

tion Act of 1991 was enacted and made the same amendments to this section as did section 1049(a) of Pub. L. 102-190, then the duplicative amendments enacted by section 1049(a) would not take effect, was repealed by Pub. L. 102-484, div. A, title X, § 1053(7), Oct. 23, 1992, 106 Stat. 2502.

MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN COUNTRIES

Pub. L. 101-167, title V, § 573, Nov. 21, 1989, 103 Stat. 1246, as amended by Pub. L. 102-391, title V, § 578(a), Oct. 6, 1992, 106 Stat. 1685, provided that:

“(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—

“(1) NATO SOUTHERN FLANK COUNTRIES.—The President may transfer—

“(A) to any NATO southern flank country which is eligible for United States security assistance and which is integrated into NATO’s military structure; and

“(B) to any major non-NATO ally on the southern and southeastern flank of NATO which is eligible for United States security assistance, such excess defense articles as may be necessary to help modernize the defense capabilities of such country.

“(2) MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Subject to subsection (f), the President may transfer to any country—

“(A) which is a major illicit drug producing country.

“(B) which has a democratic government, and

“(C) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights, such excess defense articles as may be necessary to carry out subsection (f)(1).

“(3) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

“(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

“(1) they are drawn from existing stocks of the Department of Defense;

“(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

“(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

“(c) NOTIFICATION TO CONGRESS.—

“(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until thirty days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

“(A) a certification of the need for the transfer;

“(B) an assessment of the impact of the transfer on the military readiness of the United States; and

“(C) the value of the excess defense articles to be transferred.

“(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

“(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) of the Foreign Assistance Act of 1961 [22 U.S.C. 2392(d)] does not apply with respect to transfers of excess defense articles under this section.

“(e) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

“(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Co-

operation Act of 1989 [probably means section 841 of H.R. 2655, 101st Congress, which was not enacted], of maintaining the military balance in the Eastern Mediterranean.

“(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the four-year period beginning on October 1, 1992, the ratio of—

“(A) the value of excess defense articles made available for Turkey under this section, to

“(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

“(i) the amount of foreign military financing provided for Turkey, to

“(ii) the amount of foreign military financing provided for Greece.

“(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).

“(f) MAJOR ILLICIT DRUG PRODUCING COUNTRIES IN LATIN AMERICA AND THE CARIBBEAN.—

“(1) PURPOSE.—Excess defense articles shall be transferred under subsection (a)(2) for the purpose of encouraging the military forces of an eligible country in Latin America and the Caribbean to participate with local law enforcement agencies in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic [sic] drugs or other controlled substances.

“(2) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a)(2) only if that country ensures that those excess defense articles will be used only in support of antinarcotics activities.

“(3) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a)(2) and insure that any transfer is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

“(4) LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a)(2) in any fiscal year may not exceed \$10,000,000.

“(g) DEFINITIONS.—As used in this section—

“(1) the term ‘excess defense article’ has the meaning given that term by section 644(g) [probably means section 644(g) of Pub. L. 87-195, which is classified to section 2403(g) of this title];

“(2) the term ‘made available’ means that a good faith offer is made by the United States to furnish the excess defense articles to a country;

“(3) the term ‘major non-NATO ally’ includes Australia, Egypt, Israel, Japan, and New Zealand;

“(4) the term ‘NATO’ means the North Atlantic Treaty Organization; and

“(5) the term ‘NATO southern flank countries’ means Greece, Italy, Portugal, Spain, and Turkey.”

[For delegation of functions of President under section 573 of Pub. L. 101-567, set out above, 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.]

Provisions similar to those appearing in section 573(e) of Pub. L. 101-167, set out above, were contained in the following prior appropriation acts:

Pub. L. 100-461, title V, § 569, Oct. 1, 1988, 102 Stat. 2268-43.

Pub. L. 100-202, § 101(e) [title V, § 582], Dec. 22, 1987, 101 Stat. 1329-131, 1329-182.

§ 2321k. Designation of major non-NATO allies

(a) Notice to Congress

The President shall notify the Congress in writing at least 30 days before—

(1) designating a country as a major non-NATO ally for purposes of this chapter and the Arms Export Control Act (22 U.S.C. 2751 et seq.); or

(2) terminating such a designation.

(b) Initial designations

Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.

(Pub. L. 87-195, pt. II, §517, as added Pub. L. 104-164, title I, §147(a)(1), July 21, 1996, 110 Stat. 1434.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), 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 Arms Export Control Act, referred to in subsec. (a)(1), 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.

