

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.)

### Editorial Notes

#### 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.

#### 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.]

### Executive Documents

#### 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.

#### 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.):

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

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

BRAZIL.—Determination No. 2019-21, July 31, 2019, 84 F.R. 43035.

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

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

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

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

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

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

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

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 Repealed.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

Section 2321l, 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

#### Editorial Notes

##### 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

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

**(c) Contents of notice**

A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

(Pub. L. 113–235, div. C, title VIII, § 8050, Dec. 16, 2014, 128 Stat. 2264.)

**Editorial Notes****CODIFICATION**

Section was enacted as part of the Department of Defense Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

**Statutory Notes and Related Subsidiaries****“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED**

For definition of “congressional defense committees”, see section 8026 of div. C of Pub. L. 113–235, formerly set out as a note under section 2731 of Title 10, Armed Forces.

**PART III—FOREIGN MILITARY SALES****§§ 2341 to 2343. Repealed. Pub. L. 90–629, ch. 4, § 45(a), Oct. 22, 1968, 82 Stat. 1327**

Section 2341, 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 and amended Pub. L. 90–137, pt. II, § 201(o)(1), (3)–(7), Nov. 14, 1967, 81 Stat. 457, provided for administration of sales programs involving defense articles and services. Subsec. (a) related to encouragement of regional arms control and disarmament agreements and discouragement of arms races; reimbursable basis of acquisitions; domestic procurement; and considerations. Subsec. (b) related to limitation on military assistance and sales for American Republics; and inclusion of assistance to inter-American military force under control of Organization of American States. Subsec. (c) related to furnishing of defense articles and services; conditions; and report to Congress. For subject matter of subsecs. (a) to (c), see sections 2751 and 2791, 2773, and 2753 of this title, respectively.

Section 2342, Pub. L. 87–195, pt. II, § 522, formerly § 507 (a), Sept. 4, 1961, 75 Stat. 437; amended Pub. L. 87–565, pt. II, § 201(b), Aug. 1, 1962, 76 Stat. 259; Pub. L. 89–171, pt. II, § 201(d)(1), Sept. 6, 1965, 79 Stat. 657; renumbered § 522 and amended Pub. L. 90–137, pt. II, § 201(f), Nov. 14, 1967, 81 Stat. 456, provided for sales of defense articles from stock and services, manner of payment, price of non-excess defense articles, and value of excess defense articles. See section 2761 of this title.

Section 2343, Pub. L. 87–195, pt. II, § 523, formerly § 507(b), Sept. 4, 1961, 75 Stat. 437; amended Pub. L. 87–565, pt. II, § 201(c), Aug. 1, 1962, 76 Stat. 259; Pub. L. 88–633, pt. II, § 201(c), Oct. 7, 1964, 78 Stat. 1011; Pub. L. 89–171, pt. II, § 201(d)(2), Sept. 6, 1965, 79 Stat. 657; renumbered § 523 and amended Pub. L. 90–137, pt. II,

§ 201(g), Nov. 14, 1967, 81 Stat. 456, related to contracts for procurement for sales; undertakings; reimbursements; fixed-price sales agreements; prohibition against sales of articles available from commercial sources; and waiver of restrictions. See section 2762 of this title.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF REPEAL**

Repeal effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

**SAVINGS PROVISION**

Pub. L. 90–629, § 46, Oct. 22, 1968, 82 Stat. 1328, provided that: “Except as may be expressly provided to the contrary in this Act [see Short Title note set out under section 2751 of this title], 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 45(a) [repealing sections 2341 to 2343, 2344(b)(3), 2345, 2394(g), and 2399a of this title] shall continue in full force and effect until modified by appropriate authority.”

**§ 2344. Reimbursements****(a) Separate fund account; transfers to such account**

Whenever funds made available for use under subchapter II of this chapter have been or are used to furnish military assistance on cash or credit terms, United States dollar repayments, including dollar proceeds derived from the sale of foreign currency repayments to any agency or program of the United States Government, receipts received from the disposition of evidences of indebtedness and charges (including fees and premiums) or interest collected shall be credited to a separate fund account, and shall be available until expended solely for the purpose of financing sales and guaranties, including the overhead costs thereof, and, notwithstanding any provision of law relating to receipts and credits accruing to the United States Government, repayments in foreign currency may be used to carry out subchapter II of this chapter. Such amounts of the appropriations made available under subchapter II of this chapter (including unliquidated balances of funds heretofore obligated for financing sales and guaranties) as may be determined by the President shall be transferred to, and merged with, the separate fund account.

**(b) Termination of account; special account for discharge of Federal liabilities and obligations; general fund for excess moneys**

(1) The special fund account established under subsection (a) of this section shall terminate as of the end of June 30, 1968, or on such earlier date as may be selected by the President.

(2) Upon the termination of such fund account pursuant to paragraph (1), all of the assets of such fund account (including loans and other payments receivable) shall be transferred to a special account in the Treasury, which special account shall be available solely for the purpose of discharging outstanding liabilities and obligations of the United States arising out of credit sales agreements entered into, and guaranties issued, under subchapter II of this chapter prior