

TO MAKE IMPROVEMENTS TO CERTAIN DEFENSE AND SECURITY ASSISTANCE LAWS AND TO AUTHORIZE THE TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

APRIL 16, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GILMAN, from the Committee on International Relations, submitted the following

REPORT

[To accompany H.R. 3121]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 3121) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND AND PURPOSE

The purpose of title I of this bill, H.R. 3121, is to amend authorities under the Foreign Assistance Act (FAA) of 1961, as amended, and the Arms Export Control Act (AECA) to revise and consolidate defense and security assistance authorities, in particular by updating policy and statutory authorities. The genesis of this effort began nearly seven years ago with H.R. 2655, the International Cooperation Act of 1989. Subsequent legislation by the then Committee on Foreign Affairs, including H.R. 2508, the International Cooperation Act of 1991, and later bills, continued efforts to amend and update these important authorities.

On June 8, 1995, the House of Representatives passed H.R. 1561, the American Overseas Interests Act of 1995, by a vote of 222-192. Title XXXI of Division C, the "Foreign Aid Reduction Act of 1995,"

was dedicated to defense and security assistance provisions. On March 12, 1996, the House of Representatives agreed to the conference report on H.R. 1561 by a vote of 226-172. The conference report did not include provisions from Division C of the House-passed bill.

This legislation, H.R. 3121, continues the effort by the Committee on International Relations to amend the FAA and AECA to make improvements to defense and security assistance provisions under those Acts. The provisions included in title I of this bill are nearly identical to title XXXI of H.R. 1561 and are the product of bipartisan effort and cooperation and enjoy the strong support of the Departments of State and Defense.

Central to consideration of this bill is the Committee's view that this legislation fulfills its responsibilities as an authorizing committee. Specifically, this legislation codifies in permanent law authorizing language which has been too long carried on annual appropriations measures.

Title I of this bill is organized by chapter as follows:

Chapter 1 modifies applicable provisions on terms and criteria of financing assistance, including drawdown authorities and a rewrite of the excess defense article authority.

Chapter 2 modifies terms of assistance for the international military education and training (IMET) program and includes language limiting Indonesia to E-IMET assistance.

Chapter 3 clarifies current law authorities under which Antiterrorism assistance is provided.

Chapter 4 modifies authorities under which assistance for international narcotics is provided.

Chapter 5 deals with general provisions regarding military assistance including approval of third-country transfers, standardization of congressional review procedures for arms sales, definitions, arms sales certification thresholds, designation of major non-NATO allies, end-use monitoring, and other miscellaneous issues.

The purpose of title II of this bill is to authorize the transfer of naval vessels to certain foreign countries pursuant to the Administration's request of January 29, 1996.

Legislation authorizing the proposed transfer of these ships is required by section 7307(b)(1) of Title 10, United States Code, which provides in relevant part that "a naval vessel in excess of 3,000 tons or less than 20 years of age may not be sold, leased, granted . . . or otherwise disposed of to another nation unless the disposition of that vessel is approved by law. . ." Each naval vessel proposed for transfer under this legislation displaces in excess of 3,000 tons and/or is less than 20 years of age and therefore the Committee must act.

Title II of this bill authorizes the transfer of ten naval vessels (8 sales, 1 lease, 1 grant) to the following countries:

To the Government of Egypt

1 "OLIVER HAZARD PERRY" class frigate GALLERY (FFG 26)

Sales: \$47.2 million

To the Government of Mexico

2 "KNOX" class frigates: STEIN (FF 1065) and MARVIN SHIELDS (FF 1066)

Sales: \$5.9 million

To the Government of New Zealand

1 "STALWART" class ocean surveillance ship: TENACIOUS (T-AGOS 17)

Sale: \$7.7 million

To the Government of Portugal

1 "STALWART" class ocean surveillance ship: AUDACIOUS (T-AGOS 11)

Grant: \$13.7 million

To Taiwan (the Taipei Economic and Cultural Representative Office in the United States)

3 "KNOX" class frigates: AYLWIN (FF 1081), PHARRIS (FF 1094), and VALDEZ (FF 1096)

Sale: \$8.2 million.

1 "NEWPORT" class tank landing ship: NEWPORT (LST 1179)

Lease: No rent lease

To the Government of Thailand

1 "KNOX" class frigate: OUELLET (FF 1077)

Sale: \$2.7 million

According to the Department of Defense, the Chief of Naval Operations has certified that these naval vessels are not essential to the defense of the United States.

As detailed above, the U.S. plans to transfer eight naval vessels by sale pursuant to section 21 of the Arms Export Control Act; one of the vessels will be transferred as a lease pursuant to Chapter six of the Arms Export Control Act; and one of the vessels will be transferred as a grant pursuant to section 519 of the Foreign Assistance Act of 1961, as amended.

The U.S. will incur no costs for the transfer of the naval vessels under this legislation. The foreign recipients will be responsible for all costs associated with the transfers of the vessels, including maintenance, repairs, training, and fleet turnover costs. Any expenses incurred in connection with the transfers will be charged to the foreign recipients.

Through the sale of these naval vessels, this legislation generates \$71.7 million in revenue for the U.S. Treasury. In addition, through repair and reactivation work, service contracts, ammunition sales, and savings generated from avoidance of storage/deactivation costs, the Navy estimates this legislation generates an additional \$525 million in revenue for the U.S. Treasury and private U.S. firms.

COMMITTEE ACTION

Numerous hearings were held by the Committee on International Relations in the fall of 1995 which were dedicated to Division C of H.R. 1561. For a full list of these hearings see House Report 104-128, Part I.

On March 20, 1996, Chairman Benjamin A. Gilman, along with the Ranking Democratic Member, Lee Hamilton, introduced H.R.

3121. On March 21, 1996, the Committee on International Relations received testimony on the legislation from Mr. John P. Caves, Deputy Director of Plans, Defense Security Assistance Agency, and Ms. Barbara Larkin, Acting Assistant Secretary for Legislative Affairs, Department of State. The Committee subsequently debated the measure and reported out H.R. 3121 unanimously by voice vote.

ROLLCALL VOTES AND AMENDMENTS AND FINAL PASSAGE

During consideration of H.R. 3121 by the Committee on International Relations on March 21, 1996, there were no amendments and a rollcall vote was not requested on final passage.

DESCRIPTION OF AMENDMENT, MOTION, ORDER, OR OTHER PROPOSITION

Mr. Roth moved and the Committee agreed that the Chairman or his designee be requested to seek consideration of H.R. 3121 on the suspension calendar.

SECTION-BY-SECTION ANALYSIS

TITLE I—DEFENSE AND SECURITY ASSISTANCE

Chapter I—Military and Related Assistance

Section 101. Terms of Loans Under the Foreign Military Financing Program.

Section 101 states that loans made available under section 23 of the Arms Export Control Act shall not be provided at concessional rates of interest. This section updates and codifies in the Arms Export Control Act the FMF loan terms that have been carried annually on the Foreign Operations Appropriation bill.

Section 102. Additional Requirements under the Foreign Military Financing Program.

Section 102 amends section 23 of the Arms Export Control Act to codify several provisions which have been carried on annual appropriations bills. The first provision allows the President to exempt Israel from certain costs imposed on government-to-government arms sales. Utilization of this authority is contingent on Israel providing the U.S. the same authority on a reciprocal basis. The second provision directs the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, to conduct audits on a nonreimbursable basis of firms which have entered into contracts with foreign governments under which grant or loan Foreign Military Financing under section 23 of the Arms Export Control Act is utilized. The third provision states that the Committee shall receive a 15-day pre-notification for any country or international organization which has been approved for cash flow financing for the procurement of defense articles, services or design and construction services in excess of \$100 million that is financed in whole or in part with funds made available under the Arms Export Control Act or the Foreign Assistance Act of 1961. The fourth provision limits to \$100 million the amount of grant or loan Foreign Military Financing under section 23 of the Arms Ex-

port Control Act that may be made available to countries, other than Egypt and Israel, for the purpose of financing commercial sales. Finally, the fifth provision in this section requires a report which details all articles, services, credits, guarantees, and any other form of assistance furnished by the U.S. in the preceding fiscal year to countries and international organizations for the detection and clearance of landmines.

With respect to the demining activities, the Committee directs the Secretary of State to make all possible efforts to ensure that assistance, including the provision of mine detection/clearing equipment, mine clearing training and other assistance related to reducing the threat of injury from mines, especially to civilian personnel, be made available to Slovenia, Croatia, Bosnia-Herzegovina, Macedonia, Angola and Mozambique.

Section 103. Drawdown Special Authorities.

Section 103 increases the special drawdown authorities of defense articles and services from stocks to assist foreign countries from \$75 million to \$100 million (for unforeseen emergencies) and from \$75 million to \$150 million (for national interests relating to international narcotics, international disaster assistance, migration and refugee assistance and POW/MIA repatriation efforts). The POW/MIA repatriation drawdown is codified from the current appropriations law. It allows for the drawdown of up to \$15 million in defense articles and services to Vietnam, Cambodia and Laos to support efforts to locate and repatriate members of the U.S. Armed Forces and civilian who remain unaccounted for since the end of the Vietnam war.

