insufficient. Pakistan President Muhammad Zia ul-Haq characterized the offer as "peanuts," adding that "Pakistan will not buy its security with \$400 million." Zia calculated that the U.S. interests at stake were of greater value, and in 1981 incoming President Ronald Reagan rewarded that calculation with a six-year, \$3.2 billion aid package (approximately \$7.6 billion in current dollars) split evenly between military and economic assistance. By the end of the decade, Pakistan had received over \$5 billion (in current dollars) of assistance from the United States under Presidents Reagan and George H.W. Bush.

Yet the surge of aid to Pakistan as it partnered with the United States in support of the rebels in Afghanistan did not entirely ameliorate American concerns over Pakistan's

ongoing nuclear program. A 1985 amendment sponsored by Sen. Larry Pressler (R-SD) to the Foreign Assistance Act (Public Law 87-195, Section 620) conditioned both military and economic assistance on an annual presidential certification that “Pakistan does not possess a nuclear explosive device” and required that any proposed assistance “will reduce significantly the risk” that Pakistan will develop a nuclear weapon. Despite multiple warnings from U.S. diplomats of the consequences for ongoing aid, Pakistan continued with its weapons programs. In the wake of the 1990 Soviet withdrawal from Afghanistan and increasingly clear evidence of continued Pakistani nuclear weapons efforts, President George H.W. Bush withheld his certification and allowed the Pressler ban to engage, effectively terminating U.S. assistance to Pakistan.

As a result \$570 million (roughly \$900 million in current dollars) in aid authorized for FY 1991 was halted, along with the delivery of 28 F-16 Falcon fighter jets for which Pakistan had already paid. Those jets were eventually resold to New Zealand. Pakistan would subsequently be repaid over \$460 million for the cost of those fighters and their maintenance in a 1998 deal, but Pakistani political leaders and security analysts routinely cite the Pressler amendment cut-off as a nadir in the “transactional relationship” between the two countries.

Like many Cold War-era partners Pakistan was able to successfully leverage significant assistance from the United States in exchange for its help in containing the Soviet Union. Neither side was inclined toward a deeper alignment of interests, however, and U.S. attention to Afghanistan’s fate quickly evaporated in the wake of Soviet withdrawal, allowing nuclear proliferation concerns to reassert prominence. The United States’s cutoff of aid to Islamabad in the waning days of cooperation in Afghanistan continues to reverberate in Pakistani views of the United States as an “unreliable ally” unwilling to accept the legitimacy of Islamabad’s conception of its security needs.

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## Wrestling with nonproliferation

By the mid-1990s the White House under President Bill Clinton was seeking to move away from the restrictions of the Pressler amendment. Defense Secretary William Perry at the time described the law as a “blunt instrument” that made the Pakistanis “mad as hell” and “undermined the influence we formerly had.” Clinton administration officials argued these political costs were being incurred without any effective benefit; Pakistan’s conception of its strategic priorities and competition with India meant almost any attempt “to roll back their nuclear programs” through coercive aid cuts was going to be unsuccessful.

For these reasons the Clinton administration supported amendments within the FY 1996 Foreign Operations Appropriations Act (Public Law 104-107, Sections 559) that would ease aid constraints. First, the language of the Pressler amendment was modified so that only military aid was conditioned on presidential certification,

thereby lifting bans on economic assistance. Second, certain forms of military assistance were allowed to resume, including training, military-education programs, and counternarcotics and counterterrorism cooperation. Also authorized was a one-time delivery of \$368 million (approximately \$506 million in current dollars) in weapons for which Pakistan had paid prior to the imposition of the Pressler restrictions, although the freeze on delivering the 28 F-16s was sustained.

Pakistan's May 1998 nuclear tests reversed support in Washington for any easing of restrictions on Islamabad. President Clinton condemned the tests (and those that India had conducted during the same time period) for creating a "dangerous new instability in [the] region." In doing so President Clinton moved to implement the set of prohibitions legislated in the Glenn amendment to the Arms Export Control Act (Public Law 90-629, Section 102), named after its sponsor Sen. John Glenn (D-OH). Passed in 1994, prior to the efforts to loosen Pressler restrictions, the Glenn amendment mandated that any "non-nuclear weapons state" that detonated a nuclear device be prohibited from receiving U.S. military and economic assistance not of a humanitarian nature.

