

1011; Pub. L. 89-171, pt. II, §201(a), Sept. 6, 1965, 79 Stat. 656; Pub. L. 90-137, pt. II, §201(b), Nov. 14, 1967, 81 Stat. 455; Pub. L. 93-189, §12(b)(1), Dec. 17, 1973, 87 Stat. 720; Pub. L. 96-533, title I, §112(a), Dec. 16, 1980, 94 Stat. 3138; Pub. L. 97-113, title I, §§109(c), 110(c), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 99-83, title I, §123(a), Aug. 8, 1985, 99 Stat. 205; Pub. L. 100-461, title V, §586(a), Oct. 1, 1988, 102 Stat. 2268-50.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a)(3), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

This chapter, referred to in subsec. (c)(2)(B), was in the original "this Act", meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

A guaranty provision, formerly subsec. (e) of this section, was renumbered section 525(a) of Pub. L. 87-195 by Pub. L. 90-137, pt. II, §201(b)(3), Nov. 14, 1967, 81 Stat. 455, and classified to section 2345(a) of this title and repealed by Pub. L. 90-629, ch. 4, §45(a), Oct. 22, 1968, 82 Stat. 1327.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-461 inserted in last sentence "or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act" after "under paragraph (3)" and "(other than the Coast Guard)" after "Armed Forces of the United States".

1985—Subsec. (a). Pub. L. 99-83 inserted sentence relating to pricing of sales wholly paid from transferred funds.

1981—Subsec. (a)(3). Pub. L. 97-113, §110(c), substituted "country" for "specified in section 2312(a)(1) of this title, within the dollar limitations of that section".

Subsec. (b)(5). Pub. L. 97-113 substituted provision respecting payment of restoration or replacement costs for defense articles on loan for provision for making such a loan only if arrangements were made with the agency making the loan for reimbursement in the event the article was lost or destroyed while on loan, the reimbursement of which was to be made first out of any funds available to carry out this part and based on the depreciated value of the article at the time of loss or destruction.

1980—Subsec. (a)(3). Pub. L. 96-533 added par. (3).

1973—Pub. L. 93-189 designated existing provisions as subsec. (a), struck out references to making financial contributions to multilateral programs for the acquisition or construction of facilities for collective defense and providing financial assistance for expenses incident to participation by the United States government in regional or collective defense organizations, and added subsecs. (b) and (c).

1967—Subsec. (a). Pub. L. 90-137, §201(b)(1), substituted "or grant" for " , lease, sale, exchange, grant, or any other means".

Subsec. (d). Pub. L. 90-137, §201(b)(2), substituted a period for " ; and".

Subsec. (e). Pub. L. 90-137, §201(b)(3), struck out subsec. (e) which related to the guaranty and insuring against political and credit risks in connection with credit sales for defense articles and services procured in the United States. See Codification note above.

1965—Subsec. (b). Pub. L. 89-171 struck out "in foreign countries" after "facilities".

1964—Subsec. (e). Pub. L. 88-633 added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-461, title V, §586(c), Oct. 1, 1988, 102 Stat. 2268-50, provided that: "This section [amending this section] shall be effective on October 1, 1989."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

REPORTS TO CONGRESSIONAL COMMITTEES

Pub. L. 100-461, title III, Oct. 1, 1988, 102 Stat. 2268-17 provided in part: "That the Committees on Appropriations shall be furnished on March 1 of each year a complete report of the status of military assistance funds appropriated by this or any future Act committed for the payment of any sales under the Arms Export Control Act [22 U.S.C. 2751 et seq.] as regards the individual sale, item description, and estimated sales price."

FINDINGS BY SECRETARY OF STATE

The Secretary of State, in the implementation of the functions delegated to him under section 2314(a)(1), (4), and (e) of this title, was authorized by section 1-701(e)(1) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56678, eff. Oct. 1, 1979, set out as a note under section 2381 of this title, to find, in the case of a proposed transfer of a defense article or a related training or a related defense service by a foreign country or international organization to a foreign country or international organization not otherwise eligible under subsec. (a) of this section, whether the proposed transfer would strengthen the security of the United States and promote world peace.

REVIEW OF MILITARY ASSISTANCE PROGRAM; REDUCTION AND ELIMINATION PLAN; SUBMITTAL TO CONGRESS

Pub. L. 93-559, §17, Dec. 30, 1974, 88 Stat. 1800, which set forth provisions respecting review of military assistance program and submittal to Congress of plan for reduction and elimination, was repealed by Pub. L. 95-384, §29(c)(4), Sept. 26, 1978, 92 Stat. 747.

