



Security Cooperation Issues: FY2017 NDAA Outcomes

Introduction

The National Defense Authorization Act (NDAA) for FY2017 (P.L. 114-328) contains several dozen provisions on “security cooperation,” defined to mean programs, activities, and other interactions of the U.S. Department of Defense (DOD) with foreign security establishments for the purpose of increasing partner capabilities, providing U.S. armed forces with access, or promoting relationships relevant to U.S. national security interests.

Although security cooperation has long been a feature of U.S. relations with foreign militaries, relevant authorities contained in Title 10 (Armed Forces) of the U.S. Code have accumulated over time and are scattered in permanent law and temporary NDAA provisions. Motivated to streamline existing authorities, reform DOD’s management of the security cooperation enterprise, and facilitate congressional oversight, DOD and the 114th Congress developed various legislative proposals—efforts that culminated in provisions enacted in the FY2017 NDAA.

Given the breadth of enacted changes to DOD security cooperation authorities and management practices, the 115th Congress may choose to monitor the implementation of the new provisions and critically assess whether further changes, including to resources, are needed to improve the effectiveness of U.S. government-wide security sector assistance and cooperation efforts.

Authority Codification and Consolidation

Subtitle E of the NDAA consolidated many of DOD’s core security cooperation authorities into a new chapter of Title 10 (Chapter 16). The changes reorganized, modified, and superseded existing authorities in four main areas:

- **Military-to-military engagements, exchanges, and contacts**, including payment of personnel expenses and the extension of such authorities to non-military security personnel (with Secretary of State concurrence).
- **Combined exercises and training with foreign forces**, including with U.S. general purpose forces and special operations forces.
- **Operational support and foreign capacity building**, including logistic support, supplies, and services associated with operations in which the U.S. military is not directly participating; defense institution building; and a consolidated capacity building authority to train and equip foreign forces as well as sustain such support.
- **Educational and training activities**, including foreign participation in service academies and other DOD-sponsored programs, such as the DOD State Partnership Program, the Regional Centers for Security Studies, and the Regional Defense Combating Terrorism Fellowship Program, among others.

Enterprise Management

The FY2017 NDAA contained several administrative and organizational instructions for the management and oversight of DOD security cooperation policy.

- The Secretary of Defense is directed to identify a single official and office in his office, at the Under Secretary level or below, to conduct oversight of strategic security cooperation and overall resource allocations.
- The Secretary of Defense is required to establish a program for security cooperation assessment, monitoring, and evaluation (AME).
- The Director of the Defense Security Cooperation Agency (DSCA) is responsible for the execution and administration of DOD’s provision of defense articles, military training, and other defense-related services.
- The Secretary of Defense is required to establish a program, to be managed by DSCA, to further professionalize the security cooperation workforce.
- The Secretary of Defense is required to conduct an annual review of the program and structure of its Regional Centers for Security Studies, including their alignment with strategic priorities of the Department.
- The Department is encouraged to improve the use and functionality of Global Theater Security Cooperation Management Information Systems (G-TSCMIS) as a DOD-wide database on its programs and activities.

Congressional Oversight Tools

The FY2017 NDAA also incorporated new or extended existing mechanisms for congressional oversight and public accountability. Such tools included requirements to prepare reports, certify, or provide advance notice of certain programs and activities. The NDAA also required the issuance, within a specified time period, of guidance and regulations to carry out certain new security cooperation authorities. In the case of the new requirement for AME programming, the NDAA requires evaluation summaries to be publicly available. In addition:

- The President is required to conduct a quadrennial review of programs, policies, authorities, and resources pertaining to U.S. security sector assistance—beginning in January 2018 and every four years through 2034.
- Beginning with the FY2019 budget, due in 2018, the President is required to submit a formal, consolidated budget request for DOD’s security cooperation efforts, including programming for AME and workforce development. Beginning immediately, DOD is required to submit quarterly reports to Congress on the obligation and expenditure of security cooperation funds.
- Within 180 days of enactment, DOD is to submit initial policy guidance on the roles, responsibilities, and

processes for implementing its new foreign capacity building authority. Final guidance is due 270 days after enactment. Not more than 65% of available security cooperation funds may be used for such capacity building efforts until the congressional defense committees receive DOD's policy guidance.