Section 104. Transfer of Excess Defense Articles.

Section 104 streamlines and consolidates DOD authorities of current law to transfer excess defense articles.

This new consolidated authority stipulates that only countries which are justified in the annual congressional presentation documents for military assistance or counter-narcotics programs, or separately justified during the fiscal year for such purposes, are eligible to receive excess defense articles. This section retains current limitations on EDA transfers, including: excess defense articles must be drawn from existing DoD stocks; no DoD procurement funds may be expended in connection with the transfer; the transfer of EDA will not have an adverse impact on the military readiness of the U.S.; that an analysis be prepared on the impact of providing EDA on a grant versus sales basis; and the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean pursuant to section 620C of the Foreign Assistance Act.

An additional limitation on proposed transfers requires the President to determine that the transfer will not have an adverse impact on U.S. defense industry and that the transfer will not reduce opportunities of U.S. companies to sell new or used equipment to countries where transfers are either being transferred or being considered for transferred. Such determination is also required to be included as part of the congressional notification on any proposed transfer (see below). The Committee would note that such determination applies to both grant transfers and sales of EDA. The

Committee expects the Defense Security Assistance Agency to work closely with U.S. defense industry to ensure that both the spirit and the law are met fully with regard to this limitation. The Committee will be monitoring the implementation of this provision closely.

This section also codifies EDA provisions carried over from appropriations law including a provision which directs that EDA provided to NATO countries on the southern and southeastern flank of NATO and major non-NATO nations on such southern and southeastern flank shall be given priority to the maximum extent feasible on the delivery of EDA over other countries.

This section also includes a subsection which prohibits the expenditure of DoD funds for packing, crating, and handling associated with transfers of EDA. Transportation may be provided and paid for with DoD funds but on the strict terms outlined in this subsection.

Other subsections of this section include a provision for congressional notification of proposed transfers of EDA if the proposed transfer is significant military equipment or EDA valued at more than \$7 million (acquisition cost). This notification requires that specific information and assessments be made with regard to the proposed transfer.

This section also includes an aggregate annual limitation of \$350 million (current value) on the transfer of EDA under this section to countries in any fiscal year. The aggregate annual limitation shall apply beginning in fiscal year 1997. The Committee directs the Defense Security Assistance Agency to promptly consult with the Committee should DSAA consider changing the regulations or definitions addressing how current value is determined. The Aggregate ceiling does not apply to sales of EDA.

Finally, this section requires that the Executive branch expand upon the current EDA section in the annual congressional presentation documents to provide the committee with specific information.

Section 105. Excess Defense Articles for Certain European Countries.

Section 105 authorizes DoD to expend funds for crating, packing, handling and transportation of excess defense articles transferred under section 516 of the Foreign Assistance Act to countries that are eligible to participate in the Partnership for Peace and that are eligible under the SEED Act. Those countries include Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

Chapter 2—International Military Education and Training

Section 111. Assistance for Indonesia.

Section 111 authorizes the resumption of IMET for Indonesia with the condition that all such IMET be comprised of the human rights-oriented Expanded IMET program as described in clauses (i) through (iv) of the second sentence of section 541 of 22 U.S.C. Sec. 2347. The decision to resume targeted IMET for Indonesia is based on the importance of Indonesia as a trade and security partner, on professionalism and human rights sensitivity of the foreign military beneficiaries.

This limited restoration of IMET, therefore, should not be interpreted as an expression of congressional satisfaction with the Government of Indonesia's human rights performance in East Timor or elsewhere in Indonesia. The Congress remains concerned about poor human rights conditions in Indonesia and urges the Administration to actively promote better human rights practices. Moreover, the Congress looks for improvements in these areas prior to restoration of the full range of security cooperation with Indonesia as it existed prior to the massacre in Dili, East Timor, in November 1991.

Section 112. Additional Requirements.

Section 112 amends the Foreign Assistance Act to place into permanent law several provisions carried in annual appropriations law regarding the IMET program: first, a provision which allows NGOs to be eligible for Expanded IMET assistance; second, a new authority which allows foreign military and civilian defense personnel to attend U.S. flight training schools and programs if such attendance is agreed to on a reciprocal basis with a foreign country and is accomplished without charge. This authority will allow the Air Force to train pilots from the U.K. and France and other countries on a reciprocal basis without cost to the U.S. Government. A third provision modifies current law to prohibit grant IMET assistance to the following "high-income countries": Austria, Finland, the Republic of Korea, Singapore and Spain. For purposes of this section "high-income country" means any nation listed as high-income earning countries in the "World Development Report, 1994" and the Government of Korea). Current law limits grant assistance to \$100,000 to any high-income country.

Chapter 3—Antiterrorism Assistance

Section 121. Antiterrorism Training Assistance.

Section 121 makes a variety of amendments to the Foreign Assistance Act relating to the manner in which Antiterrorism Training Assistance (ATA) assistance may be provided. When the ATA program was established, a variety of restrictions were imposed on how training could be provided and specified that only certain types of material assistance could be provided due to lingering sensitivities about U.S.-supported police training assistance. Some of these restrictions currently make the program less effective.

Section 121 allows assistance through the ATA program to be provided outside the United States, mirroring other current law enforcement training authorities. This modification will make the program more efficient as well as more cost effective. Section 121 also removes the specific list of material assistance that may be provided in favor of a restriction on the provision of arms and ammunition. Arms and ammunition may only be provided if they are directly and integrally related to training being provided and if the Congress is notified 15 days in advance in accordance with regular reprogramming procedures. This change also makes the program consistent with other U.S.-supported law enforcement training programs.

Section 122. Research and Development Expenses.

Section 122 would allow the Bureau of Diplomatic Security's Office of Antiterrorism Assistance to use funds, as practicable, for the State Department's Technical Support Working Group. Such funds could be made available during the fiscal year only after the Office of Antiterrorism Assistance determines that its remaining annual training requirements, related equipment purchases, and contractual obligations can be effectively met by the existing funding allocation. Priority use of funds to carry out chapter 8 of part II of the Foreign Assistance Act (22 U.S.C. Sec. 2349aa et seq.; relating to antiterrorism assistance) shall continue to focus upon training and training-related equipment purchases.

Chapter 4—Narcotics Control Assistance**Section 131. Additional Requirements.**

Section 131 makes the following technical and administrative amendments to the narcotics control authorities under the Foreign Assistance Act.

Section 131(a) restates a one-year provision of the International Narcotics Control Corrections Act of 1994 relating to programs to combat other international criminal activities and makes the provision permanent law. The section reflects concern over the increased level of organized international criminal activity and the threat posed by such activity to U.S. national security. The section is intended to allow the provision of assistance to address a variety of criminal activities that may not be directly related to narcotics production and trafficking, such as alien smuggling, counterfeiting, and other types of illegal international activity. The section also reflects the creation in the Department of State of the Bureau of International Narcotics and Law Enforcement Affairs. The Committee intends that all Department of State anticrime activities (other than antiterrorism activities) be conducted by that bureau.

Section 131(b) establishes administrative authorities for the provision of international narcotics control assistance by allowing the President to accept contributions from other governments to augment existing narcotics control activities and to provide training and other assistance on a reimbursable basis. The United States has the most well-established mechanism for providing a wide variety of international counter-narcotics related assistance. An integral component of the U.S. international narcotics control strategy for the past seven years has been efforts to increase support for counter-narcotics activities by other countries affected by the narcotics problem. However, most of these countries do not have any type of mechanism available that would allow the effective delivery of such assistance. The authority to accept contributions from other interested foreign governments will allow the President to administer another country's assistance efforts under the same terms and conditions as U.S. assistance.

Section 131(c) requires that funds authorized under other sections of the Foreign Assistance Act for narcotics control or crime purposes be apportioned directly to the Bureau for International Narcotics and Law Enforcement Affairs. This provision is intended to address a problem with internal transfers of funds within the Department and between the Department and AID (or AID's suc-

cessor). In FY95, \$5 million in Economic Support Fund assistance was authorized for anticrime programs. These funds experienced a long delay in obligation because of the cumbersome inter-Department transfer system. A similar situation arose with respect to the \$30 million authorized for law enforcement assistance to Central Europe and the independent states of the former Soviet Union. Despite the urgent problems in those countries which the assistance was designed to address, the obligation of these funds was delayed for several months due to the necessity to transfer the money from AID to the Department and then within the Department. Section 131(c) also allows the Secretary to receive property declared excess by other U.S. Government agencies and to transfer such property to foreign governments under the same terms and conditions as funds authorized for international narcotics control programs.

Section 132. Notification Requirement.

