

taken, or entered into under authority of any provision of law amended or repealed by this section [repealing this section and amending sections 2382, 2383, 2392, 2396, and 2403 of this title] shall continue in full force and effect until modified, revoked, or superseded by appropriate authority."

§ 2321b. Excess defense article

(a) to (c) Repealed. Pub. L. 94-329, title II, § 210(c)(2), June 30, 1976, 90 Stat. 740

(d) Reports to Congress

The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.

(Pub. L. 91-672, § 8, Jan. 12, 1971, 84 Stat. 2054; Pub. L. 92-226, pt. IV, § 402, Feb. 7, 1972, 86 Stat. 33; Pub. L. 93-189, § 26(1)-(3), Dec. 17, 1973, 87 Stat. 731; Pub. L. 93-559, § 13, Dec. 30, 1974, 88 Stat. 1799; Pub. L. 94-329, title II, § 210(c)(2), June 30, 1976, 90 Stat. 740; Pub. L. 95-384, § 29(a), Sept. 26, 1978, 92 Stat. 747.)

CODIFICATION

Section was not enacted as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-384 substituted "The annual presentation materials for security assistance programs shall include a table" for "Additionally, the President shall also submit a quarterly report to the Congress".

1976—Subsec. (a). Pub. L. 94-329 struck out subsec. (a) which provided that the value of excess defense article granted to a foreign country or international organization shall be considered to be an expenditure from the funds of this chapter for military assistance, and established accounting procedure when an order for excess defense article was placed.

Subsec. (b). Pub. L. 94-329 struck out subsec. (b) which provided that in the case of excess defense articles that were generated abroad, provisions of former subsec. (a) shall apply during any fiscal year only to the extent that the aggregate value of excess defense articles ordered during that year exceeded \$100,000,000.

Subsec. (c). Pub. L. 94-329 struck out subsec. (c) which defined "value" as that meaning found in section 2403m of this title, except the term shall not include a value for any excess defense article which was less than 33½ percent of the amount the United States paid for such article when it was acquired.

Subsec. (e). Pub. L. 94-329 struck out subsec. (e) which provided that except for excess defense articles granted under this subchapter, the provisions of this section did not apply to grants of such articles to South Vietnam prior to July 1, 1972.

1974—Subsec. (b). Pub. L. 93-559, § 13(a)(1), substituted "\$100,000,000" for "\$150,000,000".

Subsec. (c). Pub. L. 93-559, § 13(a)(2), inserted exception provision respecting definitions of value for excess defense articles.

1973—Subsec. (a). Pub. L. 93-189, § 26(1), inserted provision preceding cl. (1) relating to the subtraction of

amounts to be transferred under section 2392(d) of this title.

Subsec. (b). Pub. L. 93-189, § 26(2), substituted "In the case of excess defense articles which are generated abroad, the provisions", for "The provisions" and "\$150,000,000" for "\$185,000,000".

Subsec. (c). Pub. L. 93-189, § 26(3), substituted provisions defining "value" as that meaning given it in section 2403(m) of this title, for provisions defining such term as not less than 33½ per centum of the amount the United States paid at the time the excess defense articles were acquired by the United States.

1972—Subsec. (a). Pub. L. 92-226, § 402(1), substituted in first sentence "by any department, agency, or independent establishment of the United States Government (other than the Agency for International Development)" for "subchapter II of this chapter" and "the Foreign Assistance Act of 1961" for "that Act", codified in the text as "this chapter" and in second sentence "Unless such department, agency, or establishment certifies to the Comptroller General of the United States that the excess defense article it is ordering is not to be transferred by any means to a foreign country or international organization, when an order is placed for a defense article" for "When an order is placed under the military assistance program with the military departments for a defense article".

Subsec. (b). Pub. L. 92-226, § 402(2), substituted "\$185,000,000" for "\$100,000,000".

Subsec. (e). Pub. L. 92-226, § 402(3), added subsec. (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-329, title II, § 210(c)(2), June 30, 1976, 90 Stat. 740, provided in part that the amendment of subsecs. (a) to (c) and (e) by Pub. L. 94-329 is effective July 1, 1976.

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.

TRANSFER OF SUSPENSE ACCOUNT FUNDS TO GENERAL FUND OF TREASURY

Pub. L. 94-329, title II, § 210(c)(2), June 30, 1976, 90 Stat. 740, provided in part that all funds in the suspense account referred to in former subsec. (a) of this section on July 1, 1976, shall be transferred to the general fund of the Treasury.

