

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 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, 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.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (e)(1), (2), is the date of enactment of Pub. L. 114-328, which was approved Dec. 23, 2016.

PRIOR PROVISIONS

A prior section 384 was renumbered section 284 of this title.

§ 385. Department of Defense support for other departments and agencies of the United States Government that advance Department of Defense security cooperation objectives

(a) SUPPORT AUTHORIZED.—Subject to subsection (c), the Secretary of Defense is authorized to support other departments and agencies of the United States Government for the purpose of implementing or supporting foreign assistance programs and activities described in subsection (b) that advance security cooperation objectives of the Department of Defense.

(b) FOREIGN ASSISTANCE PROGRAMS AND ACTIVITIES.—The foreign assistance programs and activities described in this subsection are foreign assistance programs and activities that—

(1) are necessary for the effectiveness of one or more programs of the Department of Defense relating to security cooperation conducted pursuant to an authority in this chapter; and

(2) cannot be carried out by the Department.

(c) ANNUAL LIMITATION ON AMOUNT OF SUPPORT.—The amount of support provided pursuant to subsection (a) in any fiscal year may not exceed \$75,000,000.

(d) NOTICE AND WAIT.—If a determination is made to transfer funds in connection with the provision of support pursuant to subsection (a) for a program or activity, the transfer may not occur until—

(1) the Secretary and the head of the department or agency to receive the funds jointly submit to the congressional defense committees a notice on the transfer, which notice shall include—

(A) a detailed description of the purpose and estimated cost of such program or activity;

(B) a detailed description of the security cooperation objectives of the Department, include¹ the theater campaign plan of the combatant command concerned, that will be advanced;

(C) a justification why such program or activity will advance such objectives;

(D) a justification why such program or activity cannot be carried out by the Department;

(E) an identification of any funds programmed or obligated by the department or

agency other than the Department on such program or activity; and

(F) a timeline for the provision of such support; and

(2) a period of 30 days elapses after the date of the submittal of the notice pursuant to paragraph (1).

(Added Pub. L. 114-328, div. A, title XII, §1241(m), Dec. 23, 2016, 130 Stat. 2511.)

§ 386. Annual report

(a) ANNUAL REPORT REQUIRED.—Not later than January 31 of each year beginning in 2018, the Secretary of Defense shall submit to the appropriate congressional committees a report that sets forth, on a country-by-country basis, a description of each program carried out by the Department of Defense under the authorities in subsection (c) to provide training, equipment, or other assistance or reimbursement during the fiscal year ending in the year before the year in which such report is submitted.

(b) ELEMENTS OF REPORT.—Each report required under subsection (a) shall provide for each program covered by such report, and for the reporting period covered by such report, the following:

(1) A description of the purpose, duration, and type of the training, equipment, or assistance or reimbursement provided, including how the training, equipment, or assistance or reimbursement provided advances the theater security cooperation strategy of the combatant command, as appropriate.

(2) The cost and expenditures of such training, equipment, or assistance or reimbursement, including by type of support provided.

(3) A description of the metrics, if any, used for assessing the effectiveness of such training, equipment, or assistance or reimbursement provided.

(4) For each foreign country in which defense articles, defense services, supplies (including consumables), small-scale construction, or reimbursement were provided, a description of the extent of participation, if any, by the military forces and security forces or other government organizations of such foreign country.

(5) The number of members of the United States armed forces involved in providing such defense articles, defense services, supplies (including consumables), and small-scale construction, and, if applicable, a description of the military benefits for such members involved in providing such training, equipment, or assistance.

(6) A summary, by authority, of the activities carried out under each authority specified in subsection (c).

(c) SPECIFIED AUTHORITIES.—The authorities specified in this subsection are the following authorities (or any successor authorities):

(1) Sections 311, 321, 331, 332, 333, 344, 348, 349, and 350 of this title.

(2) Section 166a(b)(6) of this title, relating to humanitarian and civic assistance by the commanders of the combatant commands.