Section 132 requires the Director of the Office of National Drug Control Policy to notify the appropriate congressional committees 15 days in advance of using the authority of the National Narcotics Control Leadership Act of 1988 to reallocate resources and personnel associated with international narcotics control programs and activities. The Committee believes that in order to fulfill its oversight responsibilities with respect to such programs and activities, no such reallocation of personnel or resources should be permitted without the prior consultation and approval of the Committee.

Section 133. Waiver of Restrictions for Narcotics-Related Economic Assistance.

Section 133 restates for FY96 and FY97 a provision of law allowing the President to provide narcotics-related economic assistance without regard to other restrictions on assistance, except for countries which have been decertified for narcotics concerns or which systematically violate internationally recognized human rights.

Chapter 5—Other Provisions

Section 141. Standardization of Congressional Review Procedures for Arms Transfers.

Section 141 eliminates anomalies in current law regarding congressional review procedures applicable to different categories of transfers to the same country or group of countries. This section creates common review procedures for given recipients irrespective of the nature of the type of transfer (for example, FMS or commercial sale). This section also equates the statutory period of time for enactment of a joint resolution of disapproval of a transfer to the period of time stipulated for review of that transfer. Finally, this section standardizes the requirements for all types of sales for any Presidential waiver of congressional notification.

The Committee notes that this section does not affect the informal process agreed to between the Committee and the Administration regarding arms transfers.

Section 142. Standardization of Third Country Transfers of Defense Articles.

Section 142 standardizes the rules governing the retransfer of certain U.S.-origin military equipment. Currently, retransfer regulations for direct commercial sales and FMS sales differ with re-

spect to retransfers. By standardizing the rules governing third party transfers of FMS equipment and commercial sales this section provides equitable treatment of equipment previously bought under FMS or DCS. While requests to approve retransfers of the type permitted under this proposal are routinely granted under the current system, the requirement to seek U.S. government approval is administratively burdensome for both the foreign parties and the U.S. government. This section also details the specific conditions under which the consent of the President is required for retransfers to occur.

Section 143. Increased Standardization, Rationalization, and Interoperability of Assistance and Sales Programs.

Section 143 amends the Foreign Assistance Act to remove country specific references with respect to standardization, rationalization and interoperability of assistance and sales programs, thereby allowing the U.S. to pursue these objectives with other nations. Section 515(a)(6) of the Foreign Assistance Act (current law) states that the President may assign members of the U.S. Armed Forces in a foreign country the function of “promoting rationalization, standardization and interoperability, and other defense cooperation measures among members of NATO, and the armed forces of Japan, Australia and New Zealand. . .” By deleting the specific country references, this section makes it clear that U.S. security assistance officers may pursue those functions worldwide.

Section 144. Definition of Significant Military Equipment.

Section 144 amends the Arms Export Control Act to provide a definition of significant military equipment as defined in the International Traffic in Arms Regulation (ITAR).

Section 145. Elimination of Annual Reporting Requirements relating to the Special Defense Acquisition Fund.

Section 145 repeals an annual reporting requirement in the Special Defense Acquisition Fund (SDAF) which is no longer needed or useful. Section 53(a) of the Arms Export Control Act requires a report on specific SDAF issues related to the SDAF fund for which monies are no longer being appropriated. The report is therefore obsolete and this section eliminates the report.

Section 146. Cost of leased Defense Articles that Have been Lost or Destroyed.

Section 146 conforms provisions within the AECA which require reimbursement for the cost of leased defense articles that have been lost or destroyed. Current law requires the leasing country to pay “the replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased.” In circumstances in which the leased item is not going to be replaced by the U.S. Government, the rationale that justifies charging the foreign government the full replacement cost is no longer valid or just. Section 21(a)(1)(A) of the Arms Export Control Act contains a provision regarding the pricing of items to be sold which the U.S. does not intend to replace: “The President may sell. . . if such country agrees to pay, in the case of a defense article not intended to be replaced at the time such an agreement is entered into, not less than the actual value thereof.” This section applies the same rationale to the pricing of lost or destroyed leased items.

Section 147. Designation of Major Non-NATO Allies.

Section 147 designates Australia, Egypt, Israel, Japan, Korea and New Zealand as major non-NATO allies for purposes under the Foreign Assistance Act and Arms Export Control Act. This section also authorizes the President to designate additional major non-NATO allies and terminate such designations if he notifies the Congress.

Sections 148. Certification Thresholds.

Section 3189 amends the Arms Export Control Act to increase the dollar thresholds for reporting arms sales to the Congress: from \$14 million to \$25 million for major defense equipment; from \$50 million to \$75 million for defense articles and services; and from \$200 million to \$300 million for design and construction services.

Section 149. Depleted Uranium Ammunition.

Section 149 amends the Foreign Assistance Act to place into permanent law a provision carried in annual appropriations law that restricts the sale or transfer of M-833 antitank shells or any comparable antitank shell containing a depleted uranium penetrating component to any country except for NATO member states, major non-NATO states and Taiwan. The section also contains a national security interest waiver for the President.

Section 150. End-Use Monitoring of Defense Articles and Defense Services.

Section 150 directs the President to establish a comprehensive end-use monitoring program for defense articles and services in order to improve accountability with respect to those defense articles and services sold, leased or exported under the Arms Export Control Act or Foreign Assistance Act. The Committee believes that the benefits of an effective system of pre-and post-shipment verifications are clear. A random selection of licenses/applications for bona fides and end use checks will deter those who would illegally acquire and/or divert U.S. defense articles. Having proven the effectiveness of this type of program for commercial arms transactions through the Blue Lantern program at the Office of Defense Trade Controls in the Department of State, the Committee believes that there would be clear benefits in using a similar procedure for FMS sales. Accordingly, this section directs the President to establish a comprehensive program which covers both commercial and FMS types of transactions. This section outlines the purposes and objectives of the program and requires a report on the implementation of the new program.

The Committee places a high priority on the timely establishment and effective implementation of such a program.

Section 151. Brokering Activities relating to Commercial Sales of Defense Articles and Services.

Section 151 requires U.S. persons (and foreign persons located in the U.S.) involved in defense trade of U.S. and non-U.S. defense equipment or technology to register with the U.S. government and provides the U.S. government authority to regulate such brokering activities. The Arms Export Control Act provides the Department of State with the authority to regulate the destination and use of U.S. origin and U.S.-made defense commodities. However, the AECA does not authorize the Department to regulate the activities of U.S. persons (and foreign persons located in the U.S.) brokering

defense transactions overseas (except for transactions involving a small number of terrorist countries). Nor does the AECA authorize the Department to regulate the brokering of non-U.S. defense articles or technology.

This provision provides those new authorities to ensure that arms export support the furtherance of U.S. foreign policy objectives, national security interests and world peace. More specifically, in some instances U.S. persons are involved in arms deals that are inconsistent with U.S. policy. Certain of these transactions could fuel regional instability, lend support to terrorism or run counter to a U.S. policy decision not to sell arms to a specific country or area. The extension of U.S. legal authority under this provision to regulate brokering activities would help to curtail such transactions.

Section 152. Return and Exchanges of Defense Articles Previously Transferred Pursuant to the Arms Export Control Act.

Section 152 authorizes repairable exchange programs and permits the Department of Defense to accept for return defense articles previously sold through the Foreign Military Sales program. This section provides clear statutory authority in both of these areas, increasing the readiness of both the U.S. and its allies and friends, particularly in contingency situations.

Under the present procedure for the repair of items for FMS customers, the item is received into the repair system and tracked through the repair cycle to ensure that the exact same item is returned to the FMS customer. Both the cost and the time taken to repair the item is increased by the requirement to track the item through the process. Section 152(a) would allow the FMS process to mirror the process used by the rest of the U.S. Government. That process allows for immediate exchange for a serviceable replacement part from DoD stocks. No tracking of individual items is required.

Section 152(b) of this provision would allow DoD to accept the return of items previously sold to a foreign government when either the U.S. has a requirement for the item for when another eligible foreign country or international organization wishes to receive the item pursuant to FMS procedures.

Section 153. National Security Interest Determination to Waive Reimbursement of Depreciation for Leased Defense Articles.

Section 153 modifies current law to delete language which permits the President to provide no-cost leases for U.S. defense articles to countries and international organizations if such defense articles have passed three-quarters of their normal service life. In lieu of current law, this section allows the President to provide no-cost leases for U.S. defense articles if such articles have passed three-quarters of their normal service life and *only* if the President determines to do so is important to the national security interests of the U.S.

The Committee intends that this waiver be used sparingly and is not to be delegated below of the Secretary of Defense.

TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN
COUNTRIES

Section 201. Authority to Transfer Naval Vessels.

