

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.

COLOMBIAN ANTI-NARCOTICS ENFORCEMENT PROGRAM

Pub. L. 96-533, title IV, §402(c), Dec. 16, 1980, 94 Stat. 3150, provided: "Notwithstanding the provisions of section 482(a)(2) of the Foreign Assistance Act of 1961 [subsec. (a)(2) of this section] as in effect immediately prior to the enactment of this Act [Dec. 16, 1980], funds appropriated for the fiscal year 1980 to carry out the purposes of section 481 of that Act [section 2291 of this title] which were obligated for assistance for Colombia may be used for fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program."

§ 2291b. Prohibition on use of foreign assistance for reimbursements for drug crop eradications

Funds made available to carry out this chapter may not be used to reimburse persons whose illicit drug crops are eradicated.

(Pub. L. 87-195, pt. I, §483, as added Pub. L. 99-83, title VI, §609, Aug. 8, 1985, 99 Stat. 230.)

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.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as an Effective Date of 1985 Amendment note under section 2151-1 of this title.

§ 2291c. Requirements relating to aircraft and other equipment

(a) Retention of title to aircraft

(1) In general

(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this part, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

(2) Exceptions

(A) Paragraph (1) shall not apply to the extent that—

(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and

(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394-1 of this title.

(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes

property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

(3) Assistance for leasing of aircraft

(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act [22 U.S.C. 2763] may be used to finance the leasing of aircraft under chapter 6 of that Act [22 U.S.C. 2796 et seq.].

(B) Section 61(a)(3)¹ of that Act [22 U.S.C. 2796(a)(3)] shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act [22 U.S.C. 2761(a)(1)(B), 2762] (as appropriate).

(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act [22 U.S.C. 2795 et seq.], funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act [22 U.S.C. 2761(e)(1)]). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act [22 U.S.C. 2777(a), 2792(b)].

(b) Permissible uses of aircraft and other equipment

The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this part are used only in ways that are consistent with the purposes for which such equipment was made available.

(c) Reports

In the reports submitted pursuant to section 2291h(a) of this title, the President shall discuss—

(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this part, and

(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

(Pub. L. 87-195, pt. I, §484, as added Pub. L. 99-570, title II, §2003, Oct. 27, 1986, 100 Stat. 3207-61; amended Pub. L. 101-623, §7, Nov. 21, 1990, 104 Stat. 3355; Pub. L. 102-583, §4(f)(1), (2)(D), Nov. 2, 1992, 106 Stat. 4916, 4917.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a)(3), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapters 5 and 6 of the Act are classified generally to subchapters V (§2795 et seq.) and VI (§2796 et seq.), respectively, of chapter 39 of this title. Section 61(a)(3) of the Act was redesignated section 61(a)(4), and a new section 61(a)(3) was added, by Pub. L. 103-236, title VII, §731(e)(2), (3), Apr. 30, 1994, 108 Stat. 503. For complete classification of this Act to the Code, see

¹ See References in Text note below.

Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

The text of subssecs. (a) and (b) of section 2291h of this title, which were redesignated as subssecs. (b) and (c) of this section by Pub. L. 102-583, § 4(f)(2)(D), was based on section 489(a) and (b) of Pub. L. 87-195, pt. I, as added Pub. L. 100-690, title IV, § 4507, Nov. 18, 1988, 102 Stat. 4286; amended Pub. L. 102-583, § 4(f)(2)(B), (C), Nov. 2, 1992, 106 Stat. 4917.

AMENDMENTS

1992—Pub. L. 102-583, § 4(f)(1), amended section generally, substituting subsec. (a) for former text which read as follows: “Any aircraft which, at any time after October 27, 1986, are made available to a foreign country under this part, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis. The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 635(b)(6)(B) of title 12 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.”

Subsecs. (b), (c). Pub. L. 102-583, § 4(f)(2)(D), redesignated subssecs. (a) and (b) of section 2291h of this title as subssecs. (b) and (c), respectively, of this section. See Codification note above.

1990—Pub. L. 101-623 inserted at end “The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 635(b)(6)(B) of title 12 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.”

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.

TRAINING OF HOST COUNTRY PILOTS

Pub. L. 101-623, § 13, Nov. 21, 1990, 104 Stat. 3356, provided that:

“(a) INSTRUCTION PROGRAM.—Not less than 90 days after the date of enactment of this Act [Nov. 21, 1990], the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pilots, and other flight crew members, to fly host country aircraft involved in counter-narcotics efforts in Andean countries. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use of either direct hire or contract personnel) in the operation of such aircraft.

“(b) REQUIREMENT FOR REPLACEMENT OF UNITED STATES GOVERNMENT PILOTS BY HOST COUNTRY PILOTS.—The President shall ensure that, within 18 months after the date of enactment of this Act [Nov. 21, 1990], flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including both direct hire or contract personnel) for host country aircraft involved in airborne counternarcotics operations in the Andean countries.

“(c) AIRCRAFT SUBJECT TO REQUIREMENTS.—As used in this section, the term ‘host country aircraft’ means any aircraft made available to an Andean country by the United States Government under chapter 8 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2291 et seq.], or any other provision of law, for use by that country for narcotics-related purposes.”

[Functions of President under section 13 of Pub. L. 101-623, set out above, delegated to Secretary of State

in consultation with Secretary of Defense by Determination of President of the United States, No. 91-20, Jan. 25, 1991, 56 F.R. 8681, set out as a note under section 2291 of this title.]

§ 2291d. Records of aircraft use

(a) Requirement to maintain records

The President shall maintain detailed records on the use of any aircraft made available to a foreign country under this part, including aircraft made available before October 27, 1986.

(b) Congressional access to records

The President shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

(Pub. L. 87-195, pt. I, § 485, as added Pub. L. 99-570, title II, § 2003, Oct. 27, 1986, 100 Stat. 3207-61; amended Pub. L. 102-583, § 4(f)(3), Nov. 2, 1992, 106 Stat. 4917.)

AMENDMENTS

1992—Pub. L. 102-583 substituted “President” for “Secretary of State” in subssecs. (a) and (b).

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§ 2291e. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking

If any funds authorized to be appropriated for any fiscal year for assistance under this chapter are not used for assistance for the country for which those funds were allocated because of the requirements of section 2291j of this title or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) International narcotics control assistance

Those funds may be transferred to and consolidated with the funds appropriated to carry out this part in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 2360(a) of this title. This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act [22 U.S.C. 2751 et seq.].

(2) Other assistance

Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the