(3) Section 168 of this title, relating to authority—

¹ So in original. Probably should be “including”.

(A) to provide assistance to nations of the former Soviet Union as part of the Warsaw Initiative Fund;

(B) to conduct the Defense Institution Reform Initiative; and

(C) to conduct a program to increase defense institutional legal capacity through the Defense Institute of International Legal Studies.

(4) Section 2249c of this title, relating to authority to use appropriated funds for costs associated with education and training of foreign officials under the Regional Defense Combating Terrorism Fellowship Program.

(5) Section 2561 of this title, relating to authority to provide humanitarian assistance.

(6) Section 1532, relating to the Afghanistan Security Forces Fund.

(7) Section 1233 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 393), relating to authority to reimburse certain coalition nations for support provided to United States military operations.

(8) Section 1234 of the National Defense Authorization Act for Fiscal Year 2008 (122 Stat. 394), relating to authorization for logistical support for coalition forces supporting certain United States military operations.

(9) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1881), relating to authority to provide additional support for counter-drug activities of Peru and Colombia.

(10) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note), relating to additional support for counter-drug activities.

(11) Section 401 of this title, relating to humanitarian and civic assistance provided in conjunction with military operations.

(12) Section 1206 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (128 Stat. 3538; 10 U.S.C. 2282 note), relating to authority to conduct human rights training of security forces and associated security ministries of foreign countries.

(13) Any other authority on assistance or reimbursement that the Secretary of Defense considers appropriate and consistent with subsection (a).

(d) NONDUPLICATION OF EFFORT.—

(1) IN GENERAL.—Except as provided in paragraph (2), if any information required under subsection (a) has been included in another report or notification previously submitted to Congress by law, the Secretary of Defense may provide a list of such reports and notifications at the time of submitting the report required by subsection (a) in lieu of including such information in the report required by subsection (a).

(2) EXCEPTION.—Paragraph (1) does not apply with respect to information required under subsection (a) that is required to be submitted as described in paragraphs (1) and (2) of subsection (b).

(e) FORM.—Each report required under subsection (a) shall be submitted in unclassified

form, but may contain a classified annex that may also include other sensitive information.

(Added and amended Pub. L. 114-328, div. A, title XII, §§ 1246(d)(2)(A), 1251(a)-(f), Dec. 23, 2016, 130 Stat. 2521, 2529-2531.)

AMENDMENT OF SUBSECTION (c)(1)

Pub. L. 114-328, div. A, title XII, § 1246(d)(2)(A), Dec. 23, 2016, 130 Stat. 2521, provided that, effective as of Jan. 1, 2020, subsection (c)(1) of this section is amended by inserting “341,” after “333.” See 2016 Amendment note below.

REFERENCES IN TEXT

Section 168 of this title, referred to in subsec. (c)(3), was repealed by Pub. L. 114-328, div. A, title XII, § 1253(a)(1)(A), Dec. 23, 2016, 130 Stat. 2532.

Section 2249c of this title, referred to in subsec. (c)(4), was renumbered section 345 of this title by Pub. L. 114-328, div. A, title XII, § 1247(a), Dec. 23, 2016, 130 Stat. 2521.

Section 1532, referred to in subsec. (c)(6), is section 1532 of Pub. L. 113-291, div. A, title XV, Dec. 19, 2014, 128 Stat. 3613. Section 1532 consists of subssecs. (a) to (d). Subssecs. (a) to (c) of section 1532 are not classified to the Code, and subsec. (d) of section 1532 amended section 1531(d) of Pub. L. 113-66, which is set out as a note under section 2302 of this title.

Section 1233 of the National Defense Authorization Act for Fiscal Year 2008, referred to in subsec. (c)(7), is section 1233 of Pub. L. 110-181, div. A, title XII, Jan. 28, 2008, 122 Stat. 393, which is not classified to the Code.

