

## AMENDMENTS

1980—Pub. L. 96-533 substituted “part IV of subchapter II of this chapter” for “subchapter IV of this chapter”.

## PART III—MISCELLANEOUS PROVISIONS

**§ 2401. Effective date; identification of programs**

This chapter shall take effect on September 4, 1961. Programs under this chapter shall be identified appropriately overseas as “American Aid”.

(Pub. L. 87-195, pt. III, § 641, Sept. 4, 1961, 75 Stat. 460.)

## REFERENCES IN TEXT

This chapter, referred to in text, 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.

**§ 2402. Saving provisions****(a) Determinations, authorizations, regulations, orders, contracts, agreements, etc., under prior law**

Except as may be expressly provided to the contrary in this chapter, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 642(a) and the Foreign Assistance Act of 1969 shall continue in full force and effect until modified by appropriate authority.

**(b) Compliance with similar provisions of prior law as compliance with this chapter**

Wherever provisions of this chapter establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this chapter, compliance with, or satisfaction of, substantially similar conditions under Acts listed in section 642(a) and the Foreign Assistance Act of 1969 or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this chapter.

**(c) Continued availability of funds appropriated pursuant to prior law**

Funds made available pursuant to provisions of law repealed by section 642(a)(2) and the Foreign Assistance Act of 1969 shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

(Pub. L. 87-195, pt. III, § 643, Sept. 4, 1961, 75 Stat. 460; Pub. L. 87-565, pt. III, § 303(a), Aug. 1, 1962, 76 Stat. 263; Pub. L. 91-175, pt. III, § 308, Dec. 30, 1969, 83 Stat. 821.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (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 classifica-

tion of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 642(a), referred to in text, means section 642(a) of Pub. L. 87-195, which is set out as a note under section 2151 of this title.

The Foreign Assistance Act of 1969, referred to in subsecs. (a) to (c), is Pub. L. 91-175, Dec. 30, 1969, 83 Stat. 805, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

## AMENDMENTS

1969—Subsec. (a). Pub. L. 91-175 inserted “and Foreign Assistance Act of 1969” after “section 642(a),” and “section 642(a)(2)”.

1962—Subsec. (d). Pub. L. 87-565 repealed subsec. (d) which provided that nothing in the chapter was to affect the Peace Corps pending enactment of the Peace Corps Act or adjournment of the first session of the 87th Congress, whichever was earlier.

**§ 2403. Definitions**

As used in this chapter—

(a) “Agency of the United States Government” includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

(b) “Armed Forces” of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) “Commodity” includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance.

(d) “Defense article” includes—

(1) any weapon, weapons system, munition, aircraft, vessel, boat or other implement of war;

(2) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

(3) any machinery, facility, tool, material supply, or other item necessary for the manufacture, production, processing repair, servicing, storage, construction, transportation, operation, or use of any article listed in this subsection; or

(4) any component or part of any article listed in this subsection; but

shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), by-product material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

(e) “Defense information” includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include Restricted Data as defined by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and data removed from the Restricted Data category under section 142d of that Act [42 U.S.C. 2162(d)].

(f) “Defense service” includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used

for the purposes of furnishing military assistance, but does not include military educational and training activities under part V of subchapter II of this chapter.

(g) “Excess defense articles” means the quantity of defense articles (other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors) owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this chapter.

(h) “Function” includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(i) Repealed. Pub. L. 93-189, §22(2), Dec. 17, 1973, 87 Stat. 726.

(j) “Officer or employee” means civilian personnel and members of the Armed Forces of the United States Government.

(k) “Services” include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance.

(l) “Surplus agricultural commodity” means any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States, either publicly or privately owned, which is in excess of domestic requirements, adequate carryover, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture.

(m) “Value” means—

(1) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 2392(d) of this title such actual value shall not be taken into account;

(2) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this chapter, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

(3) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this chapter, the contract or production costs of such article;

(4) with respect to a defense service, the cost to the United States Government of such service; and

(5) with respect to military education and training or services provided under part VIII of subchapter II of this chapter, the additional costs that are incurred by the United States Government in furnishing such assistance.

