

§ 2349bb-5. Proliferation interdiction assistance

Consistent with section 2349bb-2 of this title, the President is authorized to provide assistance to friendly foreign countries for proliferation detection and interdiction activities and for developing complementary capabilities.

(Pub. L. 109-472, §10(a), Jan. 11, 2007, 120 Stat. 3557.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act of 2006, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§ 2349bb-6. Safeguarding and elimination of conventional arms**(a) In general**

The Secretary of State is authorized to secure, remove, or eliminate stocks of man-portable air defense systems (MANPADS), small arms and light weapons, stockpiled munitions, abandoned ordnance, and other conventional weapons, including tactical missile systems (hereafter in this section referred to as “MANPADS and other conventional weapons”), as well as related equipment and facilities, located outside the United States that are determined by the Secretary to pose a proliferation threat.

(b) Elements

The activities authorized under subsection (a) may include the following:

- (1) Humanitarian demining activities.
- (2) The elimination or securing of MANPADS.
- (3) The elimination or securing of other conventional weapons.
- (4) Assistance to countries in the safe handling and proper storage of MANPADS and other conventional weapons.
- (5) Cooperative programs with the North Atlantic Treaty Organization and other international organizations to assist countries in the safe handling and proper storage or elimination of MANPADS and other conventional weapons.
- (6) The utilization of funds for the elimination or safeguarding of MANPADS and other conventional weapons.
- (7) Activities to secure and safeguard MANPADS and other conventional weapons.
- (8) Actions to ensure that equipment and funds, including security upgrades at locations for the storage or disposition of MANPADS and other conventional weapons and related equipment that are determined by the Secretary of State to pose a proliferation threat, continue to be used for authorized purposes.

(c) Rule of construction

Nothing in this section shall be construed to affect the authorities of the Secretary of Defense.

(Pub. L. 109-472, §11, Jan. 11, 2007, 120 Stat. 3557.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act of 2006, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

MAN-PORTABLE AIR-DEFENSE SYSTEMS ORIGINATING FROM LIBYA

Pub. L. 112-81, div. A, title XII, §1235, Dec. 31, 2011, 125 Stat. 1638, provided that:

“(a) STATEMENT OF POLICY.—Pursuant to section 11 of the Department of State Authorities Act of 2006 (22 U.S.C. 2349bb-6), the following is the policy of the United States:

“(1) To reduce and mitigate, to the greatest extent feasible, the threat posed to United States citizens and citizens of allies of the United States by man-portable air-defense systems (MANPADS) that were in Libya as of March 19, 2011.

“(2) To seek the cooperation of, and to assist, the Government of Libya and governments of neighboring countries and other countries (as determined by the President) to secure, remove, or eliminate stocks of man-portable air-defense systems described in paragraph (1) that pose a threat to United States citizens and citizens of allies of the United States.

“(3) To pursue, as a matter of priority, an agreement with the Government of Libya and governments of neighboring countries and other countries (as determined by the Secretary of State) to formalize cooperation with the United States to limit the availability, transfer, and proliferation of man-portable air-defense systems described in paragraph (1).

“(b) INTELLIGENCE COMMUNITY ASSESSMENT ON MANPADS IN LIBYA.—

“(1) IN GENERAL.—The Director of National Intelligence shall submit to the appropriate committees of Congress an assessment by the intelligence community that accounts for the disposition of, and the threat to United States citizens and citizens of allies of the United States posed by man-portable air-defense systems that were in Libya as of March 19, 2011. The assessment shall be submitted as soon as practicable, but not later than the end of the 45-day period beginning on the date of the enactment of this Act [Dec. 31, 2011].

“(2) ELEMENTS.—The assessment submitted under this subsection shall include the following:

“(A) An estimate of the number of man-portable air-defense systems that were in Libya as of March 19, 2011.

“(B) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that are currently in the secure custody of the Government of Libya, the United States, an ally of the United States, a member of the North Atlantic Treaty Organization (NATO), or the United Nations.

“(C) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that were destroyed, disabled, or otherwise rendered unusable during Operation Unified Protector and since the end of Operation Unified Protector.

“(D) An assessment of the number of man-portable air-defense systems that is the difference between the number of man-portable air-defense systems in Libya as of March 19, 2011, and the cumulative number of man-portable air-defense systems accounted for under subparagraphs (B) and (C), and the current disposition and locations of such man-portable air-defense systems.

“(E) An assessment of the number of man-portable air-defense systems that are currently in the custody of militias in Libya.

“(F) A list of any organizations designated as terrorist organizations by the Department of State, or affiliate organizations or members of such organizations, that are known or believed to have custody of any man-portable air-defense systems that were in the custody of the Government of Libya as of March 19, 2011.