Consequently U.S. assistance to both India and Pakistan was halted. In addition, U.S. banks were prohibited from providing loans to the two governments, and the U.S. government became obligated to oppose extending loans to Pakistan and India on the part of international financial institutions such as the World Bank, International Monetary Fund, and Asian Development Bank.

Almost immediately after they were imposed, however, Congress again moved to moderate the restrictions in the Glenn amendment. Sen. Richard Lugar (R-IN) questioned whether "an unstable Pakistan with nuclear weapons," which he feared could be a consequence of the Glenn prohibitions, "is in our interests."

But a much more dominant concern was that any damage to the Pakistani economy would endanger U.S. agricultural exports to Pakistan, which was at the time the third-largest foreign buyer of American wheat. The chairman of the House Agricultural Committee, Robert Smith (R-OR), warned, "Pakistan is not a trading partner we can afford to lose."

By October, Congress passed the India-Pakistan Relief Act (Public Law 105-277, Title IX), which gave the president the authority to issue a one-year waiver on the restrictions and conditions contained in the Pressler, Glenn, and Symington amendments. In November President Clinton partially exercised that authority, waiving economic and financial restrictions, making the aforementioned repayment for the bulk of the undelivered F-16s, and allowing Pakistan access to U.S. agricultural credits, although the United States remained committed to oppose nonhumanitarian loans to Pakistan from international financial institutions. Prohibitions on military assistance were also only partially waved; U.S. training programs with the Pakistani military resumed while the freeze on arms sales and other military assistance remained in place.

After the Pakistani backlash over Pressler, Congress was willing to grant the executive branch greater leeway over the use or waiver of sanctions, but aid through the 1990s remained at relatively low levels, confined to limited agricultural trade and military sales. Efforts to reestablish strategic ties were further complicated by multiple shifts in Pakistan between successive governments led by Benazir Bhutto and Nawaz Sharif. Pressler restrictions failed to compel Pakistan to halt the development of its nuclear weapons program, and their subsequent moderation proved equally unsuccessful at enticing Pakistan to refrain from engaging in an arms race with its immediate neighbor and rival, India.

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## Musharraf's coup and the 9/11 terrorist attacks

The military coup that installed General Pervez Musharraf as president of Pakistan in October 1999 resulted in another swing in U.S. assistance to Pakistan. Pre-existing provisions contained within Section 508 of the Foreign Assistance Act were engaged, which mandated that “none of the funds appropriated” for foreign assistance “shall be obligated or expended to finance directly” any government “deposed by military coup or decree.” The law held that assistance could resume only when the president certifies to Congress that a “democratically elected government has taken office.”

In the same month that Musharraf assumed power, Congress passed the FY 2000 Defense Appropriations Act (Public Law 106-79), Title IX of which gave the president authority to again waive the Pressler, Glenn, and Symington prohibitions, this time permanently. Within weeks of imposing Section 508 sanctions against the military regime, President Clinton exercised Title IX, but only to permanently remove the bans on U.S. government agricultural loans and private commercial loans. (At the same time, the bulk of the sanctions previously imposed on India for its nuclear tests were lifted permanently.) All other waivers from the previous year issued under the India-Pakistan Relief Act were allowed to expire, leaving Pakistan still facing layers of restrictions on military and economic assistance based on its nuclear activities under the Symington, Pressler, and Glenn amendments, as well as Section 508 sanctions based on Musharraf's military coup.

Following the September 11, 2001 attacks on New York City and Washington D.C., U.S. national security priorities shifted once again. Faced with concerted U.S. diplomatic pressure, Pakistan opened its airspace and ground lines of supply to U.S. forces in Afghanistan, and began intelligence cooperation in the hunt for Al Qaeda, although Islamabad took only limited steps to disavow its former Taliban proxies. In September 2001 President George W. Bush exercised the full waiver authority contained in Title IX, which President Clinton had previously only partially enacted, citing the “national security interests of the United States.”