Section 1234 of the National Defense Authorization Act for Fiscal Year 2008, referred to in subsec. (c)(8), is section 1234 of Pub. L. 110-181, div. A, title XII, Jan. 28, 2008, 122 Stat. 394, which is not classified to the Code.

Section 1033 of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (c)(9), is section 1033 of Pub. L. 105-85, div. A, title X, Nov. 18, 1997, 111 Stat. 1881, which is not classified to the Code.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note), referred to in subsec. (c)(10), is section 1004 of Pub. L. 101-510, div. A, title X, Nov. 5, 1990, 104 Stat. 1629, which was set out as a note under section 374 of this title, prior to repeal by Pub. L. 114-328, div. A, title X, § 1011(b), Dec. 23, 2016, 130 Stat. 2385. See section 284 of this title.

Section 1206 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, referred to in subsec. (c)(12), is section 1206 of Pub. L. 113-291, which is set out as a note under section 2282 of this title.

CODIFICATION

Text of section, as added by Pub. L. 114-328, is based on text of subssecs. (a) to (e) of section 1211 of Pub. L. 113-291, div. A, title XII, Dec. 19, 2014, 128 Stat. 3544, which was not classified to the Code.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328, § 1251(b)(6), which directed striking out “under the authorities in subsection (c)” after “submitted”, was executed by striking out “under the authorities specified in subsection (c)” after “submitted”, to reflect the probable intent of Congress.

Pub. L. 114-328, § 1251(b)(1)-(5), in heading, substituted “Annual Report Required” for “Biennial Report Required”, and, in text, substituted “Not later than January 31 of each year beginning in 2018, the Secretary of Defense” for “Not later than February 1 of each of 2016, 2018, and 2020, the Secretary of Defense”, “appropriate congressional committees” for “congressional defense committees”, “assistance” for “security assistance”, and “the fiscal year” for “the two fiscal years” and inserted “under the authorities in subsection (c)” after “Department of Defense”.

Subsec. (b)(1). Pub. L. 114-328, § 1251(c)(1), inserted “, duration,” after “purpose”.

Subsec. (b)(2). Pub. L. 114-328, § 1251(c)(2), substituted “The cost and expenditures” for “The cost”.

Subsec. (b)(4) to (6). Pub. L. 114-328, § 1251(c)(3), added pars. (4) to (6).

Subsec. (c)(1). Pub. L. 114-328, § 1246(d)(2)(A), inserted “341,” after “333.”

Pub. L. 114-328, § 1251(d)(1), added par. (1) and struck out former par. (1) which read as follows: “Section 127d of title 10, United States Code, relating to authority to provide logistic support, supplies, and services to allied forces participating in a combined operation with the Armed Forces.”

Subsec. (c)(2), (3). Pub. L. 114-328, § 1251(d)(6), substituted “of this title” for “of title 10, United States Code”.

Subsec. (c)(4). Pub. L. 114-328, § 1251(d)(2), (3), (6), redesignated par. (6) as (4), substituted “of this title” for “of title 10, United States Code”, and struck out former par. (4) which read as follows: “Section 2010 of title 10, United States Code, relating to authority to reimburse foreign troops for participation in combined exercises.”

Subsec. (c)(5). Pub. L. 114-328, § 1251(d)(2), (3), (6), redesignated par. (8) as (5), substituted “of this title” for “of title 10, United States Code”, and struck out former par. (5) which read as follows: “Section 2011 of title 10, United States Code, relating to authority to reimburse foreign troops for participation in Joint Combined Exercise Training.”

Subsec. (c)(6). Pub. L. 114-328, § 1251(d)(3), redesignated par. (9) as (6). Former par. (6) redesignated (4).

Subsec. (c)(7). Pub. L. 114-328, § 1251(d)(2), (3), redesignated par. (13) as (7) and struck out former par. (7) which read as follows: “Section 2282 of title 10, United States Code (as added by section 1205 of this Act), relating to authority to build the capacity of foreign military forces, or the predecessor authority to such section in section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3456).”