§ 2321c. Definitions

For purposes of sections 2321b and 2314a¹ of this title—

(1) "defense article" and "excess defense articles" have the same meanings as given them in subsections (d) and (g), respectively, of section 2403 of this title; and

(2) "foreign country" includes any department, agency, or independent establishment of the foreign country.

(Pub. L. 91-672, § 11, Jan. 12, 1971, 84 Stat. 2055.)

REFERENCES IN TEXT

Section 2314a, referred to in text, was repealed by Pub. L. 93-189, § 26(4), Dec. 17, 1973, 87 Stat. 731.

CODIFICATION

Section was not enacted as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§ 2321d. Considerations in furnishing military assistance

Decisions to furnish military assistance made under subchapter II of this chapter shall take into account whether such assistance will—

¹ See References in Text note below.

- (1) contribute to an arms race;
- (2) increase the possibility of outbreak or escalation of conflict; or
- (3) prejudice the development of bilateral or multilateral arms control arrangements.

(Pub. L. 87-195, pt. II, §511, as added Pub. L. 92-226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 25; amended Pub. L. 94-141, title I, §150(c), Nov. 29, 1975, 89 Stat. 760; Pub. L. 105-277, div. G, subdiv. A, title XII, §1225(b), Oct. 21, 1998, 112 Stat. 2681-773.)

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

AMENDMENTS

1998—Pub. L. 105-277 substituted “take into account” for “be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to” in introductory provisions.

1975—Pub. L. 94-141 substituted “be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to” for “take into account”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of this title.

§ 2321e. Repealed. Pub. L. 93-189, § 12(b)(5), Dec. 17, 1973, 87 Stat. 722

Section, Pub. L. 87-195, pt. II, §512, as added Pub. L. 92-226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 25, provided for the diminution and consolidation of military assistance advisory groups and missions in foreign countries.

§ 2321f. Repealed. Pub. L. 97-113, title VII, § 734(a)(1), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 87-195, pt. II, §513, as added Pub. L. 92-226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 25; amended Pub. L. 93-189, §12(b)(6), Dec. 17, 1973, 87 Stat. 722; Pub. L. 93-559, §12, Dec. 30, 1974, 88 Stat. 1798, prohibited military assistance to Thailand, Laos, and South Vietnam after June 30, 1972, 1974, and 1976, respectively, without prior authorization.

§ 2321g. Repealed. Pub. L. 93-189, § 12(b)(5), Dec. 17, 1973, 87 Stat. 722

Section, Pub. L. 87-195, pt. II, §514, as added Pub. L. 92-226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 26, covered special foreign country accounts, the deposit of currencies, use of special accounts for payments of certain costs, Presidential waiver authority, the nonapplicability of provisions for special accounts, and the limitations on the amount of deposits.

SPECIAL FOREIGN COUNTRY ACCOUNTS

Section 1-501(b) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56675, eff. Oct. 1, 1979, set out as a note under section 2381 of this title, authorized the Secretary of the Treasury to continue to administer any open special foreign country accounts established pursuant to this section prior to its repeal by Pub. L. 93-189.

§ 2321h. Stockpiling of defense articles for foreign countries

(a) Transfer of defense articles

No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] or any subsequent corresponding legislation, and the value of such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, “value” means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

(b) Fiscal year limits on new stockpiles or additions to existing stockpiles located in foreign countries

(1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization or in the implementation of agreements with Israel) in stockpiles located in foreign countries may not exceed in any fiscal year an amount that is specified in security assistance authorizing legislation for that fiscal year.

(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed \$200,000,000 for each of fiscal years 2013 and 2014.

(B) Of the amount specified in subparagraph (A) for a fiscal year, not more than \$200,000,000 may be made available for stockpiles in the State of Israel.

(c) Location of stockpiles of defense articles

(1) Limitation

Except as provided in paragraph (2), no stockpile of defense articles may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

(2) Exceptions

Paragraph (1) shall not apply with respect to stockpiles of defense articles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the congressional committees specified in section 2394-1(a) of this title in accordance with the procedures applicable to reprogramming notifications under that section.

(d) Transferred articles not to be considered excess articles in determining value

No defense article transferred from any stockpile which is made available to or for use by any foreign country may be considered an excess de-