

“(7) The term ‘realignment’ includes any action which both reduces and relocates functions and civilian personnel positions.

“(8) The term ‘Secretary’ means the Secretary of Defense.

“(9) The term ‘United States’ means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

“(10) The term ‘redevelopment authority’, in the case of an installation to be closed under this title, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.

“(11) The term ‘redevelopment plan’ in the case of an installation to be closed under this title, means a plan that—

“(A) is agreed to by the redevelopment authority with respect to the installation; and

“(B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse or redevelopment as a result of the closure of the installation.”

[For effective date of amendments by section 2711(c)(1), (3)(B) of Pub. L. 112-239 to sections 204, 207, and 209 of Pub. L. 100-526, set out above, see section 2711(d) of Pub. L. 112-239, set out as an Effective Date of 2013 Amendment note under section 2701 of this title.]

[For effective date of amendment by section 2813(d)(1) of Pub. L. 103-337 to section 209 of Pub. L. 100-526, set out above, see Effective Date of Amendment by Section 2813(d)(1) and (2) of Pub. L. 103-337 note set out above.]

[For effective date of amendment by section 344(a) of Pub. L. 102-190 to sections 204 and 209 of Pub. L. 100-526, set out above, see Effective Date of 1991 Amendments by Section 344 of Pub. L. 102-190 note set out above.]

[Pub. L. 101-510, div. B, title XXIX, §2923(b)(2), Nov. 5, 1990, 104 Stat. 1821, provided that: “The amendment made by paragraph (1) [amending section 207 of Pub. L. 100-526 set out above] does not apply with respect to the availability of funds appropriated before the date of the enactment of this Act [Nov. 5, 1990].”]

§ 2687a. Overseas base closures and realignments and status of United States overseas military locations

(a) ANNUAL REPORT ON STATUS OF OVERSEAS CLOSURES AND REALIGNMENTS AND OVERSEAS MILITARY LOCATIONS.—(1) At the same time that the budget is submitted under section 1105(a) of title 31 for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on—

(A) the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy; and

(B) the status of overseas military locations, whether such a location is designated as an enduring location or contingency location.

(2) To satisfy the reporting requirement specified in paragraph (1)(B), a report under paragraph (1) shall contain the following:

(A) A list of overseas military locations. For any overseas military location established during the previous fiscal year, the reasons for the establishment of the overseas military location.

(B) A description of the strategic goal and operational requirements supported by each overseas military location.

(C) A list of each construction or facility improvement project carried out by the Department of Defense regardless of the funding source, and each construction or facility improvement project accepted as a payment-in-kind, at overseas military locations during the previous fiscal year if the construction or facility improvement project was not specifically authorized in a Military Construction Authorization Act or congressional notice of the construction or facility improvement project was not provided by another means. Each construction or facility improvement project on the list shall be delineated by project location, project title or description, project cost, including costs covered by the host country, and authority used to undertake the project.

(D) For each overseas military location first designated as an enduring location in one of the previous two required reports, a list of required construction and facility improvement projects anticipated to be carried out by the Department of Defense directly or through the acceptance of payments-in-kind during the fiscal year in which the report is submitted and the next four fiscal years. Each construction or facility improvement project on the list shall be delineated by project location, project title or description, estimated project cost, including costs anticipated to be covered by the host country, and authority to be used to undertake the project.

(E) An overview of any annual lease or access costs to the United States for each overseas military location designated as an enduring location.

(F) A description of any plans to transition an existing contingency overseas military location to an enduring overseas military location, or to upgrade or downgrade the designation of an existing enduring or contingency overseas military location, during the fiscal year in which the report is submitted.

(G) A list of any overseas military locations that, during the previous fiscal year, were transferred to the control of security forces of the host country or another military force, closed, or for any other reason no longer used by the armed forces, including a summary of any costs associated with the transfer or closure of the overseas military location.

(H) A summary of any force protection risks identified for cooperative security locations and contingency locations, the actions proposed to mitigate such risks, and the resourcing and implementation plan to implement the mitigation actions.

(I) Such other such matters related to overseas military locations as the Secretary of Defense considers appropriate.

(3) In this subsection:

(A)(i) The term “overseas military location” covers both enduring locations and contingency locations established outside the United States.