(n) “Military education and training” includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction

at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

(o) “Agriculture” includes aquaculture and fisheries.

(p) “Farmers” includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

(q) “Major non-NATO ally” means a country which is designated in accordance with section 2321k of this title as a major non-NATO ally for purposes of this chapter and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(Pub. L. 87-195, pt. III, §644, Sept. 4, 1961, 75 Stat. 461; Pub. L. 87-565, pt. III, §303(b), Aug. 1, 1962, 76 Stat. 263; Pub. L. 88-205, pt. III, §303, Dec. 16, 1963, 77 Stat. 389; Pub. L. 89-171, pt. III, §303(b), Sept. 6, 1965, 79 Stat. 661; Pub. L. 90-137, pt. III, §303(a), Nov. 14, 1967, 81 Stat. 462; Pub. L. 90-629, ch. 4, §45(b)(5), Oct. 22, 1968, 82 Stat. 1327; Pub. L. 92-226, pt. III, §304(c)(1), Feb. 7, 1972, 86 Stat. 32; Pub. L. 93-189, §22, Dec. 17, 1973, 87 Stat. 726; Pub. L. 94-329, title I, §106(b)(6), June 30, 1976, 90 Stat. 733; Pub. L. 95-424, title I, §103(b), Oct. 6, 1978, 92 Stat. 944; Pub. L. 96-92, §22, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96-533, title I, §115(b)(1), Dec. 16, 1980, 94 Stat. 3140; Pub. L. 98-151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; Pub. L. 102-583, §9(b), Nov. 2, 1992, 106 Stat. 4934; Pub. L. 104-164, title I, §147(a)(2), July 21, 1996, 110 Stat. 1435.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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.

The Atomic Energy Act of 1954, as amended, referred to in subsecs. (d) and (e), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Arms Export Control Act, referred to in subsec. (q), 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.

#### CODIFICATION

The 1983 amendment by Pub. L. 98-151 is based on section 202(b) of H.R. 2992, Ninety-eighth Congress, 1st Session, as reported May 17, 1983, which was enacted into permanent law by Pub. L. 98-151.

#### AMENDMENTS

1996—Subsec. (q). Pub. L. 104-164 added subsec. (q).

1992—Subsec. (g). Pub. L. 102-583 inserted “(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)” after second reference to “articles”.

1983—Subsec. (m)(5). Pub. L. 98-151 inserted “or services provided under part VIII of subchapter II of this chapter”.

1980—Subsec. (m)(5). Pub. L. 96-533 added par. (5).

1979—Subsec. (d). Pub. L. 96-92 defined “defense article” to include uranium depleted in the isotope 235

which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity.

1978—Subsecs. (o), (p). Pub. L. 95-424 added subsecs. (o) and (p).

1976—Subsec. (f). Pub. L. 94-329, §106(b)(6)(A), struck out “training” after “inspection, repair”, inserted “but does not include military educational and training activities under part V of subchapter II”, and struck out definition of “Training”.

Subsec. (n). Pub. L. 94-329, §106(b)(6)(B), added subsec. (n).

1973—Subsec. (g). Pub. L. 93-189, §22(1), substituted “Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components” for “mobilization reserve”.

Subsec. (i). Pub. L. 93-189, §22(2), struck out subsec. (i) which defined “mobilization reserve”.

Subsec. (m). Pub. L. 93-189, §22(3), amended subsec. (m) generally. Prior to amendment, subsec. (m) read as follows: “‘Value’ means, other than in section 2417 of this title—

“(1) with respect to excess defense articles, the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such articles;

“(2) with respect to nonexcess defense articles delivered from inventory to countries or international organizations under this chapter, the standard price in effect at the time such articles are dropped from inventory by the supplying agency. Such standard price shall be the same price (including authorized reduced prices) used for transfers or sales of such articles in or between the Armed Forces of the United States Government, or, where such articles are not transferred or sold in or between the Armed Forces of the United States, the gross cost to the United States Government adjusted as appropriate for condition and market value; and

“(3) with respect to nonexcess defense articles delivered from new procurement to countries or international organizations under this chapter, the contract or production costs of such articles.

