

107TH CONGRESS
1ST SESSION

H. CON. RES. 288

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2001

Received

CONCURRENT RESOLUTION

Directing the Secretary of the Senate to make a technical
correction in the enrollment of S. 1438.

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That in the enrollment of the bill (S. 1438)
3 to authorize appropriations for fiscal year 2002 for mili-
4 tary activities of the Department of Defense, for military
5 construction, and for defense activities of the Department

1 of Energy, to prescribe personnel strengths for such fiscal
 2 year for the Armed Forces, and for other purposes, the
 3 Secretary of the Senate shall make the following correc-
 4 tion:

5 Strike section 1212 and insert the following:

6 **SEC. 1212. EXTENSION OF AUTHORITY FOR INTER-**
 7 **NATIONAL COOPERATIVE RESEARCH AND**
 8 **DEVELOPMENT PROJECTS.**

9 (a) ELIGIBILITY OF FRIENDLY FOREIGN COUN-
 10 TRIES.—Section 2350a of title 10, United States Code,
 11 is amended—

12 (1) in subsection (a)—

13 (A) by inserting “(1)” after “(a) AUTHOR-
 14 ITY TO ENGAGE IN COOPERATIVE R&D
 15 PROJECTS.—”;

16 (B) by striking “major allies of the United
 17 States or NATO organizations” and inserting
 18 “countries or organizations referred to in para-
 19 graph (2)”; and

20 (C) by adding at the end the following new
 21 paragraph:

22 “(2) The countries and organizations with which the
 23 Secretary may enter into a memorandum of agreement (or
 24 other formal agreement) under paragraph (1) are as fol-
 25 lows:

1 “(A) The North Atlantic Treaty Organization.

2 “(B) A NATO organization.

3 “(C) A member nation of the North Atlantic

4 Treaty Organization.

5 “(D) A major non-NATO ally.

6 “(E) Any other friendly foreign country.”;

7 (2) in subsection (b)(1)—

8 (A) by striking “its major non-NATO al-

9 lies” and inserting “a country or organization

10 referred to in subsection (a)(2)”; and

11 (B) by striking “(NATO)”;

12 (3) in subsection (d)—

13 (A) in paragraph (1), by striking “the

14 major allies of the United States” and inserting

15 “countries and organizations referred to in sub-

16 section (a)(2)”; and

17 (B) in paragraph (2)—

18 (i) by striking “major ally of the

19 United States” and inserting “country or

20 organization referred to in subsection

21 (a)(2)”; and

22 (ii) by striking “that ally’s contribu-

23 tion” and inserting “the contribution of

24 that country or organization”;

25 (4) in subsection (e)(2)—

1 (A) in subparagraph (A), by striking “one
2 or more of the major allies of the United
3 States” and inserting “any country or organiza-
4 tion referred to in subsection (a)(2)”;

5 (B) in subparagraph (B), by striking
6 “major allies of the United States or NATO or-
7 ganizations” and inserting “countries and orga-
8 nizations referred to in subsection (a)(2)”;

9 (C) in subparagraph (C), by striking
10 “major allies of the United States” and insert-
11 ing “countries and organizations referred to in
12 subsection (a)(2)”;

13 (D) in subparagraph (D), by striking
14 “major allies of the United States” and insert-
15 ing “countries and organizations referred to in
16 subsection (a)(2)”;

17 (5) paragraphs (1)(A) and (4)(A) of subsection
18 (g), by striking “major allies of the United States
19 and other friendly foreign countries” and inserting
20 “countries referred to in subsection (a)(2)”;

21 (6) in subsection (h), by striking “major allies
22 of the United States” and inserting “member na-
23 tions of the North Atlantic Treaty Organization,
24 major non-NATO allies, and other friendly foreign
25 countries”; and

1 (7) in subsection (i)—

2 (A) in paragraph (1), by striking “major
3 allies of the United States or NATO organiza-
4 tions” and inserting “countries and organiza-
5 tions referred to in subsection (a)(2)”;

6 (B) by striking paragraph (2); and

7 (C) by redesignating paragraphs (3) and
8 (4) as paragraphs (2) and (3), respectively.

9 (b) NOTICE-AND-WAIT REQUIREMENT.—Subsection
10 (a) of such section is further amended by adding at the
11 end the following new paragraph:

12 “(3) If such a memorandum of understanding (or
13 other formal agreement) is with a country referred to in
14 subparagraph (E) of paragraph (2), such memorandum
15 (or agreement) may go into effect only after the Secretary
16 submits to the Committees on Armed Services and on For-
17 eign Relations of the Senate and to the Committees on
18 Armed Services and on International Relations of the
19 House of Representatives a report with respect to the pro-
20 posed memorandum (or agreement) and a period of 30
21 days has passed after the report has been submitted.”.

