

TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 32 - FOREIGN ASSISTANCE
SUBCHAPTER II - MILITARY ASSISTANCE AND SALES
Part II - Military Assistance

§ 2318. Special authority

(a) Unforeseen emergency; national interest; determinations and reports to Congress; limitation of defense articles, defense services, and military education and training furnished

(1) If the President determines and reports to the Congress in accordance with section 2411 of this title 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 [22 U.S.C. 2751 et seq.] or any other law except this section;

he may direct, for the purposes of subchapter II of this chapter, 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 \$100,000,000 in any fiscal year.

(2) **(A)** If the President determines and reports to the Congress in accordance with section 2411 of this title that it is in the national interest of the United States to draw down 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) part VIII of subchapter I of this chapter (relating to international narcotics control assistance);

(II) part IX of subchapter I of this chapter (relating to international disaster assistance);

(III) part VIII of subchapter II of this chapter (relating to antiterrorism assistance);

(IV) part IX of subchapter II of this chapter (relating to nonproliferation assistance);

or

(V) the Migration and Refugee Assistance Act of 1962 [22 U.S.C. 2601 et seq.]; 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 \$200,000,000 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

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(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) Notification and information to Congress of assistance furnished

(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) of this section, 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 2394–1 of this title.

(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section, including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets.

(c) Commercial transportation and related services

For the purposes of any provision of law that authorizes the drawdown of defense or other articles or commodities, or defense or other services from an agency of the United States Government, such drawdown may include the supply of commercial transportation and related services that are acquired by contract for the purposes of the drawdown in question if the cost to acquire such commercial transportation and related services is less than the cost to the United States Government of providing such services from existing agency assets.

(d) Authorization of appropriations for reimbursement of applicable funds

There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

(Pub. L. 87–195, pt. II, § 506, formerly § 510, Sept. 4, 1961, 75 Stat. 437; Pub. L. 87–565, pt. II, § 201(d), Aug. 1, 1962, 76 Stat. 260; Pub. L. 88–205, pt. II, § 202(c), Dec. 16, 1963, 77 Stat. 384; Pub. L. 88–633, pt. II, § 201(e), Oct. 7, 1964, 78 Stat. 1012; Pub. L. 89–171, pt. II, § 201(g), Sept. 6, 1965, 79 Stat. 658; Pub. L. 89–583, pt. II, § 201(d), Sept. 19, 1966, 80 Stat. 803; renumbered § 506 and amended Pub. L. 90–137, pt. II, § 201(j), Nov. 14, 1967, 81 Stat. 457; Pub. L. 90–554, pt. II, § 201(b), Oct. 8, 1968, 82 Stat. 962; Pub. L. 91–175, pt. II, § 202, Dec. 30, 1969, 83 Stat. 820; Pub. L. 92–226, pt. II, § 201(d), pt. III, § 304(a)(2), Feb. 7, 1972, 86 Stat. 25, 28; Pub. L. 93–189, § 12(b)(4), Dec. 17, 1973, 87 Stat. 721; Pub. L. 93–559, § 11, Dec. 30, 1974, 88 Stat. 1798; Pub. L. 94–329, title I, § 102, June 30, 1976, 90 Stat. 730; Pub. L. 96–92, § 5(b), Oct. 29, 1979, 93 Stat. 702; Pub. L. 96–533, title I, § 112(c), Dec. 16, 1980, 94 Stat. 3139; Pub. L. 97–113, title I, § 110(b), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 101–167, title V, § 551(b), Nov. 21, 1989, 103 Stat. 1236; Pub. L. 104–164, title I, § 103(a), (b), July 21, 1996, 110 Stat. 1423; Pub. L. 105–118, title V, § 576, Nov. 26, 1997, 111 Stat. 2433; Pub. L. 106–280, title I, § 121, Oct. 6, 2000, 114 Stat. 850.)

References in Text

The Arms Export Control Act, referred to in subsec. (a)(1)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Migration and Refugee Assistance Act of 1962, referred to in subsec. (a)(2)(A)(i)(V), is Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, which is classified principally to chapter 36 (§ 2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

References to Subchapter II Deemed To Exclude Certain Parts of Subchapter II

References to subchapter II of this chapter are deemed to exclude parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

Amendments

2000—Subsec. (a)(2)(A)(i)(III) to (V). Pub. L. 106–280, § 121(b), added subcls. (III) to (V) and struck out former subcl. (III) which read as follows: “the Migration and Refugee Assistance Act of 1962; or”.

Subsec. (a)(2)(B). Pub. L. 106–280, § 121(a), substituted “\$200,000,000” for “\$150,000,000” in introductory provisions.