Military assistance programs and orders shall be based upon the best estimates of stock status and prevailing prices; reimbursements to the supplying agency shall be made on the basis of the stock status and prices determined pursuant to this section. Notwithstanding the foregoing provisions of this section, the Secretary of Defense may prescribe regulations authorizing reimbursements to the supplying agency based on negotiated prices for aircraft, vessels, plant equipment, and such other major items as he may specify: *Provided*, That such articles are not excess at the time such prices are negotiated: *Provided further*, That such prices are negotiated at the time firm orders are placed with the supplying agency.”

1972—Subsec. (m). Pub. L. 92-226 substituted “‘Value’ means, other than in section 2417 of this title” for “‘Value’ means”.

1968—Subsec. (m). Pub. L. 90-629 struck out “and sales” before “programs” in text following par. (3).

1967—Subsec. (d). Pub. L. 90-137, §303(a)(1), excluded production facilities, utilization facilities, and articles involving Restricted Data from definition of “defense articles”.

Subsec. (e). Pub. L. 90-137, §303(a)(2), struck out “and formerly Restricted Data” before “as defined” and excluded data removed from the Restricted Data category under section 142d of the Atomic Energy Act of 1954 (classified to section 2162(d) of Title 42) from definition of “defense information”.

Subsec. (f). Pub. L. 90-137, §303(a)(3), excluded the transfer of limited quantities of defense articles for test, evaluation, or standardization purposes from definition of “defense service” and defined “training”, incorporating existing references to orientation and training aid.

1965—Subsec. (g). Pub. L. 89-171, §303(b)(1), inserted “and not procured in anticipation of military assist-

ance or sales requirements, or pursuant to a military assistance or sales order”, and struck out “as grant assistance” after “international organizations”.

Subsec. (m). Pub. L. 89-171, §303(b)(2), (3), in par. (2) substituted “Such standard price shall be the same price (including authorized reduced prices)” for “Such price shall be the same standard price”, and in unnumbered par. after par. (3) substituted “Military Assistance and sales programs” for “Military assistance programs” and struck out “by the military assistance program” after “supplying agency”.

1963—Subsec. (f). Pub. L. 88-205 inserted “including orientation”.

1962—Subsec. (m)(2), (3). Pub. L. 87-565 struck out “as grant assistance” after “international organizations”.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-424 effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as a note under section 2151 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-226 applicable with respect to each fiscal year commencing on or after July 1, 1971, see section 304(c)(3) of Pub. L. 92-226, set out as a note under section 2394 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-629 effective on July 1, 1968, see section 41 of Pub. L. 90-629, set out as an Effective Date note under section 2751 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.

### § 2404. Unexpended balances

Unexpended balances of funds made available pursuant to this chapter, the Mutual Security Act of 1954, as amended, or the Latin American Development Act, as amended, are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this chapter.

(Pub. L. 87-195, pt. III, §645, Sept. 4, 1961, 75 Stat. 462; Pub. L. 87-565, pt. III, §303(c), Aug. 1, 1962, 76 Stat. 263; Pub. L. 88-205, pt. III, §304, Dec. 16, 1963, 77 Stat. 390; Pub. L. 89-171, pt. III, §303(c), Sept. 6, 1965, 79 Stat. 661.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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.

The Mutual Security Act of 1954, referred to in text, is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2-11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85-141, 71 Stat. 355; June 30, 1958, Pub. L. 85-477, ch. 1, §§101-103, ch. II, §§201-205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86-108, §2, ch. 1, §101, ch. II, §§201-205(a)-(i), (k)-(n), ch. III, §301, ch. IV, §401(a)-(k), (m), 73 Stat. 246; May 14, 1960, Pub. L.