Section 201 authorizes the transfer of ten naval vessels to six countries. Specifically, it authorizes the Secretary of the Navy to sell eight naval vessels, lease one naval vessel and grant one naval vessel. Sales include: To the Government of Egypt, the “OLIVER HAZARD PERRY” class frigate GALLERY; To the Government of Mexico, the “KNOX” class frigates STEIN (FF 1065) and MARVIN SHIELDS (FF 1066); To the Government of New Zealand, the “STALWART” class ocean surveillance ship TENACIOUS; To the Government of Taiwan the “KNOX” class frigates AYLWIN, PHARRIS and VALDEZ; and to the Government of Thailand, the “KNOX” class frigate OUELLET. The lease is to the Government of Taiwan, the “NEWPORT” class tank landing ship NEWPORT. The grant transfer is to the Government of Portugal, the “STALWART” class ocean surveillance ship AUDACIOUS.

Section 202. Costs of Transfers.

Section 202 states that any expense to the U.S. in connection with a transfer authorized by Title II of this bill shall be charged to the recipient country.

Section 203. Expiration of Authority.

Section 203 provides that the authority to transfer naval vessels in section 201 expires at the end of a 2-year period beginning on the date of the enactment of this bill.

Section 204. Repair and Refurbishment of Vessels in United States Shipyards.

Section 204 requires the Secretary of the Navy, to the maximum extent possible, to have repair and refurbishment work performed at shipyards located in the U.S., including U.S. Navy shipyards.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives are incorporated in the descriptive portions of this report. Among the principal oversight activities which contributed to the Committee’s formulation of H.R. 3121 were:

Extensive hearings and previous legislation considered by the Committee (see background and purpose) and numerous consultations and briefings between staff, Committee Members and Executive branch officials.

As a result of these oversight activities, the Committee recommends that the House approve H.R. 3121, as reported.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FUNCTION

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

The Committee adopts the cost estimate of the Congressional Budget Office, set out below, as its submission of any required information on new budget authority, new spending authority, new credit authority or an increase or decrease in the national debt required by clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 3121 will have no significant inflationary impact on prices and costs in the operation of the national economy.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth with respect to H.R. 3121 the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 27, 1996.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3121, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes, as ordered reported by the House Committee on International Relations on March 21, 1996.

Section 4 of the Unfunded Mandates Reform Act of 1995, P.L. 104-4, excludes legislative provisions that are necessary for the national security from the application of that act. CBO has determined that all provisions of H.R. 3121 fit within that provision.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3121.
2. Bill title: A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

3. Bill status: As ordered reported by the House Committee on International Relations on March 21, 1996.

4. Bill purpose: The bill would authorize the sale or disposal of certain naval vessels and would otherwise address defense and security assistance programs.

5. Estimated cost to the Federal Government: Table 1 shows the estimated cost to the Federal Government. The costs of the bill would fall within budget function 150 (international affairs).

6. Basis of estimate: The estimate assumes enactment of the bill by June 1, 1996, and subsequent appropriation of the estimated authorization amounts. CBO used historical spend-out rates for estimating outlays.

ASSET SALES

The bill would authorize the Secretary of the Navy to sell eight naval vessels to certain foreign countries and otherwise dispose of two other vessels. The Navy estimates the sale would generate \$72 million in offsetting receipts in 1996.

Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

DIRECT SPENDING AND REVENUES

The bill contains three provisions affecting direct spending and receipts.

Fees for Activities Supporting Arms Sales.—Section 151 would require persons engaged in financing, transporting, freight forwarding, or other activity facilitating the manufacture, export, or import of a defense article or service to register with the Federal Government as a broker and to pay a fee. Based on information from the Department of State, the fees are estimated to increase revenues by less than \$500,000 a year.

Waiver of Charges for Contract Administration Services.—Section 102 would permit the President to provide without charge on a reciprocal basis certain contract administration services on military sales to Israel. The U.S. government currently charges 1.5 percent of the value of sales for such services. CBO estimates that enactment of the provision would have little effect on collections in 1996, but should lower collections by \$20 million a year beginning in 1997.

International Narcotics Control.—Section 131 would authorize the President to accept and to spend contributions from other governments for international narcotics control activities and to provide narcotics control services on a reimbursable basis. Although CBO cannot estimate the amount of activity that might be undertaken using this authority, it would have no net budgetary impact over the long run.

SPENDING SUBJECT TO APPROPRIATIONS ACTION

The bill would impose new responsibilities on the Departments of State and Defense but would not explicitly authorize additional

appropriations. Section 150 would require the President to monitor the use of defense articles and services sold, leased, or exported under U.S. laws. Section 151 would also require additional resources to register arms brokers and enforce compliance. The Department of State estimates that it would require 6 to 12 staff-years to comply with these requirements. CBO estimates that it would require an additional \$1 million in funding to implement the new requirements.

TABLE 1.—BUDGETARY IMPACTS OF H.R. 3121 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS ON MARCH 21, 1996

	1996	1997	1998	1999	2000
ASSET SALES ²					
Estimated Budget Authority	-72	0	0	0	0
Estimated Outlays	-72	0	0	0	0
DIRECT SPENDING AND REVENUES					
Estimated Revenues	(¹)				
Estimated Budget Authority	(¹)	20	20	20	20
Estimated Outlays	(¹)	20	20	20	20
SPENDING SUBJECT TO APPROPRIATIONS ACTION					
Estimated Authorization of Appropriations	0	1	1	1	1
Estimated Outlays	0	1	1	1	1

¹ Less than \$500,00.

² Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

7. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. H.R. 3121 would have the following pay-as-you-go impact:

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in Outlays	0	20	20
Change in Receipts	0	0	0

8. Estimated cost to state, local, and tribal governments: Section 4 of the Unfunded Mandates Reform Act of 1995 excludes legislative provisions that are necessary for the national security from the application of that act. CBO has determined that all provisions of H.R. 3121 fit within that provision.

9. Estimated impact on the private sector: Section 4 of the Unfunded Mandates Reform Act of 1995 excludes legislative provisions that are necessary for the national security from the application of that act. CBO has determined that all provisions of H.R. 3121 fit within that provision.

10. Previous CBO estimate: None.

11. Estimate prepared by: Joseph C. Whitehill prepared the estimate of costs to the federal government. Pepper Santalucia prepared the estimated impact on state, local, and tribal governments. Eric Labs prepared the estimated impact on the private sector.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

JURISDICTIONAL ISSUES

H.R. 3121, as ordered reported by the Committee on International Relations, contains provisions which fall within the shared jurisdiction of other committees of the House, including the committee on Rules and the Committee on National Security.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ARMS EXPORT CONTROL ACT

* * * * *

**CHAPTER 1.—FOREIGN AND NATIONAL SECURITY
POLICY OBJECTIVES AND RESTRAINTS****SEC. 3. ELIGIBILITY.—(a) * * ***

(b) The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 505(a) of the Foreign Assistance Act of 1961 (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this Act if—

(1) such articles constitute components incorporated into foreign defense articles;

(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, or the Government of New Zealand;

(3) the recipient is not a country designated under section 620A of the Foreign Assistance Act of 1961;

(4) the United States-origin components are not—

(A) significant military equipment (as defined in section 47(9));

(B) defense articles for which notification to Congress is required under section 36(b); and

(C) identified by regulation as Missile Technology Control Regime items; and

(5) the foreign country or international organization provides notification of the transfer of the defense articles to the United States Government not later than 30 days after the date of such transfer.

* * * * *

(d)(1) The President may not give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection, or under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at ~~[\$14,000,000]~~ *\$25,000,000* or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at

【\$50,000,000】 \$75,000,000 or more, unless the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A) * * *

* * * * *

(2) (A) Except as provided in subparagraph (B), unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact, within such 30-day period, a joint resolution[, as provided for in sections 36(b)(2) and 36(b)(3) of this Act] prohibiting the proposed transfer.

(B) In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact, within such fifteen-day period, a [law] joint resolution prohibiting the proposed transfer.

(C) *If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.*

(D)(i) *Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.*

(ii) *For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.*

(3)(A) The President may not give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at 【\$14,000,000】 \$25,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at 【\$50,000,000】 \$75,000,000 or more, the export of which has been licensed or approved under section 38 of this Act, unless [at least 30 calendar days] before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate

a [report] certification containing the information specified in subparagraphs (A) through (E) of paragraph (1). [Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.] Such certification shall be submitted—

(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

* * * * *

**CHAPTER 2.—FOREIGN MILITARY SALES
AUTHORIZATIONS**

SEC. 21. SALES FROM STOCKS.—(a)(1) The President may sell defense articles and defense services from the stocks of the Department of Defense to any eligible country or international organization if such country or international organization agrees to pay in United States dollars—

(A) * * *

* * * * *

(C) in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 or to any high-income for-

eign country (as described in that chapter), only those additional costs that are incurred by the United States Government in furnishing such assistance.

* * * * *

(g) The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94-106), and may enter into [similar agreements with Japan, Australia, and New Zealand, and with other countries] *similar agreements with countries* which are major non-NATO allies, for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate. [As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.]