(ii) An enduring location is primarily characterized either by the presence of perma-

nently assigned United States forces with robust infrastructure and quality of life amenities to support that presence, by the sustained presence of allocated United States forces with infrastructure and quality of life amenities consistent with that presence, or by the periodic presence of allocated United States forces with little or no permanent United States military presence or controlled infrastructure. Enduring locations include main operating bases, forward operating sites, and cooperative security locations.

(iii) A contingency location refers to a location outside of the United States that is not covered by subparagraph (B), but that is used by United States forces to support and sustain operations during named and unnamed contingency operations or other operations as directed by appropriate authority and is categorized by mission life-cycle requirements as initial, temporary, or semi-permanent.

(B)(i) The term “construction or facility improvement project” includes any construction, development, conversion, or extension of a building, structure, or other improvement to real property carried out at an overseas military location, whether to satisfy temporary or permanent requirements, and any acquisition of land for an overseas military location.

(ii) The term does not include repairs to a building, structure, or other improvement to real property, unless the building, structure, or other improvement cannot effectively be used for its designated functional purpose in the absence of the repairs.

(4) The Secretary of Defense shall prepare the report under paragraph (1) in coordination with the Under Secretary of Defense for Policy and the Under Secretary of Defense for Acquisition and Sustainment.

(5) A report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex as necessary.

(b) DEPARTMENT OF DEFENSE OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.—(1) Except as provided in subsection (c), amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into the Department of Defense Overseas Military Facility Investment Recovery Account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense in connection with—

(A) military construction, facility maintenance and repair, and environmental restoration at military installations in the United States; and

(B) military construction, facility maintenance and repair, and compliance with applicable environmental laws at military installations outside the United States at which the Secretary anticipates the United States will have an enduring presence.

(3) Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.

(4) Not later than December 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report detailing all expenditures made from the Department of Defense Overseas Facility Investment Recovery Account during the preceding fiscal year.

(c) TREATMENT OF AMOUNTS CORRESPONDING TO THE VALUE OF PROPERTY PURCHASED WITH NON-APPROPRIATED FUNDS.—In the case of a payment referred to in subsection (b)(1) for the residual value of real property or improvements at an overseas military facility, the portion of the payment that is equal to the depreciated value of the investment made with nonappropriated funds shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note). The Secretary of Defense may use amounts in the account (in such an aggregate amount as is provided in advance by appropriation Acts) for the purpose of acquiring, constructing, or improving commissary stores and nonappropriated fund instrumentalities.

(d) OMB REVIEW OF PROPOSED OVERSEAS BASING SETTLEMENTS.—(1) The Secretary of Defense may not enter into an agreement of settlement with a host country regarding the release to the host country of improvements made by the United States to facilities at an installation located in the host country until 30 days after the date on which the Secretary submits the proposed settlement to the Director of the Office of Management and Budget. The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of \$10,000,000. The Director shall evaluate the overall equity of the proposed settlement. In evaluating the proposed settlement, the Director shall consider such factors as the extent of the United States capital investment in the improvements being released to the host country, the depreciation of the improvements, the condition of the improvements, and any applicable requirements for environmental remediation or restoration at the installation.

(2) Each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the fair market value of the improvements to be released pursuant to the proposed agreement did not exceed \$10,000,000.

(e) CONGRESSIONAL OVERSIGHT OF USE OF PAYMENTS-IN-KIND FOR CONSTRUCTION OR OPERATIONS.—(1) Before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of the military construction project or facility improvement project.

(B) An explanation of the military requirement to be satisfied with the project.

(C) A certification that the project is included in the current future-years defense program.

(2) Before concluding an agreement for acceptance of host country support or host country payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of each activity to be covered by the payment-in-kind.

(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments in the current or the next fiscal year.

(3) When the Secretary of Defense submits a notification of a proposed agreement under paragraph (1) or (2), the Secretary may then enter into the agreement described in the notification only after the end of the 30-day period beginning on the date on which the notification is submitted or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(f) ACCEPTANCE OF MILITARY CONSTRUCTION PROJECTS AS PAYMENTS-IN-KIND AND IN-KIND CONTRIBUTIONS.—(1)(A) Except as provided in subparagraph (B), a military construction project costing more than \$6,000,000 may be accepted as payment-in-kind or as an in-kind contribution required by a bilateral agreement with a host country only if that military construction project is authorized by law.