The effective date of this section, referred to in subsec. (b), is July 21, 1996, the date of enactment of Pub. L. 104-164, which enacted this section.

PRIOR PROVISIONS

A prior section 2321k, Pub. L. 87-195, pt. II, §517, as added Pub. L. 101-231, §5, Dec. 13, 1989, 103 Stat. 1957; amended Pub. L. 101-623, §15, Nov. 21, 1990, 104 Stat. 3357; Pub. L. 102-583, §9(a), Nov. 2, 1992, 106 Stat. 4934; Pub. L. 103-236, title VII, §731(b), Apr. 30, 1994, 108 Stat. 502, related to modernization of counternarcotics capabilities of certain Latin America and Caribbean countries, prior to repeal by Pub. L. 104-164, title I, §104(b)(2)(B), July 21, 1996, 110 Stat. 1427.

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.

TREATMENT OF TAIWAN RELATING TO TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

Pub. L. 107-228, div. B, title XII, §1206, Sept. 30, 2002, 116 Stat. 1428, provided that: “Notwithstanding any other provision of law, for purposes of the transfer or possible transfer of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other provision of law, Taiwan shall be treated as though it were designated a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)))”.

[For definitions of “defense article” and “defense service” as used in section 1206 of Pub. L. 107-228, set out above, see section 1002 of Pub. L. 107-228, set out as a note under section 2151 of this title.]

PRESIDENTIAL DETERMINATIONS RELATING TO DESIGNATIONS OF COUNTRIES AS MAJOR NON-NATO ALLIES

The following Presidential Determinations designated the countries listed as major non-NATO allies of the United States for purposes of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and the Arms Export Control Act (22 U.S.C. 2751 et seq.):

Determination No. 97-4, Nov. 12, 1996, 61 F.R. 59809.—Jordan.

Determination No. 98-9, Jan. 6, 1998, 63 F.R. 3635.—Argentina.

Determination No. 2002-10, Mar. 14, 2002, 67 F.R. 13247.—Bahrain.

Determination No. 2004-02, Oct. 6, 2003, 68 F.R. 59855.—Philippines.

Determination No. 2004-16, Dec. 30, 2003, 69 F.R. 2053.—Thailand.

Determination No. 2004-21, Jan. 15, 2004, 69 F.R. 4843.—Kuwait.

Determination No. 2004-35, June 3, 2004, 69 F.R. 34049.—Morocco.

Determination No. 2004-37, June 16, 2004, 69 F.R. 38797.—Pakistan.

Determination No. 2015-09, July 10, 2015, 80 F.R. 43613.—Tunisia.

§§ 2321f to 2321n. Repealed. Pub. L. 104-164, title I, § 104(b)(2)(B), July 21, 1996, 110 Stat. 1427

Section 2321f, Pub. L. 87-195, pt. II, §518, as added Pub. L. 101-513, title V, §533(f), Nov. 5, 1990, 104 Stat. 2015, authorized President to transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for preservation of endangered animal and plant species.

Section 2321m, Pub. L. 87-195, pt. II, §519, as added Pub. L. 101-513, title V, §596(b), Nov. 5, 1990, 104 Stat. 2061; amended Pub. L. 103-236, title VII, §731(c), Apr. 30, 1994, 108 Stat. 502, authorized President to transfer to countries for whom foreign military financing program was justified such nonlethal excess defense articles as President determined necessary to help modernize defense capabilities of such countries.

Section 2321n, Pub. L. 87-195, pt. II, §520, as added Pub. L. 103-236, title IV, §408, Apr. 30, 1994, 108 Stat. 452, authorized President to transfer to international and regional organizations of which United States is a member such excess defense articles as President determined necessary to support and maintain international peacekeeping operations and security.

§ 2322. Transferred

CODIFICATION

Section, Pub. L. 87-195, pt. II, §521, formerly §514, as added Pub. L. 89-583, pt. II, §201(f), Sept. 19, 1966, 80 Stat. 803; renumbered §521, Pub. L. 90-137, pt. II, §201(o)(1), Nov. 14, 1967, 81 Stat. 457, which related to administration of sales programs, was transferred to section 2341 of this title and subsequently repealed by Pub. L. 90-629, §45(a), Oct. 22, 1968, 82 Stat. 1327.

§ 2323. Transfer of defense articles or services

(a) Notice to Congress

Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year and hereafter may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) Activities affected

This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and