While Section 508 restrictions on direct aid to governments that assumed powers through military coup still prohibited military and much economic assistance to

Pakistan, U.S. arms sales, military-training programs, and counterterrorism cooperation were authorized to resume immediately. Section 508 restrictions were also abandoned after Congress passed a new measure (Public Law 107-57) that granted the president authority to waive Section 508 “with respect to Pakistan” through September 2003, after which annual congressional approval would be required. President Bush exercised his waiver of Section 508 immediately, noting Pakistan’s critical participation in efforts to “respond to, deter, or prevent” terrorism.

The Pakistan military takeover halted nascent efforts to resume aid in the wake of earlier nuclear sanctions, but Musharraf’s decision to cooperate in the invasion of Afghanistan and hunt for Al Qaeda helped to remove Pakistan’s pariah status. By 2004 the country had been awarded “major non-NATO ally status” by President Bush, joining the ranks of Australia, Japan, South Korea, Egypt, and others. Even the disclosure of Pakistani nuclear scientist Abdul Qadeer Khan’s clandestine nuclear proliferation network in 2004—officially disavowed by the military establishment—was not met with significant restrictions on aid. Pakistan once again benefited from “frontline state” status in American regional intervention, but its military’s own interest in retaining access to militant proxy forces for use in both Afghanistan and India remained effectively unchanged.

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### Post-9/11 shifts in assistance to Pakistan

In the years since President Bush’s post-9/11 waivers on aid restrictions, U.S. policymakers significantly increased military and nonmilitary assistance to Pakistan. U.S. annual bilateral aid totals rose to more than \$4 billion in 2010 from \$798 million in 2002 and only \$5.3 million in 2000 (all figures historical dollars). More than two-thirds (68 percent) of the \$20.73 billion in total assistance appropriated over the past eight fiscal years has gone to security-related aid. Pakistan also purchased approximately \$3.3 billion worth of U.S. arms, equipment, and training with its own funds during this period, including new F-16 sales, delivery of which began in 2010.

The bulk (\$8.88 billion) of U.S. assistance took the form of Coalition Support Funds, or CSF, a program inaugurated in 2002 that is intended to reimburse Pakistan for military operations conducted against militant groups along its border. As a form of reimbursement CSF money is not officially designated as foreign assistance, and despite the addition of reporting requirements in subsequent legislation, Congress usually defers to the Secretary of Defense in setting standards for evaluating Pakistani claims. Those standards have been reportedly been applied with greater scrutiny in recent years, slowing some of the flow of funds.

In 2009 Congress also established the Pakistan Counterinsurgency Fund, a program on top of existing aid intended to providing training and equipment for Pakistani military and paramilitary forces facing insurgents in the country’s unruly northwest.

Disputes within the U.S. government over whether the Defense or State Department will control the money, and with Pakistan over the presence and role of U.S. trainers, appears to have limited the amount of funds actually disbursed. The expulsion of U.S. trainers in the wake of this year's Raymond Davis incident—when Davis, a Central Intelligence Agency contractor, killed two armed men in Lahore while in traffic and was subsequently released after a diplomatic uproar—resulted in the temporary suspension of approximately \$800 million in military aid in July 2011, coming primarily from Coalition Support Fund and Pakistani Counterinsurgency Fund accounts.

Upon taking office the Obama administration attempted to rebalance its bilateral aid relationship beyond an almost-exclusive focus on military assistance through the Enhanced Partnership with Pakistan Act of 2009, co-sponsored by Sens. John Kerry (D-MA), Lugar, and Rep. Howard Berman (D-CA). The bill authorized \$1.5 billion annually, over five years, for a broad range of nonmilitary initiatives including agriculture, energy, economic development, water, education, public health, and expansion of the rule of law.

The Kerry-Lugar-Berman legislation requires that any security assistance, including arms sales, be linked to the secretary of state's certification that Pakistan is assisting U.S. efforts to “dismantle supplier networks relating to the acquisition of nuclear-weapons materials” and “is making significant efforts toward combating terrorists groups.” The secretary of state must also certify that Pakistani security forces are not “materially and substantially” subverting the political process of the country. Economic assistance is largely free from conditions, although the White House must provide Congress with a strategy document on how this aid will be spent (which was submitted in December 2009) and certify that any proposed assistance will advance that strategy before funds are disbursed. Both economic and security conditions may be waived if the secretary of state certifies doing so is in the national security interest of the United States.