(B) Subparagraph (A) does not apply to a military construction project that—

(i) was specified in a bilateral agreement with a host country that was entered into before December 26, 2013;

(ii) was the subject of negotiation between the United States and a host country as of the date of the enactment of the Military Construction Authorization Act for Fiscal Year 2015; or

(iii) was accepted as payment-in-kind for the residual value of improvements made by the United States at military installations released to the host country under section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 10 U.S.C. 2687 note) before December 26, 2013.

(2)(A) If the Secretary of Defense accepts a military construction project to be built for Department of Defense personnel outside the United States as a payment-in-kind or an in-kind contribution required by a bilateral agreement with a host country, the Secretary shall submit to the congressional defense committees a written notification at least 30 days before the initiation date for any such military construction project.

(B) A notification under subparagraph (A) with respect to a proposed military construction project shall include the following:

(i) The requirements for, and purpose and description of, the proposed project.

(ii) The cost of the proposed project.

(iii) The scope of the proposed project.

(iv) The schedule for the proposed project.

(v) Such other details as the Secretary considers relevant.

(C) Subparagraph (A) shall not apply to a military construction project authorized in a Military Construction Authorization Act.

(3) To the extent that a payment-in-kind or an in-kind contribution is provided under a bilateral agreement with a host country with respect to a military construction project for which funds have already been obligated or expended by the Secretary of Defense, the Secretary shall return to the Treasury funds in an amount equal to the value of the funds already obligated or expended for the project.

(4) In this subsection, the term “military construction project” has the meaning given such term in section 2801 of this title.

(g) DEFINITIONS.—In this section:

(1) The term “fair market value of the improvements” means the value of improvements determined by the Secretary of Defense on the basis of their highest use.

(2) The term “improvements” includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(3) The term “nonappropriated funds” means funds received from—

(A) the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of this title; or

(B) a nonappropriated fund instrumentality.

(4) The term “nonappropriated fund instrumentality” means an instrumentality of the United States under the jurisdiction of the armed forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

(Added Pub. L. 111-84, div. B, title XXVIII, §2822(a)(1), Oct. 28, 2009, 123 Stat. 2665; amended Pub. L. 111-383, div. A, title X, §1075(b)(44), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112-239, div. A, title X, §1076(f)(34), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 113-66, div. B, title XXVIII, §2807(a), Dec. 26, 2013, 127 Stat. 1008; Pub. L. 113-291, div. B, title XXVIII, §2803(a), Dec. 19, 2014, 128 Stat. 3696; Pub. L. 114-92, div. A, title X, §1081(a)(11), (b)(7), Nov. 25, 2015, 129 Stat. 1001, 1002; Pub. L. 114-328, div. B, title XXVIII, §2811(a), (c), Dec. 23, 2016, 130 Stat. 2715, 2716; Pub. L. 115-91, div. A, title X, §1081(d)(15), Dec. 12, 2017, 131 Stat. 1600; Pub. L. 116-283, div. B, title XXVIII, §2822(a)-(b)(2), Jan. 1, 2021, 134 Stat. 4330-4332.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Military Construction Authorization Act for Fiscal Year 2015, referred to in subsec. (f)(1)(B)(ii), is the date of enactment of div. B of Pub. L. 113-291, which was approved Dec. 19, 2014.

AMENDMENTS

2021—Pub. L. 116-283, §2822(b)(2), amended section catchline generally, substituting “Overseas base closures and realignments and status of United States overseas military locations” for “Overseas base closures and realignments and basing master plans”.

Subsec. (a). Pub. L. 116-283, §2822(a)(1), substituted “Overseas Military Locations” for “Master Plans” in heading.

Subsec. (a)(1)(B). Pub. L. 116-283, §2822(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations.”

Subsec. (a)(2) to (5). Pub. L. 116-283, §2822(a)(3), added pars. (2) to (5) and struck out former par. (2) which related to elements of annual status report of overseas closures and realignments and master plans.

Subsec. (e)(2). Pub. L. 116-283, §2822(b)(1), substituted “host country” for “host nation” in two places in introductory provisions.

2017—Subsec. (f). Pub. L. 115-91, §1081(d)(15), amended Pub. L. 114-328, §2811(c). See 2016 Amendment note below.