“(G) An assessment of the threat posed to United States citizens and citizens of allies of the United States from unsecured man-portable air-defense systems (as defined in section 11 of the Department

of State Authorities Act of 2006) originating from Libya.

“(H) An assessment of the effect of the proliferation of man-portable air-defense systems that were in Libya as of March 19, 2011, on the price and availability of man-portable air-defense systems that are on the global arms market.

“(3) NOTICE REGARDING DELAY IN SUBMITTAL.—If, before the end of the 45-day period specified in paragraph (1), the Director determines that the assessment required by that paragraph cannot be submitted by the end of that period as required by that paragraph, the Director shall (before the end of that period) submit to the appropriate committees of Congress a report setting forth—

“(A) the reasons why the assessment cannot be submitted by the end of that period; and

“(B) an estimated date for the submittal of the assessment.

“(c) COMPREHENSIVE STRATEGY ON THREAT OF MANPADS ORIGINATING FROM LIBYA.—

“(1) STRATEGY REQUIRED.—The President shall develop and implement, and from time to time update, a comprehensive strategy, pursuant to section 11 of the Department of State Authorities Act of 2006 [22 U.S.C. 2349bb-6], to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States from man-portable air-defense systems that were in Libya as of March 19, 2011.

“(2) REPORT REQUIRED.—

“(A) IN GENERAL.—Not later than 45 days after the assessment required by subsection (b) is submitted to the appropriate committees of Congress, the President shall submit to the appropriate committees of Congress a report setting forth the strategy required by paragraph (1).

“(B) ELEMENTS.—The report required by this paragraph shall include the following:

“(i) An assessment of the effectiveness of efforts undertaken to date by the United States, Libya, Mauritania, Egypt, Algeria, Tunisia, Mali, Morocco, Niger, Chad, the United Nations, the North Atlantic Treaty Organization, and any other country or entity (as determined by the President) to reduce the threat posed to United States citizens and citizens of allies of the United States from man-portable air-defense systems that were in Libya as of March 19, 2011.

“(ii) A timeline for future efforts by the United States, Libya, and neighboring countries to—

“(I) secure, remove, or disable any man-portable air-defense systems that remain in Libya;

“(II) counter proliferation of man-portable air-defense systems originating from Libya that are in the region; and

“(III) disrupt the ability of terrorists, non-state actors, and state sponsors of terrorism to acquire such man-portable air-defense systems.

“(iii) A description of any additional funding required to address the threat of man-portable air-defense systems originating from Libya.

“(iv) A description of technologies currently available to reduce the susceptibility and vulnerability of civilian aircraft to man-portable air-defense systems, including an assessment of the feasibility of using aircraft-based anti-missile systems to protect United States passenger jets.

“(v) Recommendations for the most effective policy measures that can be taken to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States from man-portable air-defense systems that were in Libya as of March 19, 2011.

“(vi) Such recommendations for legislative or administrative action as the President considers appropriate to implement the strategy required by paragraph (1).

“(C) FORM.—The report required by this paragraph shall be submitted in unclassified form, but may include a classified annex.

“(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

“(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.”

[Memorandum of President of the United States, Apr. 20, 2012, 77 F.R. 28757, delegated the reporting functions conferred upon the President by section 1235(c) of Pub. L. 112–81, set out above, to the Secretary of State.]

SUBCHAPTER III—GENERAL AND ADMINISTRATIVE PROVISIONS

PART I—GENERAL PROVISIONS

§ 2351. Encouragement of free enterprise and private participation

(a) Policy of United States

The Congress of the United States recognizes the vital role of free enterprise in achieving rising levels of production and standards of living essential to economic progress and development. Accordingly, it is declared to be the policy of the United States to encourage the efforts of other countries to increase the flow of international trade, to foster private initiative and competition, to encourage the development and use of cooperatives, credit unions, and savings and loan associations, to discourage monopolistic practices, to improve the technical efficiency of their industry, agriculture, and commerce, and to strengthen free labor unions; and to encourage the contribution of United States enterprise toward economic strength of less developed friendly countries, through private trade and investment abroad, private participation in programs carried out under this chapter (including the use of private trade channels to the maximum extent practicable in carrying out such programs), and exchange of ideas and technical information on the matters covered by this subsection.

(b) Action by President to facilitate participation to maximum extent

In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this chapter, the President shall—

(1) make arrangements to find, and draw the attention of private enterprise to, opportunities for investment and development in less-developed friendly countries and areas;

(2) establish an effective system for obtaining adequate information with respect to the activities of, and opportunities for, nongovernmental participation in the development process, and for utilizing such information in the planning, direction, and execution of programs carried out under this chapter, and in the coordination of such programs with the ever-increasing developmental activities of nongovernmental United States institutions;

(3) accelerate a program of negotiating treaties for commerce and trade, including tax treaties, which shall include provisions to encourage and facilitate the flow of private investment to, and its equitable treatment in,