Despite the relatively light restrictions placed on this sizable increase in nonmilitary assistance, at the time of act's passage the Pakistani military establishment reacted sharply against language it saw as interfering with its control over the country's security policy. In practice the disbursement of Kerry-Lugar-Berman money has been slowed by debates over how to prioritize U.S. investments and how to channel the money, drawing further criticism from Pakistani leaders.

The post-2001 partnership reopened the path for a fresh flood U.S. military assistance, subsequently matched by pledges of civilian assistance. But this would prove incapable of papering over deep differences between Pakistani military leaders and the United States over how to structure a post-invasion political settlement in Afghanistan. Memories of past cutoffs in relations, difficulties in achieving timely disbursement of the promised money, and mutual mistrust over the others' regional intentions would come to overshadow both the financial commitment made by the United States and the two countries' ongoing cooperation against Al Qaeda, raising prospects for a future break.

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## Current proposals

Tensions are now high between the United States and Pakistan over the latter's support for insurgent spoilers in Afghanistan and inconsistent cooperation on U.S. counterterrorism objectives, prompting greater congressional skepticism over the value of continued aid. Most major legislation currently under consideration does not substantially alter the dollar levels of assistance sought by the Obama administration, but some of the bills being considered in the House and Senate for fiscal year 2012 do propose new certification requirements or other restrictions that could limit the actual levels of military and nonmilitary aid being disbursed going forward—should the administration choose not to exercise waivers on those conditions or make the certifications demanded.

All of these defense and foreign-operations bills remain works in progress as of this writing because they are all transiting the annual appropriations and authorization process in Congress. But here is a brief overview of major Pakistan-related provisions now under consideration by Congress, as the two chambers seek to reconcile authorization language and agree upon the amount of appropriations to be spent by the United States on military and nonmilitary assistance to Pakistan this fiscal year.

### Omnibus defense and foreign appropriations

An omnibus appropriations bill to fund federal government operations for the remainder of fiscal year 2012 passed the House on December 16 and appears likely to clear the Senate in short; it consolidates previous House and Senate bills on both defense and foreign-operations spending. The bill offers only \$850 million for the Pakistan Counterinsurgency Capability fund, less than the \$1.1 billion sought by the administration, and \$1.69 billion in Coalition Support Funds, less than the administration's \$1.75 billion request. The administration's request for economic assistance was met, and may total approximately \$1.36 billion.

The bill requires economic assistance to Pakistan and most forms of military assistance (with the apparent exception of Coalition Support Funds) to be conditioned on a certification from the administration that Pakistan is cooperating on nuclear nonproliferation; investigations into Osama bin Laden's presence in Pakistan; efforts to counter the proliferation of improvised explosive devices; the provision of visas for U.S. visitors "engaged in counterterrorism efforts and training"; and in operations against Al Qaeda, the Taliban, the Haqqani network, and Lashkar-e-Taiba, among other groups.

These conditions would add an explicit reference to the Haqqani network to the existing certification requirements of the Kerry-Lugar-Berman law and expand the application of that certification requirement to affect economic assistance as well as military aid. Earlier draft appropriations bills in the House did not offer a waiver to the administration on these



certification requirements, which the new version does provide for. The bill also requires the development of a spending strategy report and regular progress updates on how U.S. military and nonmilitary assistance to Pakistan is being spent, but does not specify for the administration the benchmarks by which the aid should be assessed.

### House and Senate defense authorization

After previous drafts passed the House in May and the Senate in early December, a compromise bill released earlier last week by the joint congressional conference committee included language that prohibits the release of any more than 40 percent of funds appropriated for FY2012 for the Pakistan Counterinsurgency Fund, or PCF, pending a report from the secretary of defense on U.S. strategy toward Pakistan, how the PCF will contribute to that effort, and outlining what metrics will be used to track Pakistani cooperation. That report also is specifically directed to include “a discussion” of Pakistani cooperation against the proliferation of improvised explosive devices in Afghanistan, although earlier Senate language requiring a certification of cooperation was dropped.