(h)(1) The President is authorized to provide (without charge) quality assurance, inspection, contract administration services, and contract audit defense services under this section—

(A) in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services entered into after the date of enactment of this subsection by, or under this Act on behalf of, a foreign government which is a member of the North Atlantic Treaty Organization *or the Government of Israel*, if such government provides such services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government; or

* * * * *

(2) In carrying out the objectives of this section, the President is authorized to provide cataloging data and cataloging services, without charge, to the North Atlantic Treaty Organization [or to any member government of that Organization if that Organization or member government], *any member government of that Organization, or the Government of Israel, if the Organization, member government, or Government of Israel, as the case may be, provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.*

* * * * *

(k) Before entering into the sale under this Act of defense articles that are excess to the stocks of the Department of Defense, [the President shall first consider the effects of the sale of the articles on the national technology and industrial base, particularly the extent, if any, to which the sale reduces the opportunities of entities in the national technology and industrial base to sell new equip-

ment to the country or countries to which the excess defense articles are sold.] *the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.*

(l) REPAIR OF DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may acquire a repairable defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this Act;

(B) is not an end item; and

(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

(3) REQUIREMENT.—(A) The foreign government or international organization receiving a new or repaired defense article in exchange for a repairable defense article pursuant to paragraph (1) shall, upon the acceptance by the United States Government of the repairable defense article being returned, be charged the total cost associated with the repair and replacement transaction.

(B) The total cost charged pursuant to subparagraph (A) shall be the same as that charged the United States Armed Forces for a similar repair and replacement transaction, plus an administrative surcharge in accordance with subsection (e)(1)(A) of this section.

(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a repairable defense article as provided in subsection (a) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.

(m) RETURN OF DEFENSE ARTICLES.—

(1) IN GENERAL.—The President may accept the return of a defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this Act;

(B) is not significant military equipment (as defined in section 47(9) of this Act); and

(C) is in fully functioning condition without need of repair or rehabilitation.

(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

(3) CREDIT FOR TRANSACTION.—Upon acquisition and acceptance by the United States Government of a defense article under paragraph (1), the appropriate Foreign Military Sales account of the provider shall be credited to reflect the transaction.

(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a defense article as provided in paragraph (1) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.

* * * * *
SEC. 23. CREDIT SALES.—(a) * * *
* * * * *

(f) For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section.

(g)(1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in excess of \$100,000,000 that is to be financed in whole or in part with funds made available under this Act or the Foreign Assistance Act of 1961 shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

(2) For purposes of this subsection, the term “cash flow financing” has the meaning given such term in the second subsection (d) of section 25.

(h) Of the amounts made available for a fiscal year to carry out this section, not more than \$100,000,000 for such fiscal year may

be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act.

* * * * *

SEC. 25. ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM.—(a) Except as provided in subsection (d) of this section, no later than February 1 of each year, the President shall transmit to the Congress, as a part of the annual presentation materials for security assistance programs proposed for the next fiscal year, a report which sets forth—

(1) * * *

* * * * *

(11) the status of each loan and each contract of guaranty or insurance theretofore made under the Foreign Assistance Act of 1961, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guaranty in connection with any such procurement, theretofore made under the Arms Export Control Act with respect to which there remains outstanding any unpaid obligation or potential liability; **and**

(12)(A) a detailed accounting of all articles, services, credits, guarantees, or any other form of assistance furnished by the United States to each country and international organization, including payments to the United Nations, during the preceding fiscal year for the detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance for the detection and clearance of landmines; and

(B) for each provision of law making funds available or authorizing appropriations for demining activities described in subparagraph (A), an analysis and description of the objectives and activities undertaken during the preceding fiscal year, including the number of personnel involved in performing such activities; and

[(12)] *(13) such other information as the President may deem necessary.*

* * * * *

CHAPTER 3.—MILITARY EXPORT CONTROLS

SEC. 31. AUTHORIZATION AND AGGREGATE CEILING ON FOREIGN MILITARY SALES CREDITS.—(a) * * *

* * * * *

[(c)] For fiscal year 1986 and fiscal year 1987, the principal amount of credits provided under section 23 at market rates of interest with respect to Greece, the Republic of Korea, the Philippines, Portugal, Spain, Thailand, and Turkey shall (if and to the extent each country so desires) be repaid in not more than twenty

years, following a grace period of ten years on repayment of principal.

[(d) The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to foreign countries or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this Act may not exceed \$250,000,000 (exclusive of ships and their onboard stores and supplies transferred in accordance with law, and of any defense articles with respect to which the President submits a certification under section 36(b) of this Act).]

(c) Loans available under section 23 shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

* * * * *

SEC. 36. REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS; CONGRESSIONAL ACTION.—(a) * * *

(b)(1) In the case of any letter of offer to sell any defense articles or services under this Act for ~~[\$50,000,000]~~ \$75,000,000 or more, any design and construction services for ~~[\$200,000,000]~~ \$300,000,000 or more, or any major defense equipment for ~~[\$14,000,000]~~ \$25,000,000 or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a), or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) of subsection (a), and a description, containing the information specified in paragraph (8) of subsection (a), of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such letter of offer. Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles, defense services, or design and construction services proposed to be sold, and a detailed justification of the reasons necessitating the sale of such articles or services in view of the sensitivity of such technology. In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile non-proliferation policy. Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification). In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

(A) * * *

* * * * *

(5)(A) * * *

* * * * *

(C) If the enhancement or upgrade in the sensitivity of technology or the capability of major defense equipment, defense articles, defense services, or design and construction services described in a numbered certification submitted under this subsection costs **[\$14,000,000]** *\$25,000,000* or more in the case of any major defense equipment, **[\$50,000,000]** *\$75,000,000* or more in the case of defense articles or defense services, or **[\$200,000,000]** *\$300,000,000* or more in the case of design or construction services, then the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a new numbered certification which relates to such enhancement or upgrade and which shall be considered for purposes of this subsection as if it were a separate letter of offer to sell defense equipment, articles, or services, subject to all of the requirements, restrictions, and conditions set forth in this subsection. For purposes of this subparagraph, references in this subsection to sales shall be deemed to be references to enhancements or upgrades in the sensitivity of technology or the capability of major defense equipment, articles, or services, as the case may be.

* * * * *

(c)(1) In the case of an application by a person (other than with regard to a sale under section 21 or section 22 of this Act) for a license for the export of any major defense equipment sold under a contract in the amount of **[\$14,000,000]** *\$25,000,000* or more or of defense articles or defense services sold under a contract in the amount of **[\$50,000,000]** *\$75,000,000* or more, before issuing such license the President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate an unclassified numbered certification with respect to such application specifying (A) the foreign country or international organization to which such export will be made, (B) the dollar amount of the items to be exported, and (C) a description of the items to be exported. Each such numbered certification shall also contain an item indicating whether any offset agreement is proposed to be entered into in connection with such export (if known on the date of transmittal of such certification). In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request a description of the capabilities of the items to be exported, an estimate of the total number of United States personnel expected to be needed in the foreign country concerned in connection with the items to be exported and an analysis of the arms control impact pertinent to such application, prepared in consultation with the Secretary of Defense. In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehi-

cle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (B) and the details of the description specified in clause (C) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States.

(2) Unless the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, a license for export described in paragraph (1)—

【(A) shall not be issued until at least 30 calendar days after the Congress receives such certification; and

【(B) shall not be issued then if the Congress, within such 30-day period, enacts a joint resolution prohibiting the proposed export, except that this subparagraph does not apply with respect to a license issued for an export to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.】

(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.

If the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, thus waiving the requirements of subparagraphs (A) and (B) of this paragraph, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the export license and a discussion of the national security interests involved.

* * * * *

(d)(1) In the case of an approval under section 38 of this Act of a United States commercial technical assistance or manufacturing licensing agreement [for or in a country not a member of the North Atlantic Treaty Organization] which involves the manufacture abroad of any item of significant combat equipment on the United States Munitions List, before such approval is given, the President shall submit a certification with respect to such proposed commercial agreement in a manner similar to the certification required under subsection (c)(1) containing comparable information, except that the last sentence of such subsection shall not apply to certifications submitted pursuant to this subsection.

(2) A certification under this subsection shall be submitted—

(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2) (A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

* * * * *

SEC. 38. CONTROL OF ARMS EXPORTS AND IMPORTS.—(a) * * *

(b)(1)(A) **[As prescribed in regulations]** (i) *As prescribed in regulations* issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State for local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(ii)(I) *As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of*

brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

(aa) for use by an agency of the United States Government;

or

(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(IV) For purposes of this clause, the term “foreign defense article or defense service” includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

* * * * *

CHAPTER 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 40A. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

(a) ESTABLISHMENT OF MONITORING PROGRAM.—

(1) IN GENERAL.—In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the President shall establish a program which provides for the end-use monitoring of such articles and services.