2016—Subsec. (f). Pub. L. 114-328, §2811(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) related to authorized use of payments-in-kind and in-kind contributions.

Pub. L. 114-328, §2811(c), as amended by Pub. L. 115-91, §1081(d)(15), repealed Pub. L. 113-291, §2803(a). See 2014 Amendment note below.

2015—Subsec. (d)(2). Pub. L. 114-92, §1081(a)(11), inserted “fair market” before “value”.

Subsec. (f). Pub. L. 114-92, §1081(b)(7), amended Pub. L. 113-291, §2803(a). See 2014 Amendment note below.

2014—Subsec. (f). Pub. L. 113-291, §2803(a), as amended by Pub. L. 114-92, §1081(b)(7), which amended subsec. (f) generally by substituting provisions related to authorized use of payments-in-kind and in-kind contributions for provisions related to authorized use of payments-in-kind, was repealed by Pub. L. 114-328, §2811(c), as amended by Pub. L. 115-91, §1081(d)(15).

2013—Pub. L. 113-66, §2807(a), amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) which related to an annual status report of overseas base closures, realignments, and basing master plans and required elements of the report, respectively.

Subsec. (a). Pub. L. 112-239, §1076(f)(34)(A), substituted “Foreign Relations” for “Foreign relations”.

Subsec. (b)(1). Pub. L. 112-239, §1076(f)(34)(B), struck out comma after “including” and substituted “the Treaty” for “The Treaty”.

2011—Subsec. (a). Pub. L. 111-383 substituted “31 for” for “31for” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(15) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114-328 as enacted.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-92, div. A, title X, §1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b)(7) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113-291 as enacted.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. B, title XXVIII, §2803(d), Dec. 19, 2014, 128 Stat. 3697, which provided the effective date for

the amendments made by section 2803 of Pub. L. 113-291, was repealed by Pub. L. 114-328, div. B, title XXVIII, §2811(c), Dec. 23, 2016, 130 Stat. 2716.

REPEAL OF 2014 AMENDMENT

Pub. L. 114-328, div. B, title XXVIII, §2811(c), Dec. 23, 2016, 130 Stat. 2716, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(15), Dec. 12, 2017, 131 Stat. 1600, provided that: “Section 2803 of the Carl Levin and Howard ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291; 128 Stat. 3696) [amending this section and section 2802 of this title and enacting provisions set out as a note under this section] is repealed.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

PROHIBITION RELATING TO CLOSURE OR RETURN TO HOST NATION OF EXISTING MILITARY INSTALLATIONS, INFRASTRUCTURE, OR REAL PROPERTY IN EUROPE

Pub. L. 116-283, div. B, title XXVIII, §2828, Jan. 1, 2021, 134 Stat. 4338, provided that:

“(a) PROHIBITION ON CLOSURE OR RETURN.—Except as provided by subsection (b), the Secretary of Defense shall not implement any activity that closes or returns to the host nation any military installation, infrastructure, or real property in Europe that, as of the date of enactment of this Act [Jan. 1, 2021], is under the operational control of the Department of Defense or a military department and is utilized by the United States Armed Forces.

“(b) WAIVER AND EXCEPTION.—The Secretary of Defense may waive the prohibition under subsection (a) if the Secretary certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that there is no longer a foreseeable need for the military installation, infrastructure, or real property, or a portion of the military installation in the case of a partial closure and return of a military installation, to support a permanent or rotational United States military presence in the European theater.”

§ 2688. Utility systems: conveyance authority

(a) CONVEYANCE AUTHORITY.—The Secretary of a military department may convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. The conveyance may consist of all right, title, and interest of the United States in the utility system or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

(b) SELECTION OF CONVEYEE.—(1) If more than one utility or entity referred to in subsection (a) notifies the Secretary concerned of an interest in a conveyance under such subsection, the Secretary shall carry out the conveyance through the use of competitive procedures.

(2) Notwithstanding paragraph (1), the Secretary concerned may use procedures other than competitive procedures, but only in accordance with subsections (a), (b), (d), and (e) of section 3204 of this title, to select the conveyee of a utility system (or part of a utility system) under subsection (a).

(3) With respect to the solicitation process used in connection with the conveyance of a utility system (or part of a utility system) under subsection (a), the Secretary concerned