Subsec. (c)(8), (9). Pub. L. 114-328, § 1251(d)(3), redesignated pars. (14) and (15) as (8) and (9), respectively. Former pars. (8) and (9) redesignated (5) and (6), respectively.

Subsec. (c)(10). Pub. L. 114-328, § 1251(d)(2), (3), redesignated par. (16) as (10) and struck out former par. (10) which read as follows: “Section 1205 of the National Defense Authorization Act for Fiscal Year 2014 (32 U.S.C. 107 note), relating to authority for National Guard State Partnership program.”

Subsec. (c)(11), (12). Pub. L. 114-328, § 1251(d)(2), (4), added pars. (11) and (12) and struck out former pars. (11) and (12) which read as follows:

“(11) Section 1081 of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 168 note), relating to the Ministry of Defense Advisors program.

“(12) Section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 2151 note), relating to the Global Security Contingency Fund.”

Subsec. (c)(13). Pub. L. 114-328, § 1251(d)(5), redesignated par. (17) as (13). Former par. (13) redesignated (7).

Subsec. (c)(14) to (16). Pub. L. 114-328, § 1251(d)(3), redesignated pars. (14) to (16) as (8) to (10), respectively.

Subsec. (c)(17). Pub. L. 114-328, § 1251(d)(5), redesignated par. (17) as (13).

Subsec. (d). Pub. L. 114-328, § 1251(e), designated existing provisions as par. (1) and inserted heading, substituted “Except as provided in paragraph (2), if any information” for “If any information”, and added par. (2).

Subsec. (e). Pub. L. 114-328, § 1251(f), inserted “that may also include other sensitive information” after “annex”.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title XII, § 1246(d)(2), Dec. 23, 2016, 130 Stat. 2521, provided that the amendment made by section 1246(d)(2)(A) is effective as of January 1, 2020.

CHAPTER 19—CYBER MATTERS

Sec. 391.	Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors.
392.	Executive agents for cyber test and training ranges.
393.	Reporting on penetrations of networks and information systems of certain contractors.

AMENDMENTS

2015—Pub. L. 114-92, div. A, title X, § 1081(a)(4), title XVI, § 1641(c)(2), Nov. 25, 2015, 129 Stat. 1001, 1116, substituted “Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors” for “Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors” in item 391 and added item 393.

2014—Pub. L. 113-291, div. A, title XVI, § 1633(d), Dec. 19, 2014, 128 Stat. 3643, added item 392.

§ 391. Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors

(a) DESIGNATION OF DEPARTMENT COMPONENT TO RECEIVE REPORTS.—The Secretary of Defense shall designate a component of the Department of Defense to receive reports of cyber incidents from contractors in accordance with this section and section 393 of this title or from other governmental entities.

(b) PROCEDURES FOR REPORTING CYBER INCIDENTS.—The Secretary of Defense shall establish procedures that require an operationally critical contractor to report in a timely manner to component designated under subsection (a) each time a cyber incident occurs with respect to a network or information system of such operationally critical contractor.

(c) PROCEDURE REQUIREMENTS.—

(1) DESIGNATION AND NOTIFICATION.—The procedures established pursuant to subsection (a) shall include a process for—

(A) designating operationally critical contractors; and

(B) notifying a contractor that it has been designated as an operationally critical contractor.

(2) RAPID REPORTING.—The procedures established pursuant to subsection (a) shall require each operationally critical contractor to rapidly report to the component of the Department designated pursuant to subsection (d)(2)(A) on each cyber incident with respect to any network or information systems of such contractor. Each such report shall include the following:

(A) An assessment by the contractor of the effect of the cyber incident on the ability of the contractor to meet the contractual requirements of the Department.

(B) The technique or method used in such cyber incident.

(C) A sample of any malicious software, if discovered and isolated by the contractor, involved in such cyber incident.

(D) A summary of information compromised by such cyber incident.

(3) DEPARTMENT ASSISTANCE AND ACCESS TO EQUIPMENT AND INFORMATION BY DEPARTMENT