(2) REQUIREMENTS OF PROGRAM.—To the extent practicable, such program—

(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 38(g)(7) of this Act (commonly referred to as the “Blue Lantern” program); and

(B) shall be designed to provide reasonable assurance that—

(i) the recipient is complying with the requirements imposed by the United States Government with respect

to use, transfers, and security of defense articles and defense services; and

(ii) such articles and services are being used for the purposes for which they are provided.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the President shall ensure that the program—

(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this section, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961, the President shall transmit to the Congress a report describing the actions taken to implement this section, including a detailed accounting of the costs and number of personnel associated with the monitoring program.

(d) THIRD COUNTRY TRANSFERS.—For purposes of this section, defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party.

CHAPTER 4.—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

* * * * *
 SEC. 47. DEFINITIONS.—For purposes of this Act, the term—
 (1) * * *

* * * * *
 (7) “defense articles and defense services” means, with respect to commercial exports subject to the provisions of section 38 of this Act, those items designated by the President pursuant to subsection (a)(1) of such section; **[and]**

(8) “design and construction services” means, with respect to sales under section 29 of this Act, the design and construction of real property facilities, including necessary construction equipment and materials, engineering services, construction contract management services relating thereto, and technical advisory assistance in the operation and maintenance of real property facilities provided or performed by any department or agency of the Department of Defense or by a contractor pursuant to a contract with such department or agency~~].~~; *and*

(9) “significant military equipment” means articles—
 (A) *for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and*
 (B) *identified on the United States Munitions List.*

CHAPTER 5—SPECIAL DEFENSE ACQUISITION FUND**SEC. 51. SPECIAL DEFENSE ACQUISITION FUND.—(a)(1) * * ***

* * * * *

(4)**[(a)]** The Fund shall also be used to acquire defense articles that are particularly suited for use for narcotics control purposes and are appropriate to the needs of recipient countries, such as small boats, planes (including helicopters), and communications equipment.

[(b)] Each report pursuant to section 53(a) shall designate the defense articles that have been acquired or are to be acquired pursuant to this paragraph and the defense articles acquired under this chapter that were transferred for use in narcotics control purposes.**]**

* * * * *

[SEC. 53. ANNUAL REPORTS TO CONGRESS.—(a) Not later than December 31 of each year, the President shall submit to the Congress a comprehensive report on acquisitions of defense articles and defense services under this chapter. Each such report shall include—

[(1)] a description of each contract for the acquisition of defense articles or defense services under this chapter which was entered into during the preceding fiscal year;

[(2)] a description of each contract for the acquisition of defense articles or defense services under this chapter which the President anticipates will be entered into during the current fiscal year;

[(3)] a description of each defense article or defense service acquired under this chapter which was transferred to a foreign country or international organization during the preceding fiscal year; and

[(4)] an evaluation of the impact of the utilization of the authority of this chapter on United States defense production and the readiness of the United States Armed Forces.

[(b)] As part of the annual written report to the Congress required by section 2431(a) of title 10, United States Code, regarding procurement schedules for each weapon system for which funding authorization is required, the President shall provide a report estimating the likely procurements to be made through the Fund.**]**

CHAPTER 6—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES

SEC. 61. LEASING AUTHORITY.—(a) The President may lease defense articles in the stocks of the Department of Defense to an eligible foreign country or international organization if—

(1) he determines that there are compelling foreign policy and national security reasons for providing such articles on a lease basis rather than on a sales basis under this Act;

(2) he determines that the articles are not for the time needed for public use;

(3) the President first considers the effects of the lease of the articles on the national technology and industrial base, par-

ticularly the extent, if any, to which the lease reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the articles are leased; and

(4) the country or international organization has agreed to pay in United States dollars all costs incurred by the United States Government in leasing such articles, including reimbursement for depreciation of such articles while leased, the costs of restoration or replacement if the articles are damaged while leased, [and the replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased.] *and, if the articles are lost or destroyed while leased—*

(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.

The requirement of paragraph (4) shall not apply to leases entered into for purposes of cooperative research or development, military exercises, or communications or electronics interface projects[, or to any defense article which has passed three-quarters of its normal service life]. *The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States.*

The President may waive the requirement of paragraph (4) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

(B) may be exercised only during the fiscal year 1996 and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.

* * * * *

SEC. 62. REPORTS TO THE CONGRESS.—(a) [Not less than 30 days before] *Before* entering into or renewing any agreement with a foreign country or international organization to lease any defense article under this chapter, or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961, for a period of one year or longer, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the

Committee on Armed Services of the Senate, a written certification which specifies—

(1) * * *

* * * * *

(b) The President may waive the requirements of this section (and in the case of an agreement described in section 63, may waive the provisions of that section) if he **【determines, and immediately reports to the Congress】** *states in his certification*, that an emergency exists which requires that the lease or loan be entered into immediately in the national security interests of the United States. *If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved.*

(c) *The certification required by subsection (a) shall be transmitted—*

(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand; and

(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.

SEC. 63. LEGISLATIVE REVIEW.—(a)**【(1)】** In the case of any agreement involving the lease under this chapter, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961, to any foreign country or international organization for a period of one year or longer of any defense articles which are either (i) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at **【\$14,000,000】** *\$25,000,000* or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at **【\$50,000,000】** *\$75,000,000* or more, the agreement may not be entered into or renewed if the Congress, within **【30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a),】** *the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,* enacts a joint resolution prohibiting the proposed lease or loan.

【(2) This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.】

* * * * *

SEC. 65. LOAN OF MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—(a) * * *

* * * * *

(d) For purposes of this section, the term “NATO **【or major non-NATO】** ally” means a member country of the North Atlantic Treaty Organization (other than the United States) **【or a foreign country other than a member nation of NATO designated as a major non-**

NATO ally under section 2350a(i)(3) of title 10, United States Code].

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FOREIGN ASSISTANCE ACT OF 1961

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PART I

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CHAPTER 8—INTERNATIONAL NARCOTICS CONTROL

SEC. 481. POLICY, GENERAL AUTHORITIES, COORDINATION, FOREIGN POLICE ACTIONS, DEFINITIONS, AND OTHER PROVISIONS.

(a) POLICY AND GENERAL AUTHORITIES.—

(1) STATEMENTS OF POLICY.—(A) * * *

* * * * *

(D) International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

[(D)] *(E)* The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

[(E)] *(F)* The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

[(F)] *(G)* Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

* * * * *

(4) Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, *or for other anticrime purposes.*

* * * * *

SEC. 482. AUTHORIZATION.—(a) * * *

* * * * *

(c) **[(CONTRIBUTION BY RECIPIENT COUNTRY.—To)]** *CONTRIBUTIONS AND REIMBURSEMENT.—(1)* To ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such

assistance is to be provided. A country may bear such costs on an “in-kind” basis.

(2)(A) *The President is authorized to accept contributions from foreign governments to carry out the purposes of this chapter. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.*

(B) *At the time of submission of the annual congressional presentation documents required by section 634(a), the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.*

(3) *The President is authorized to provide assistance under this chapter on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.*

* * * * *

(f) *TREATMENT OF FUNDS.—Funds transferred to and consolidated with funds appropriated pursuant to this chapter may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this chapter. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this chapter.*

(g) *EXCESS PROPERTY.—For purposes of this chapter, the Secretary of State may use the authority of section 608, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this chapter.*

* * * * *

PART II

CHAPTER 1—POLICY

* * * * *

[SEC. 502A. EXCESS DEFENSE ARTICLES.—Excess defense articles shall be provided whenever possible rather than providing such articles by the procurement of new items.]

* * * * *

SEC. 506. SPECIAL AUTHORITY.—(a)(1) If the President determines and reports to the Congress in accordance with section 652 of this Act that—

(A) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

(B) the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed **[\$75,000,000]** *\$100,000,000* in any fiscal year.

(2) (A) If the President determines and reports to the Congress in accordance with section 652 of this Act that it is in the national interest of the United States to draw down **[de-** defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, he may direct—

[(i) the drawdown of such articles, services, and the provision of such training for the purposes and under the authorities of chapters 8 and 9 of part I, as the case may be; and

[(ii) the drawdown of defense services for the purposes and under the authorities of the Migration and Refugee Assistance Act of 1962.] *articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—*

(i) for the purposes and under the authorities of—

(I) chapter 8 of part I (relating to international narcotics control assistance);

(II) chapter 9 of part I (relating to international disaster assistance); or

(III) the Migration and Refugee Assistance Act of 1962; or

(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

(I) to support cooperative efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.

(B) An aggregate value of not to exceed **[\$75,000,000]** in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph. **]** *\$150,000,000* in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

(i) not more than \$75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

- (ii) not more than \$75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and
- (iii) not more than \$15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph.