§ 2312. Authorization of appropriations

(a) Authorization and availability of amounts

(1) There are authorized to be appropriated to the President to carry out the purposes of this part \$805,100,000 for fiscal year 1986 and \$805,100,000 for fiscal year 1987.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b) Programing and budgeting procedures

In order to make sure that a dollar spent on military assistance to foreign countries is as necessary as a dollar spent for the United States military establishment, the President shall es-

establish procedures for programing and budgeting so that programs of military assistance come into direct competition for financial support with other activities and programs of the Department of Defense.

(Pub. L. 87-195, pt. II, §504, Sept. 4, 1961, 75 Stat. 436; Pub. L. 88-205, pt. II, §202(a), Dec. 16, 1963, 77 Stat. 384; Pub. L. 88-633, pt. II, §201(b), Oct. 7, 1964, 78 Stat. 1011; Pub. L. 89-171, pt. II, §201(b), Sept. 6, 1965, 79 Stat. 656; Pub. L. 89-583, pt. II, §201(a), Sept. 19, 1966, 80 Stat. 802; Pub. L. 90-137, pt. II, §201(c), Nov. 14, 1967, 81 Stat. 455; Pub. L. 90-554, pt. II, §201(a), Oct. 8, 1968, 82 Stat. 962; Pub. L. 91-175, pt. II, §201, Dec. 30, 1969, 83 Stat. 819; Pub. L. 92-226, pt. II, §201(a), Feb. 7, 1972, 86 Stat. 25; Pub. L. 93-189, §12(b)(2), Dec. 17, 1973, 87 Stat. 721; Pub. L. 93-559, §10, Dec. 30, 1974, 88 Stat. 1798; Pub. L. 94-329, title I, §101, June 30, 1976, 90 Stat. 729; Pub. L. 95-23, Apr. 30, 1977, 91 Stat. 54; Pub. L. 95-92, §5(a), Aug. 4, 1977, 91 Stat. 614; Pub. L. 95-384, §7(a), Sept. 26, 1978, 92 Stat. 732; Pub. L. 96-92, §5(a), Oct. 29, 1979, 93 Stat. 702; Pub. L. 96-533, title I, §112(b), Dec. 16, 1980, 94 Stat. 3139; Pub. L. 97-113, title I, §110(a), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 99-83, title I, §103, Aug. 8, 1985, 99 Stat. 195.)

AMENDMENTS

1985—Subsec. (a)(1). Pub. L. 99-83 amended par. (1) generally, substituting provisions authorizing appropriations of \$805,100,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of not to exceed \$238,500,000 for fiscal years 1982 and 1983.

1981—Subsec. (a). Pub. L. 97-113 in par. (1) substituted appropriations of \$238,500,000 for fiscal years 1982 and 1983 for appropriation of \$106,100,000 for fiscal year 1981 and struck out provision limiting assistance in listed amounts to Portugal (\$51,000,000), Spain (\$3,600,000), Philippines (\$25,000,000), and Sudan (\$1,700,000) for fiscal year 1981 and authorization of a 10-percent increase in any such amount when deemed necessary by the President, redesignated former par. (4) as (2), struck out former pars. (2), which limited assistance to those countries listed in par. (1), and par. (3), which provided that the authority contained in sections 2360(a) and 2364(a) of this title not be used to increase the amounts specified in par. (1) or the limitations in par. (2).

1980—Subsec. (a)(1). Pub. L. 96-533 substituted appropriations authorization of \$106,100,000 for fiscal year 1981 with allocations of specified amounts for certain countries for fiscal year 1981 for such authorization of \$110,200,000 for fiscal year 1980 with similar allocations for fiscal year 1980, included an allocation for The Sudan and deleted Jordan from the list.

1979—Subsec. (a)(1). Pub. L. 96-92 substituted appropriations authorization of \$110,200,000 for fiscal year 1980 for prior authorization of \$133,500,000 for fiscal year 1979, made the allocations available in specified amounts to Portugal, Spain, Jordan and the Philippines, struck out from the listing Greece, and struck out “for the fiscal year 1979” after “any such country” in provision limiting the percentage increment in an allotment to such fiscal year.