22 (c) DELEGATION OF AUTHORITY TO DETERMINE
23 ELIGIBILITY OF PROJECTS.—Subsection (b)(2) of such
24 section is amended by striking “to the Deputy Secretary
25 of Defense” and all that follows through the period at the

1 end and inserting “to the Deputy Secretary of Defense
2 and to one other official of the Department of Defense.”.

3 (d) REVISION OF REQUIREMENT FOR ANNUAL RE-
4 PORT ON ELIGIBLE COUNTRIES.—Subsection (f)(2) of
5 such section is amended to read as follows:

6 “(2) Not later than January 1 of each year, the Sec-
7 retary of Defense shall submit to the Committees on
8 Armed Services and on Foreign Relations of the Senate
9 and to the Committees on Armed Services and on Inter-
10 national Relations of the House of Representatives a re-
11 port specifying—

12 “(A) the countries that are eligible to partici-
13 pate in a cooperative project agreement under this
14 section; and

15 “(B) the criteria used to determine the eligi-
16 bility of such countries.”.

17 (e) CONFORMING AMENDMENTS.—(1) The heading
18 of such section is amended to read as follows:

19 “§ 2350a. Cooperative research and development
20 agreements: NATO organizations; allied
21 and friendly foreign countries”.

22 (2) The item relating to such section in the table of
23 sections at the beginning of subchapter II of chapter 138
24 of title 10, United States Code, is amended to read as
25 follows:

“2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries.”.

1 **SEC. 1213. COOPERATIVE AGREEMENTS WITH FOREIGN**
 2 **COUNTRIES AND INTERNATIONAL ORGANIZA-**
 3 **TIONS FOR RECIPROCAL USE OF TEST FA-**
 4 **CILITIES.**

5 (a) **AUTHORITY.**—Subchapter II of chapter 138 of
 6 title 10, United States Code, is amended by adding at the
 7 end the following new section:

8 **“§ 2350l. Cooperative agreements for reciprocal use**
 9 **of test facilities: foreign countries and**
 10 **international organizations**

11 “(a) **AUTHORITY.**—The Secretary of Defense, with
 12 the concurrence of the Secretary of State, may enter into
 13 a memorandum of understanding (or other formal agree-
 14 ment) with a foreign country or international organization
 15 to provide for the testing, on a reciprocal basis, of defense
 16 equipment (1) by the United States using test facilities
 17 of that country or organization, and (2) by that country
 18 or organization using test facilities of the United States.

19 “(b) **PAYMENT OF COSTS.**—A memorandum or other
 20 agreement under subsection (a) shall provide that, when
 21 a party to the agreement uses a test facility of another
 22 party to the agreement, the party using the test facility
 23 is charged by the party providing the test facility in ac-
 24 cordance with the following principles:

1 “(1) The user party shall be charged the
2 amount equal to the direct costs incurred by the pro-
3 vider party in furnishing test and evaluation services
4 by the providing party’s officers, employees, or gov-
5 ernmental agencies.

6 “(2) The user party may also be charged indi-
7 rect costs relating to the use of the test facility, but
8 only to the extent specified in the memorandum or
9 other agreement.

10 “(c) DETERMINATION OF INDIRECT COSTS; DELEGA-
11 TION OF AUTHORITY.—(1) The Secretary of Defense shall
12 determine the appropriateness of the amount of indirect
13 costs charged by the United States pursuant to subsection
14 (b)(2).

15 (2) The Secretary may delegate the authority under
16 paragraph (1) only to the Deputy Secretary of Defense
17 and to one other official of the Department of Defense.

18 “(d) RETENTION OF FUNDS COLLECTED BY THE
19 UNITED STATES.—Amounts collected by the United
20 States from a party using a test facility of the United
21 States pursuant to a memorandum or other agreement
22 under this section shall be credited to the appropriation
23 accounts from which the costs incurred by the United
24 States in providing such test facility were paid.

25 “(e) DEFINITIONS.—In this section:

1 “(1) The term ‘direct cost’, with respect to the
2 use of a test facility pursuant to a memorandum or
3 other agreement under subsection (a)—

4 “(A) means any item of cost that is easily
5 and readily identified to a specific unit of work
6 or output within the test facility where the use
7 occurred, that would not have been incurred if
8 such use had not occurred; and

9 “(B) may include costs of labor, materials,
10 facilities, utilities, equipment, supplies, and any
11 other resources of the test facility that are con-
12 sumed or damaged in connection with—

13 “(i) the use; or

14 “(ii) the maintenance of the test facil-
15 ity for purposes of the use.