(b)(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress. *In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 634A.*

* * * * *

SEC. 515. OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS.—(a) In order to carry out his responsibilities for the management of international security assistance programs conducted under this chapter, chapter 5 of this part, and the Arms Export Control Act, the President may assign members of the Armed Forces of the United States to a foreign country to perform one or more of the following functions:

(1) * * *

* * * * *

(6) promoting rationalization, standardization, interoperability, and other defense cooperation measures [among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand]; and

* * * * *

[SEC. 516. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law and subject to subsection (b), the President may transfer (1) to those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure, (2) to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance, and (3) to those countries which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf, and which either received Foreign Military Financing (FMF) assistance in fiscal year 1990 or are in the Near East Region and received Foreign Military Financing (FMF) assistance in fiscal year 1991 or fiscal year 1992, such excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such excess defense articles may be transferred without cost to the recipient countries. Transfers to recipient countries under this subsection shall be consistent with the policy framework for the Eastern Mediterranean region established in section 620C of this Act.

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

[(1) the equipment is drawn from existing stocks of the Department of Defense;

[(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

[(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; and

[(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.

[(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer excess defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States.

[(d) WAIVER OR REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles under this section.

[(e) DEFINITION.—As used in subsection (a), the term “member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO” means Greece, Italy, Portugal, Spain, and Turkey.

[(f) DURATION OF AUTHORITY.—The authority of this section shall be effective during fiscal years 1992 through 1996.

[(g) PROHIBITION ON CERTAIN TRANSFERS OF VESSELS ON GRANT BASIS.—(1) The President may not transfer on a grant basis under this section a vessel that is in excess of 3,000 tons or that is less than 20 years of age.

[(2) If the President determines that it is in the national security interests of the United States to transfer a particular vessel on a grant basis under this section, the President may request that Congress enact legislation exempting the transfer from the prohibition in paragraph (1).

[SEC. 517. MODERNIZATION OF COUNTERNARCOTICS CAPABILITIES OF CERTAIN COUNTRIES.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Subject to the limitations in this section, the President may transfer to a country—

[(1) which is a major illicit drug producing country or a major drug-transit country in Latin America and the Caribbean,

[(2) which has a democratic government,

[(3) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1)); and

[(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and

industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.

such excess defense articles as may be necessary to carry out subsection (b).

[(b) PURPOSE.—Excess defense articles may be transferred under subsection (a) only for the purpose of encouraging the military forces and local law enforcement agencies of an eligible country in Latin America and the Caribbean to participate cooperatively 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 drugs or other controlled substances.

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

[(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 481(b) of this Act, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

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

[(f) CONDITIONS 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.

[(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.

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

[(h) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) does not apply with respect to transfers of excess defense articles under this section.

[(i) NOTIFICATION TO CONGRESS.—

[(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until 15 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) a statement of 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 Armed Services, 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.

[(j) LIMITATION ON USE OF OTHER AUTHORITIES TO TRANSFER EXCESS DEFENSE ARTICLES.—The transfer authority provided in sections 518 and 519 may not be exercised with respect to any major illicit drug producing country or major drug-transit country in Latin America or the Caribbean.

[(k) EXCESS COAST GUARD PROPERTY.—As used in this section, the term “excess defense articles” shall be deemed to include excess property of the Coast Guard, and the term “Department of Defense” shall be deemed, with respect to such excess property, to include the Coast Guard.

[SEC. 518. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.—

[(a) AUTHORITY TO TRANSFER NONLETHAL EXCESS DEFENSE ARTICLES AND SMALL ARMS.—Subject to the limitations in this section, the President may transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act.

[(b) LIMITATION ON TRANSFERS.—Transfers under this section shall be subject to the limitations contained in section 516(b).

[(c) TRANSPORTATION.—The Department is authorized to transport nonlethal excess defense articles and small arms made available pursuant to this section without charge on a space available basis.

[(d) WAIVER OF REQUIREMENTS FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of nonlethal excess defense articles and small arms under this section or the transportation of such articles as authorized by subsection (c).

[(e) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer nonlethal excess defense articles and small arms under this section until 30 days after he has notified the Committees on Appropriations of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States. Transfers under this section shall also be subject to the notification requirements of section 516(c) of this Act.

[SEC. 519. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.—(a) AUTHORITY TO TRANSFER EX-

CESS DEFENSE ARTICLES.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom a foreign military financing program was justified for the fiscal year in which the transfer is authorized, such nonlethal excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section.

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

[(1) the equipment is drawn from existing stocks of the Department of Defense;

[(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

[(3) the President determines that the transfer of the nonlethal excess defense articles will not have an adverse impact on the military readiness of the United States; and

[(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale; and

[(5) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.

[(c) NOTIFICATION TO CONGRESS.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives fifteen days before transferring nonlethal excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees.

[(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of nonlethal excess defense articles under this section.

[(e) ANNUAL REPORT.—Commencing in 1991, not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains—

[(1) a list of the countries to which the President has furnished nonlethal excess defense articles under the authority of this section; and

[(2) the value of the excess nonlethal defense articles that were furnished to each such country.

[(f) TRANSPORTATION AND RELATED COSTS.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling and

transportation of nonlethal excess defense articles transferred under the authority of this section.

[(2) Notwithstanding section 632(d) or any other provision of law, the President may direct the crating, packing, handling and transport of nonlethal excess defense articles without charge to a country if—

[(A) that country has an agreement providing the United States with base rights in that country;

[(B) that country is eligible for assistance from the International Development Association; and

[(C) the nonlethal excess defense articles are being provided to that country under the authority of this section.

[SEC. 520. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR INTERNATIONAL PEACEKEEPING OPERATIONS.

[(a) GENERAL AUTHORITY.—The President may transfer to international and regional organizations of which the United States is a member such excess defense articles as the President determines necessary to support international peacekeeping operations and other activities and operations to maintain and restore international peace and security. Such transfers shall be on such terms and conditions as the President may determine, consistent with this section.

[(b) CONDITIONALITY OF AUTHORITY.—

[(1) IN GENERAL.—The authority of subsection (a) may not be exercised with respect to an international or regional organization until the United States has entered into a written agreement with that organization providing that the value of any excess defense articles transferred under this section shall be credited against United States assessed contributions to that organization. For purposes of this paragraph, the term “value” means such amount as may be agreed upon by the United States and the recipient organization, except that such amount may not be less than the value (as defined in section 644(m)(1) of this Act) of the articles transferred.

[(2) CREDITING OF TRANSFERS.—(A) The credit provided for pursuant to paragraph (1) shall be counted against United States assessed contributions to the recipient organization that are payable from the “Contribution to International Peacekeeping Activities” account of the Department of State, except to the extent such credit is counted, in accordance with subparagraph (B), against an assessed contribution payable from an account established within the Department of Defense.

[(B) If—

[(i) an account is established within the Department of Defense for payment of a portion of United States assessed contributions for United Nations operations,

[(ii) excess defense articles are transferred under this section for a United Nations operation, and

[(iii) the United States assessed contribution for that operation is payable from that account,

the credit for those excess defense articles shall be counted against the assessed contribution payable from that account, but only to the extent that the value of the excess defense articles so transferred for that operation during a fiscal year does

not exceed the total United States assessed contribution payable for that operation from that account during that fiscal year.

[(c) 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 (or the Coast Guard);

[(2) funds available to the Department of Defense (or the Coast Guard) for the procurement of defense equipment are not expended in connection with the transfer;

[(3) the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

[(4) the President has established procedures and requirements, comparable to those applicable under section 505 of this Act, to ensure that such excess defense articles will be used only for purposes that have been agreed to by the United States.

[(d) NOTIFICATION TO CONGRESS.—

[(1) IN GENERAL.—The President shall notify the designated congressional committees regarding any transfer of excess defense articles under this section in accordance with paragraph (2). This notification shall include—

[(A) a discussion 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) a statement of—

[(i) the acquisition cost and the value (as defined in section 644(m)(1) of this Act) of the excess defense articles to be transferred, and

[(ii) the aggregate acquisition cost and the aggregate value (as so defined) of all excess defense articles for which notification has been provided under this subsection during that fiscal year with respect to transfers to the same organization under this section.

[(2) TIMING OF NOTICE.—(A) The President shall notify the designated congressional committees pursuant to paragraph (1) at least 15 days before the excess defense articles are transferred under this section, except as provided in subparagraph (B).

[(B) If the President determines that an unforeseen emergency requires the immediate transfer of excess defense articles under this section, the President—

[(i) may waive the requirement of subparagraph (A) that notice be provided at least 15 days in advance of the transfer; and

[(ii) shall promptly notify the designated congressional committees of such waiver and transfer.

[(3) DESIGNATED COMMITTEES.—As used in this subsection, the term “designated congressional committees” means the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the

Committee on Armed Services, and the Committee on Appropriations of the Senate.

[(e) TRANSPORTATION AND RELATED COSTS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transporting excess defense articles transferred under the authority of this section.