1978—Subsec. (a). Pub. L. 95-384 substituted provisions authorizing appropriations of \$133,500,000 to the President for fiscal year 1979 to carry out the purposes of this part with specified amounts allocated to Portugal, Spain, Jordan, the Philippines, and Greece for provisions authorizing appropriations of \$228,900,000 to the President for fiscal year 1978 to carry out the purposes of this part with specified amounts allocated to Greece, Portugal, Spain, Turkey, Jordan, Indonesia, the Philippines, and Thailand.

1977—Subsec. (a)(1). Pub. L. 95-92 substituted provisions authorizing appropriations for fiscal year 1978 to carry out the purposes of this part with specified

amounts allocated to Greece, Portugal, Spain, Turkey, Jordan, Indonesia, Philippines, and Thailand, for provisions authorizing appropriations for fiscal years 1976 and 1977 to carry out the purposes of this part with specified amounts allocated to Greece, Indonesia, Jordan, Republic of Korea, Philippines, Thailand, Turkey, Ethiopia, and Portugal.

Pub. L. 95-23 substituted “\$179,550,000” for “\$177,300,000” and added Portugal, with a fiscal year 1977 limit of \$32,250,000, to the table of countries.

Subsec. (a)(2). Pub. L. 95-92 substituted provisions prohibiting assistance to countries other than the countries specified in par. (1) except with respect to costs incurred under section 2321j(b) of this title or as otherwise required by law, for provisions setting forth limitations on amounts available for fiscal years 1976 and 1977 to carry out the purposes of this part with respect to assistance to international organizations and countries not designated in former par. (1).

Subsec. (a)(3). Pub. L. 95-92 substituted provisions relating to the authority of sections 2360(a) and 2364(a) of this title, for provisions setting forth limitations on the number of countries eligible for assistance under this part in fiscal years 1976 and 1977.

Subsec. (a)(4). Pub. L. 95-92 substituted provisions authorizing availability until expended of amounts appropriated under this subsection, for provisions relating to the authority of sections 2360(a) and 2364(a) of this title to increase appropriated amounts and making inapplicable to emergency assistance under section 2314(a) of this title limitations on appropriated funds under this section.

Subsec. (a)(5) to (8). Pub. L. 95-92 struck out pars. (5) to (8) which provided for appropriations for administrative and related expenses for fiscal years 1976 and 1977, restricted use of funds with respect to sophisticated weapons systems, authorized appropriated amounts to remain available until expended, and required assistance to Turkey under this part to be subject to section 2370(x) of this title, respectively.

1976—Subsec. (a). Pub. L. 94-329 designated existing provisions as par. (1), substituted provisions authorizing appropriations for the purpose of this part of \$196,700,000 for fiscal 1976 and \$177,300,000 for fiscal 1977, with limitations in expenditures for the specified countries, and authorizing an increase of not more than 10% of the specified amounts if the President finds it necessary for the purpose of this part, for provisions authorizing appropriations not to exceed \$600,000,000 for fiscal 1975 with provisos limiting assistance under this part to thirty-one countries except for training in the United States, and prohibiting the furnishing of sophisticated weapons systems to underdeveloped countries unless the President determined that such systems were important to national security, and added pars. (2) to (8).

1974—Subsec. (a). Pub. L. 93-559 substituted “\$600,000,000 for the fiscal year 1975” for “\$512,500,000 for the fiscal year 1974” and designated existing provision as item (1) and added item (2).

1973—Subsec. (a). Pub. L. 93-189 substituted “\$512,500,000 for the fiscal year 1974”, for “\$500,000,000 for the fiscal year 1972” and “thirty-one countries” for “forty countries”.

1972—Subsec. (a). Pub. L. 92-226 substituted “\$500,000,000 for the fiscal year 1972” for “\$350,000,000 for the fiscal year 1970, and \$350,000,000 for the fiscal year 1971”.

1969—Subsec. (a). Pub. L. 91-175 substituted “\$350,000,000 for the fiscal year 1970, and \$350,000,000 for the fiscal year 1971” for “\$375,000,000 for the fiscal year 1969,” and inserted provisions cost-sharing expenses of United States participation in the military headquarters and related agencies program.

1968—Subsec. (a). Pub. L. 90-554 substituted “1969” and “\$375,000,000” for “1968” and “\$510,000,000”, respectively, struck out provisions which made \$24,100,000 of authorization available for fiscal year 1968, for cost-sharing expenses, and which prohibited other available funds from being used for cost-sharing expenses, and

prohibited use of appropriated funds for weapons systems expenditures without Presidential determination of importance to national security and report to Congress, respectively.

