

§ 127d. Allied forces participating in combined operations: authority to provide logistic support, supplies, and services

(a) **AUTHORITY.**—(1) Subject to subsections (b) and (c), the Secretary of Defense may provide logistic support, supplies, and services to allied forces participating in a combined operation with the armed forces of the United States.

(2) In addition to any logistic support, supplies, and services provided under paragraph (1), the Secretary may provide logistic support, supplies, and services to allied forces solely for the purpose of enhancing the interoperability of the logistical support systems of military forces participating in combined operations with the United States in order to facilitate such operations. Such logistic support, supplies, and services may also be provided under this paragraph to a nonmilitary logistics, security, or similar agency of an allied government if such provision would directly benefit the armed forces of the United States.

(3) Provision of support, supplies, and services pursuant to paragraph (1) or (2) may be made only with the concurrence of the Secretary of State.

(b) **LIMITATIONS.**—(1) The authority provided by subsection (a)(1) may be used only in accordance with the Arms Export Control Act and other export control laws of the United States.

(2) The authority provided by subsection (a)(1) may be used only for a combined operation—

(A) that is carried out during active hostilities or as part of a contingency operation or a noncombat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance, a country stabilization operation, or a peacekeeping operation under chapter VI or VII of the Charter of the United Nations); and

(B) in a case in which the Secretary of Defense determines that the allied forces to be provided logistic support, supplies, and services—

(i) are essential to the success of the combined operation; and

(ii) would not be able to participate in the combined operation but for the provision of such logistic support, supplies, and services by the Secretary.

(c) **LIMITATIONS ON VALUE.**—(1) The value of logistic support, supplies, and services provided under subsection (a)(1) in any fiscal year may not exceed \$100,000,000.

(2) The value of the logistic support, supplies, and services provided under subsection (a)(2) in any fiscal year may not exceed \$5,000,000.

(d) **ANNUAL REPORT.**—(1) Not later than December 31 each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report on the use of the authority provided by subsection (a) during the preceding fiscal year.

(2) Each report under paragraph (1) shall be prepared in coordination with the Secretary of State.

(3) Each report under paragraph (1) shall include, for the fiscal year covered by the report, the following:

(A) Each nation provided logistic support, supplies, and services through the use of the authority provided by subsection (a).

(B) For each such nation, a description of the type and value of logistic support, supplies, and services so provided.

(e) **DEFINITION.**—In this section, the term “logistic support, supplies, and services” has the meaning given that term in section 2350(1) of this title.

(Added Pub. L. 109–364, div. A, title XII, § 1201(a), Oct. 17, 2006, 120 Stat. 2410, § 127c; renumbered § 127d, Pub. L. 110–181, div. A, title X, § 1063(a)(1)(A), Jan. 28, 2008, 122 Stat. 321; Pub. L. 111–383, div. A, title X, § 1075(b)(3), title XII, § 1202, Jan. 7, 2011, 124 Stat. 4369, 4385.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–383, § 1202(a), designated existing provisions as par. (1), inserted “of the United States” after “armed forces”, struck out “Provision of such support, supplies, and services to the forces of an allied nation may be made only with the concurrence of the Secretary of State.” at end, and added pars. (2) and (3).

Subsec. (b). Pub. L. 111–383, § 1202(b)(1), substituted “subsection (a)(1)” for “subsection (a)” in par. (1) and in introductory provisions of par. (2).

Subsec. (c)(1). Pub. L. 111–383, § 1202(b)(2)(A), substituted “The” for “Except as provided in paragraph (2), the” and “subsection (a)(1)” for “this section”.

Subsec. (c)(2). Pub. L. 111–383, § 1202(b)(2)(B), substituted “The value of the logistic support, supplies, and services provided under subsection (a)(2) in any fiscal year may not” for “In addition to any logistic support, supplies, and services provided under subsection (a) that are covered by paragraph (1), the value of logistic support, supplies, and services provided under this section solely for the purposes of enhancing the interoperability of the logistical support systems of military forces participating in combined operation of the United States in order to facilitate such operations may not, in any fiscal year.”.

Subsec. (d)(1). Pub. L. 111–383, § 1075(b)(3), substituted “Committee on Foreign Affairs” for “Committee on International Relations”.

2008—Pub. L. 110–181 renumbered section 127c of this title, relating to allied forces participating in combined operations, as this section.

§ 128. Physical protection of special nuclear material: limitation on dissemination of unclassified information

(a)(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense, with respect to special nuclear materials, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

- (A) illegal production of nuclear weapons, or
- (B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1)—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

- (i) illegal production of nuclear weapons, or
- (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(b) Nothing in this section shall be construed to authorize the Secretary to withhold, or to authorize the withholding of, information from the appropriate committees of the Congress.

(c) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

(Added Pub. L. 100-180, div. A, title XI, §1123(a), Dec. 4, 1987, 101 Stat. 1149; amended Pub. L. 101-510, div. A, title XIII, §1311(1), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 108-136, div. A, title X, §1031(a)(4), Nov. 24, 2003, 117 Stat. 1596.)

PRIOR PROVISIONS

A prior section 128 was renumbered section 421 of this title.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108-136 struck out subsec. (d) which required the Secretary to prepare an annual report detailing the Secretary's application during the year of each regulation or order prescribed or issued under this section.

1990—Subsec. (d). Pub. L. 101-510 substituted "on an annual basis" for "on a quarterly basis".

§ 129. Prohibition of certain civilian personnel management constraints

(a) The civilian personnel of the Department of Defense shall be managed each fiscal year solely on the basis of and consistent with (1) the

total force management policies and procedures established under section 129a of this title, (2) the workload required to carry out the functions and activities of the department, and (3) the funds made available to the department for such fiscal year. The management of such personnel in any fiscal year shall not be subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after February 10, 1996, and that refers specifically to this subsection.

(b) The number of, and the amount of funds available to be paid to, indirectly funded Government employees of the Department of Defense may not be—

(1) subject to any constraint or limitation on the number of such personnel who may be employed on the last day of a fiscal year;

(2) managed on the basis of any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees; or

(3) controlled under any policy of the Secretary of a military department for control of civilian manpower resources.

(c) In this section, the term "indirectly funded Government employees" means civilian employees of the Department of Defense—

(1) who are employed by industrial-type activities, the Major Range and Test Facility Base, or commercial-type activities described in section 2208 of this title; and

(2) whose salaries and benefits are funded from sources other than appropriated funds.

(d) With respect to each budget activity within an appropriation for a fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number and with the combination of skills and qualifications that are necessary to carry out the functions within that budget activity as determined under the total force management policies and procedures established under section 129a of this title.

(e) Subsections (a), (b), and (c) apply to the Major Range and Test Facility Base (MRTFB) at the installation level.

(f)(1) Not later than February 1 of each year, the Secretary of each military department and the head of each Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management of the civilian workforce under the jurisdiction of that official.

(2) Each report of an official under paragraph (1) shall contain the following:

(A) The official's certification (i) that the civilian workforce under the jurisdiction of the official is not subject to any constraint or limitation in terms of man years, end strength,