[(2) EXCEPTION.—Notwithstanding any other provision of law, the President may direct the crating, packing, handling, and transporting of excess defense articles without charge to an international or regional organization if the President determines that waiving such costs advances the foreign policy interests of the United States.

[(f) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles under this section and to any costs of crating, packing, handling, and transporting incurred under subsection (e)(2).]

SEC. 516. AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

(a) AUTHORIZATION.—The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

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

(1) such articles 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;

(3) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

(4) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

(5) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

(6) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 620C of this Act.

(c) TERMS OF TRANSFERS.—

(1) *NO COST TO RECIPIENT COUNTRY.*—Excess defense articles may be transferred under this section without cost to the recipient country.

(2) *PRIORITY.*—Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO and to major non-NATO allies on such southern and southeastern flank shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

(d) *WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.*—Section 632(d) shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

(e) *TRANSPORTATION AND RELATED COSTS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), funds available to the Department of Defense may not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

(2) *EXCEPTION.*—The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

(A) it is determined that it is in the national interest of the United States to do so;

(B) the recipient is a developing country receiving less than \$10,000,000 of assistance under chapter 5 of part II of this Act (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

(C) the total weight of the transfer does not exceed 25,000 pounds; and

(D) such transportation is accomplished on a space available basis.

(f) *ADVANCE NOTIFICATION TO CONGRESS FOR TRANSFER OF CERTAIN EXCESS DEFENSE ARTICLES.*—

(1) *IN GENERAL.*—The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or excess defense articles valued (in terms of original acquisition cost) at \$7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 15 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

(2) *CONTENTS.*—Such notification shall include—

(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

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

(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

(D) a statement describing the current value of such article and the value of such article at acquisition.

(g) **AGGREGATE ANNUAL LIMITATION.**—

(1) **IN GENERAL.**—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed \$350,000,000.

(2) **EFFECTIVE DATE.**—The limitation contained in paragraph (1) shall apply only with respect to fiscal years beginning after fiscal year 1996.

(h) **CONGRESSIONAL PRESENTATION DOCUMENTS.**—Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

(i) **EXCESS COAST GUARD PROPERTY.**—For purposes of this section, the term “excess defense articles” shall be deemed to include excess property of the Coast Guard, and the term “Department of Defense” shall be deemed, with respect to such excess property, to include the Coast Guard.

SEC. 517. 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 Act 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.

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CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 541. GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this Act as the President may determine (but whenever feasible on a reimbursable basis), military education and training to military and related civilian personnel of foreign countries. Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense, and may also include legislators and individuals who are not members of the government, if the military education and training would (i) contribute to responsible defense re-

source management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, (iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv) improve military justice systems and procedures in accordance with internationally recognized human rights. Such training and education may be provided through—

- (1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

* * * * *

SEC. 544. EXCHANGE TRAINING.—[In carrying out this chapter] (a) *In carrying out this chapter*, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

(b) *The President may provide for the attendance of foreign military and civilian defense personnel at flight training schools and programs (including test pilot schools) in the United States without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States flight training schools and programs (including test pilot schools) and comparable flight training schools and programs of foreign countries.*

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SEC. 546. PROHIBITION ON GRANT ASSISTANCE FOR CERTAIN HIGH INCOME FOREIGN COUNTRIES.

(a) *IN GENERAL.*—None of the funds made available for a fiscal year for assistance under this chapter may be made available for assistance on a grant basis for any of the high-income foreign countries described in subsection (b) for military education and training of military and related civilian personnel of such country.

(b) *HIGH-INCOME FOREIGN COUNTRIES DESCRIBED.*—The high-income foreign countries described in this subsection are Austria, Finland, the Republic of Korea, Singapore, and Spain.

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CHAPTER 8—ANTITERRORISM ASSISTANCE

SEC. 571. GENERAL AUTHORITY.—[Subject to the provisions of this chapter] *Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act)*, the President is authorized to furnish, on such terms and conditions as the President may determine, assistance to foreign countries in order to enhance the ability of their law en-

forcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

* * * * *

SEC. 573. [SPECIFIC AUTHORITIES AND] LIMITATIONS.—[(a) Notwithstanding section 660 of this Act, services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 644(m)) pursuant to section 632 of this Act from funds available to carry out this chapter.

[(b)] (a) Whenever the President determines it to be consistent with and in furtherance of the purposes of this chapter, and on such terms and conditions consistent with this Act as he may determine, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 644(m)) in United States dollars by the foreign country. Credits and the proceeds of guaranteed loans made available to such countries pursuant to the Arms Export Control Act shall not be used for such payments. Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

[(c)] (b) The Assistant Secretary of State for Democracy, Human Rights, and Labor shall be consulted in the development and implementation of the antiterrorism assistance program under this chapter, including determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

[(d)] (c) [(1) TRAINING SERVICES (INCLUDING SHORT TERM REFRESHER TRAINING) PROVIDED PURSUANT TO THIS CHAPTER MAY BE CONDUCTED OUTSIDE THE UNITED STATES ONLY IF—

[(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

[(B) such training relates to—

[(i) aviation security;

[(ii) crisis management;

[(iii) document screening techniques;

[(iv) facility security;

[(v) maritime security;

[(vi) VIP protection; or

[(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

[(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives

and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications.

[(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

[(3)] (1)(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.

[(4)(A) Articles on the United States Munitions List may be made available under this chapter only if—

[(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in paragraph (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus and armor plating), and they are directly related to antiterrorism training under this chapter;

[(ii) the recipient country is not prohibited by law from receiving assistance under one or more of the following provisions: chapter 2 of this part (relating to grant military assistance), chapter 5 of this part (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales financing); and

[(iii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

[(B) The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

[(C) No shock batons or similar devices may be provided under this chapter.]

(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional

committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

[(5)] (3) Assistance under this chapter shall not include provision of services, equipment, personnel, or facilities involved in the collection of intelligence as defined in Executive Order 12333 of December 4, 1981, other than limited training in the organization of intelligence for antiterrorism purposes.

[(e)] (d) This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

[(f)] (e) Funds made available to carry out this chapter may not be used for personnel compensation or benefits.

[SEC. 574. REPORTS TO CONGRESS.—(a)(1) Not less than thirty days before providing assistance to a foreign country under this chapter, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a written notification which specifies—

[(A) the country to which such assistance is to be provided;

[(B) the type and value of the assistance to be provided;

[(C) the terms and duration of assistance; and

[(D) an explanation of how the proposed assistance will further the objectives of this chapter to assist eligible foreign countries in deterring terrorism.

[(2) The chairman of either the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate may request, as deemed necessary, a current report on the state of observance of and respect for internationally recognized human rights in the country to which assistance is to be provided. In the event that a report is requested, no assistance under subsection (a) shall be provided to the country specified prior to transmittal of the report to the requesting committee.

[(b) The annual congressional presentation materials shall include—

[(1) a list of the countries which received assistance under this chapter for the preceding fiscal year, a list of the countries which are programmed to receive assistance under this chapter for the current fiscal year, and a list of the countries which are proposed as recipients of assistance under this chapter for the next fiscal year; and

[(2) with respect to each country listed pursuant to paragraph (1) and for each such fiscal year, a description of the assistance under this chapter furnished, programed, or proposed, including—

[(A) the place where training or other services under this chapter were or will be furnished, the duration of such training or other services, and the number of personnel from that country which were or will receive training under this chapter;

[(B) the types of equipment or other commodities which were or will be furnished under this chapter; and

[(C) whether the assistance was furnished on a grant basis, on an advance payment basis, or on some other basis.

Each report shall also describe the ways in which the provision of such assistance has furthered the objective of enhancing the ability of foreign law enforcement authorities to deter acts of terrorism.]

SEC. [575.] 574. AUTHORIZATIONS OF APPROPRIATIONS.—(a) There are authorized to be appropriated to the President to carry out this chapter \$9,840,000 for the fiscal year 1986 and \$14,680,000 for the fiscal year 1987.

(b) Amounts appropriated under this section are authorized to remain available until expended.

SEC. [576.] 575. ADMINISTRATIVE AUTHORITIES.—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.

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PART III

CHAPTER 1—GENERAL PROVISIONS

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SEC. 620H. DEPLETED URANIUM AMMUNITION.

(a) PROHIBITION.—Except as provided in subsection (b), none of the funds made available to carry out this Act or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

(1) a country that is a member of the North Atlantic Treaty Organization;

(2) a country that has been designated as a major non-NATO ally (as defined in section 644(q)); or

(3) Taiwan.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.

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CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 644. DEFINITIONS.—As used in this Act—

(a) * * *

* * * * *

(q) "Major non-NATO ally" means a country which is designated in accordance with section 517 as a major non-NATO ally for pur-

poses of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

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SEC. 652. LIMITATION UPON EXERCISE OF SPECIAL AUTHORITIES.—The President shall not exercise any special authority granted to him under section 506(a), 552(c)(2), or 610(a) of this Act unless the President, [prior to the date] *before* he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.

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