1997—Subsec. (b)(2). Pub. L. 105–118, § 576(1), inserted before period at end “, including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets”.

Subsecs. (c), (d). Pub. L. 105–118, § 576(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

1996—Subsec. (a)(1). Pub. L. 104–164, § 103(a), substituted “\$100,000,000” for “\$75,000,000” in concluding provisions.

Subsec. (a)(2)(A). Pub. L. 104–164, § 103(b)(1), substituted “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—” and cls. (i) and (ii) for “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 parts VIII and IX of subchapter I of this chapter, 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.”

Subsec. (a)(2)(B). Pub. L. 104–164, § 103(b)(2), substituted “\$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—” and cls. (i) to (iii) for “\$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.”

Subsec. (b)(1). Pub. L. 104–164, § 103(b)(3), inserted at end “In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i) of this section, 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 2394–1 of this title.”

1989—Subsec. (a). Pub. L. 101–167 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

1981—Subsec. (a). Pub. L. 97–113 increased fiscal year limitation to \$75,000,000 from \$50,000,000 on aggregate value of assistance furnished.

1980—Subsec. (a). Pub. L. 96–533 increased to \$50,000,000 from \$10,000,000 fiscal year limitation on aggregate value of assistance furnished.

1979—Subsec. (a). Pub. L. 96–92 authorized military education and training assistance, substituted \$10,000,000 fiscal year limitation on aggregate value of assistance furnished for \$67,500,000 fiscal year limitation on total value of defense articles and defense services ordered, and eliminated requirement for determination that failure to respond immediately to the emergency would result in serious harm to vital United States security interests, deleted provision authorizing reimbursement from subsequent appropriations which is covered in subsec. (c), provision for effectiveness of authority only as provided in an appropriation Act, and requirement of information to Congress which is covered in subsec. (b)(2).

Subsec. (b). Pub. L. 96–92 required notification of Congressional Committees, reenacted former subsec. (a) provision for information to Congress respecting assistance furnished, included military education and training, and deleted authorization of Defense Department, in applicable appropriations, to incur obligations in anticipation of reimbursements, and authorization of appropriations for reimbursement purposes.

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Subsec. (c). Pub. L. 96–92 incorporated reimbursement provision of former subsec. (b) and expanded section to include military education and training.

1976—Subsec. (a). Pub. L. 94–329 redesignated existing provisions as pars. (1) to (3), limited the President’s authority to act by inserting requirements that he act only in cases of unforeseen emergencies requiring immediate military assistance to a foreign country or international organization where vital United States security interests are concerned when such emergency requirement cannot be met under authority of the Arms Export Control Act or any other law, reduced the President’s authority from \$150 million to \$67.5 million in any fiscal year, and required current reporting to Congress on the use of such authority.

1974—Subsec. (a). Pub. L. 93–559 substituted “fiscal year 1975” for “fiscal year 1974” wherever appearing and “\$150,000,000” for “\$250,000,000”.

1973—Subsec. (a). Pub. L. 93–189 substituted “the fiscal year 1974”, “in the security interests”, and “\$250,000,000” for “the fiscal year 1972”, “vital to the security”, and “\$300,000,000”, respectively.

1972—Subsec. (a). Pub. L. 92–226 substituted “1972” for “1970 and the fiscal year 1971” and “the fiscal year 1972” for “each of the fiscal years 1970 and 1971”, and repealed last sentence providing for prompt notice of action taken to Committees on Foreign Relations, Appropriations, and Armed Services of the Senate and Speaker of the House.

1969—Subsec. (a). Pub. L. 91–175 substituted “1970 and the fiscal year 1971” for “1969” in first sentence, and substituted “in each of the fiscal years 1970 and 1971” for “in the fiscal year 1969” in second sentence.

1968—Subsec. (a). Pub. L. 90–554 substituted “1969” for “1968” wherever appearing.

1967—Subsec. (a). Pub. L. 90–137 substituted “1968” for “1967” wherever appearing.

1966—Subsec. (a). Pub. L. 89–583 substituted “1967” for “1966” wherever appearing.

1965—Subsec. (a). Pub. L. 89–171 substituted “1966” for “1965” wherever appearing.

1964—Subsec. (a). Pub. L. 88–633 substituted “1965” for “1964” wherever appearing.

1963—Subsec. (a). Pub. L. 88–205 substituted “1964” for “1963” wherever appearing.

1962—Subsec. (a). Pub. L. 87–565 substituted “1963” for “1962” wherever appearing.

Change of Name

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

Delegation of Functions

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.