Separately the Defense Department must submit a report on payments made to Pakistan through the Coalition Support Fund and assess the outcomes of Pakistani operations reimbursed under this program. No waiver is included on either reporting requirement.

### House foreign relations authorization

A bill passed the House Foreign Affairs Committee in June but is still awaiting a full vote in the House. It adds an annual certification requirement that assistance to Pakistan is “making measurable progress” toward the “principle objectives” of the United States as outlined in the administration’s Pakistan assistance strategy report prepared under the Kerry-Lugar-Berman legislation, and requires regular annual submissions of such reports going forward, among other reporting requirements.

The legislation adds most of the certification requirements included in the aforementioned appropriations bills, and like those bills now places these restrictions on economic as well as security assistance. It explicitly strikes the waiver power of the secretary of state on these conditions as currently offered under Kerry-Lugar-Berman. No Senate Foreign Relations Authorization bill has yet been released.

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## Conclusion

For the past decade Congress largely deferred to the executive branch on aid to Pakistan, granting it waivers and the power to set its own standards for certification, particularly in

regards to military aid. Bills introduced this year in the House would begin to challenge that leeway. As the value of Pakistan's continued counterterrorism cooperation becomes overshadowed by American diplomat and military personnel's continuing clashes with militant forces supported by the Pakistani military establishment, congressional patience with the current patterns of assistance is markedly falling.

But the review of the cycles of aid spikes followed by cut-offs throughout the past 30 years of the U.S.-Pakistan relationship shows that conditions on the provision of assistance have rarely been enforced consistently or at length. The basic reason for this signal failure in U.S.-Pakistani relations is the inability of the two countries to establish an enduring basis of common strategic purpose. U.S. priorities have shifted from nuclear proliferation to the containment of the Soviet Union to the condemnation of military rule to counterterrorism cooperation to current tensions over the outcome of the Afghanistan conflict. In contrast Pakistan is consumed with its regional rivalry with India, a concern for a relatively stable and pliable neighbor in Afghanistan, and its own internal political and economic crises.

Successive U.S. legislative efforts to make Pakistan hew more closely to U.S. strategic priorities have been complicated by this basic disconnect in strategic viewpoints and the limited leverage afforded by U.S. assistance. Further, multiple U.S. political actors drive U.S. policy toward Pakistan, and reflect in the enduring divisions within Congress over whether and how to provide international assistance to the country. In instances where Congress has sought to restrict the executive branch's leeway, the legislative branch has often reversed itself in subsequent years as new security priorities reassert themselves, further complicating relations with Pakistan.

The political consequences of these repeated disconnects in U.S.-Pakistani relationship are real, however, because they have produced a popular narrative in Pakistan that minimizes the value of U.S. contributions to its economic and military development, supports the belief that the United States is an unreliable ally with a different international agenda, and views attempts at cooperation with suspicion—a view widely mirrored in Washington as well.

Policymakers in Washington, however, have to remember that U.S. aid dollars to Pakistan serve as only one component of a larger relationship. The United States is one of Pakistan's largest donors for both military and economic assistance, providing large amounts of aid as an incentive and threatening its cutoff as a disincentive—a strategy that has had only limited success in decisively altering the Pakistani political-military leadership's own conceptions of their strategic environment. Meanwhile, Pakistan has gone about developing its own strategies for protecting itself in the region, developing nuclear weapons and supporting militant proxy groups aimed at neighboring countries to counter the influence of more powerful rivals.

The current strategic course in Afghanistan is not a sustainable one, and achieving some measure of stability there requires negotiation of a political settlement between all the major conflict actors. Although Pakistan cannot guarantee the success of such a process, its constructive support (or at minimum acquiescence) will be a necessity. Near-term U.S. national security interests with Pakistan continue to support engagement with Pakistan, not an escalation of the current conflict over the Afghanistan endgame. There are serious concerns about how to spend U.S. aid dollars effectively, but aid incentives and disincentives will not substitute for this more complicated diplomatic process. Going forward, Congress and the Obama administration must be careful when considering how to structure new aid terms, as well as promises of assistance or threats of a cutoff, while still maintaining a serious level of engagement with Islamabad.

*Colin Cookman is a Research Associate on the National Security team at the Center for American Progress. Bill French is an intern at the Center.*