1967—Subsec. (a). Pub. L. 90-137 substituted provisions authorizing appropriation of \$510,000,000 for fiscal year 1968 for provisions authorizing appropriation of \$875,000,000 for fiscal year 1967 in addition to such amounts as may be otherwise authorized to support Vietnamese forces and other free world forces in Vietnam, made \$24,100,000 of such authorization available for fiscal year 1968 for cost-sharing expenses, and prohibited other available funds from being used for such cost-sharing expenses.

1966—Subsec. (a). Pub. L. 89-583 substituted provisions authorizing appropriation of \$875,000,000 for fiscal year 1967 in addition to such amounts as may be otherwise authorized to support Vietnamese forces and other free world forces in Vietnam and limiting assistance to forty countries in any fiscal year for provisions authorizing appropriation of \$1,170,000,000 for fiscal year 1966 and prescribing availability of minimum of \$200,000,000 for use in Vietnam for fiscal year 1965 unless otherwise determined by the President and so reported to Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House.

1965—Pub. L. 89-171 substituted “1966” and “\$1,170,000,000” for “1965” and “\$1,055,000,000”, respectively.

1964—Subsec. (a). Pub. L. 88-633 substituted “1965” and “\$1,055,000,000” for “1964” and “\$1,000,000,000”, respectively, and required not less than \$200,000,000 to be available for fiscal year 1965 for use in Vietnam unless the President determined and reported otherwise to Congressional committees.

1963—Subsec. (a). Pub. L. 88-205 substituted “fiscal year 1964” and “\$1,000,000,000, which”, for “the fiscal years 1962 and 1963” and “\$1,700,000,000 for each such fiscal year, which sum”, respectively.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§ 2313. Transferred

CODIFICATION

Section, Pub. L. 87-195, pt. II, § 505(a), (b), Sept. 4, 1961, 75 Stat. 436, as amended, was renumbered §§ 502, 507(c) of Pub. L. 87-195 by Pub. L. 90-137, pt. II, § 201(d)(1), (l), Nov. 14, 1967, 81 Stat. 456, 457, and transferred to sections 2302 and 2319 of this title.

§ 2314. Furnishing of defense articles or related training or other defense service on grant basis

(a) Conditions of eligibility

In addition to such other provisions as the President may require, no defense articles or related training or other defense service shall be furnished to any country on a grant basis unless it shall have agreed that—

(1) it will not, without the consent of the President—

(A) permit any use of such articles or related training or other defense service by anyone not an officer, employee, or agent of that country,

(B) transfer, or permit any officer, employee, or agent of that country to transfer

such articles or related training or other defense service by gift, sale, or otherwise, or

(C) use or permit the use of such articles or related training or other defense service for purposes other than those for which furnished;

(2) it will maintain the security of such articles or related training or other defense service, and will provide substantially the same degree of security protection afforded to such articles or related training or other defense service by the United States Government;

(3) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such articles or related training or other defense service; and

(4) unless the President consents to other disposition, it will return to the United States Government for such use or disposition as the President considers in the best interests of the United States, such articles or related training or other defense service which are no longer needed for the purposes for which furnished.

(b) Limitation on amount; exceptions

No defense articles shall be furnished on a grant basis to any country at a cost in excess of \$3,000,000 in any fiscal year unless the President determines—

(1) that such country conforms to the purposes and principles of the Charter of the United Nations;

(2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or the defensive strength of the free world;

(3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and

(4) that the increased ability of such country to defend itself is important to the security of the United States.

(c) Reduction and termination of grants to countries able to maintain adequate military forces without undue economic strain

The President shall regularly reduce and, with such deliberate speed as orderly procedure and other relevant considerations, including prior commitments, will permit, shall terminate all further grants of military equipment and supplies to any country having sufficient wealth to enable it, in the judgment of the President, to maintain and equip its own military forces at adequate strength, without undue burden to its economy.

(d) Termination of assistance; report of violation by President; conditions for reinstatement

(1) Assistance and deliveries of assistance under this part to any country shall be terminated as hereinafter provided, if such country uses defense articles or defense services furnished under this chapter, the Mutual Security Act of 1954, or any predecessor Foreign Assistance Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities in-