- Within 180 days of enactment, DOD is to submit interim guidance on the establishment of a Security Cooperation Workforce Development program. Final guidance is due within one year; annual status reports are due starting in March 2018 and through 2021.
- Beginning in January 2018, DOD is required to submit annual reports on the use of at least 20 of its security cooperation authorities—and to justify programs and activities on the basis of performance metrics, in relation to strategic objectives, and on a country-by-country basis, if possible. Other security cooperation authorities require separate reports.
- Due in November 2018 is an independent evaluation of the implementation of DOD's September 2016 strategic framework for security cooperation, previously mandated by the FY2016 NDAA (P.L. 114-92).
- By October 2017, DOD is required to report to congressional defense committees on any disconnects between security cooperation authorities previously authorized and the post-FY2017 NDAA legal regime.

Funding Provisions

The sources of current funding for DOD security cooperation programs and activities remain dispersed across Defense-wide and military department-specific Operations and Maintenance (O&M) and overseas contingency operations (OCO) accounts. The NDAA also continued or modified security cooperation funding limitations, such as annual funding caps.

Foreign Security Forces Capacity Building Funds

As discussed above, the NDAA provided DOD with authority to provide training, equipping, and related sustainment capabilities to foreign security forces for seven specified purposes, effectively consolidating previous stand-alone authorities and modifying both scope of programming and planning processes. Although the Senate-passed version of the NDAA envisioned a new account to be used for foreign capacity building, the final version did not contain this provision. Instead, the enacted NDAA required that all such capacity building be derived from O&M, Defense-wide, funds available specifically to DSCA.

For FY2017, the NDAA authorized DSCA to receive almost \$2.8 billion in base and overseas contingency operations (OCO) funds. In addition, the NDAA specified that foreign capacity building funds in FY2017 may be derived from funds available for DOD counterdrug activities, Counter Islamic State of Iraq and the Levant (C-ISIL) funds, and remaining funds (\$16.5 million as of early January) previously appropriated for the Counterterrorism Partnerships Fund (the NDAA did not authorize new funds for this initiative in FY2017).

Foreign Assistance Transfer Authority

The NDAA conferees added a new provision that authorized DOD to transfer up to \$75 million to other U.S. departments and agencies for the purpose of implementing or supporting foreign assistance programs and activities that advance DOD security cooperation objectives. The NDAA did not identify from where within DOD's budget such transfers would be derived but specified that the authority may only be used when foreign assistance programming is necessary for the effectiveness of DOD security cooperation and cannot be carried out by DOD.

State Department Role

The NDAA continues and in some cases may increase the State Department's statutory role in the decisionmaking process of several DOD security cooperation programs and activities, including the new foreign security forces capacity building authority. While other DOD security cooperation efforts may variously require Secretary of State consultation (notice) or concurrence (approval), the new capacity building authority requires joint development, planning, and coordination of programs to combat terrorism, weapons of mass destruction, drugs, transnational organized crime, as well as to support maritime and border security, military intelligence, and coalition operations.

Selected Other Provisions

Beyond its consolidation of authorities in Chapter 16 of the U.S. Code, the FY2017 NDAA included extensions and modifications to authorities and limitations of DOD activity and funds in selected countries, regions, and overseas contingencies. Such provisions pertained to the following:

- Special Defense Acquisition Fund (SDAF);
- Commanders' Emergency Response Program (CERP);
- Coalition Support Fund (CSF);
- C-ISIL Fund, including Iraq and Syria Train and Equip;
- Afghanistan Security Forces Fund (ASFF) and several other Afghanistan-related provisions;
- Ukraine Security Assistance Initiative (USAI);
- Training of eastern European military forces in the course of multilateral exercises;
- Border security operations support with Jordan, Lebanon, Egypt, and Tunisia;
- Authority for U.S. special operations forces combating terrorist to support foreign forces, irregular forces, groups, or individuals;
- Vetted Syrian opposition assistance authority;
- Cooperation Threat Reduction (CTR) program;
- Support for the operations and activities of the Office of Security Cooperation (OSC) in Iraq;
- Support for counterdrug and counter-transnational organized crime (C-TOC) activities; and
- Renaming of the South China Sea Initiative.

Source material, legislative research, and further policy analysis are available upon request. For background, see CRS Report R44673, Security Cooperation: Comparison of Proposed Provisions for the FY2017 National Defense Authorization Act (NDAA).

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