16 “(2) The term ‘indirect cost’, with respect to
17 the use of a test facility pursuant to a memorandum
18 or other agreement under subsection (a)—

19 “(A) means any item of cost that is not
20 easily and readily identified to a specific unit of
21 work or output within the test facility where the
22 use occurred; and

23 “(B) may include general and administra-
24 tive expenses for such activities as supporting
25 base operations, manufacturing, supervision,

1 procurement of office supplies, and utilities that
 2 are accumulated costs allocated among several
 3 users.

4 “(3) The term ‘test facility’ means a range or
 5 other facility at which testing of defense equipment
 6 may be carried out.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
 8 at the beginning of such subchapter is amended by adding
 9 at the end the following new item:

“2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations.”.

10 **SEC. 1214. SENSE OF CONGRESS ON ALLIED DEFENSE**
 11 **BURDENSARING.**

12 It is the sense of Congress that—

13 (1) the efforts of the President to increase de-
 14 fense burdensharing by allied and friendly nations
 15 deserve strong support; and

16 (2) host nation support agreements with those
 17 nations in which United States military personnel
 18 are assigned to permanent duty ashore should be ne-
 19 gotiated consistent with section 1221(a)(1) of the
 20 National Defense Authorization Act for Fiscal Year
 21 1998 (Public Law 105–85; 50 U.S.C. 1541(a)(1)),
 22 which sets forth a goal of obtaining from any such
 23 host nation financial contributions that amount to
 24 75 percent of the nonpersonnel costs incurred by the

1 United States Government for stationing United
2 States military personnel in that nation.

3 **Subtitle C—Reports**

4 **SEC. 1221. REPORT ON SIGNIFICANT SALES AND TRANS-**
5 **FERS OF MILITARY HARDWARE, EXPERTISE,**
6 **AND TECHNOLOGY TO THE PEOPLE’S REPUB-**
7 **LIC OF CHINA.**

8 Section 1202 of the National Defense Authorization
9 Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat.
10 781; 10 U.S.C. 113 note) is amended by adding at the
11 end the following new subsection:

12 “(d) REPORT ON SIGNIFICANT SALES AND TRANS-
13 FERS TO CHINA.—(1) The report to be submitted under
14 this section not later than March 1, 2002, shall include
15 in a separate section a report describing any significant
16 sale or transfer of military hardware, expertise, and tech-
17 nology to the People’s Republic of China. The report shall
18 set forth the history of such sales and transfers since
19 1995, forecast possible future sales and transfers, and ad-
20 dress the implications of those sales and transfers for the
21 security of the United States and its friends and allies
22 in Asia.

23 “(2) The report shall include analysis and forecasts
24 of the following matters related to military cooperation be-
25 tween selling states and the People’s Republic of China:

1 “(A) The extent in each selling state of govern-
2 ment knowledge, cooperation, or condoning of sales
3 or transfers of military hardware, expertise, or tech-
4 nology to the People’s Republic of China.

5 “(B) An itemization of significant sales and
6 transfers of military hardware, expertise, or tech-
7 nology from each selling state to the People’s Re-
8 public of China that have taken place since 1995,
9 with a particular focus on command, control, com-
10 munications, and intelligence systems.

11 “(C) Significant assistance by any selling state
12 to key research and development programs of China,
13 including programs for development of weapons of
14 mass destruction and delivery vehicles for such
15 weapons, programs for development of advanced
16 conventional weapons, and programs for develop-
17 ment of unconventional weapons.

18 “(D) The extent to which arms sales by any
19 selling state to the People’s Republic of China are
20 a source of funds for military research and develop-
21 ment or procurement programs in the selling state.

22 “(3) The report under paragraph (1) shall include,
23 with respect to each area of analysis and forecasts speci-
24 fied in paragraph (2)—

1 “(A) an assessment of the military effects of
2 such sales or transfers to entities in the People’s Re-
3 public of China;

4 “(B) an assessment of the ability of the Peo-
5 ple’s Liberation Army to assimilate such sales or
6 transfers, mass produce new equipment, or develop
7 doctrine for use; and

8 “(C) the potential threat of developments re-
9 lated to such effects on the security interests of the
10 United States and its friends and allies in Asia.”.

11 **SEC. 1222. REPEAL OF REQUIREMENT FOR REPORTING TO**
12 **CONGRESS ON MILITARY DEPLOYMENTS TO**
13 **HAITI.**

14 Section 1232(b) of the National Defense Authoriza-
15 tion Act for Fiscal Year 2000 (Public Law 106–65; 113
16 Stat. 788; 50 U.S.C. 1541 note) is repealed.

17 **SEC. 1223. REPORT BY COMPTROLLER GENERAL ON PROVI-**
18 **SION OF DEFENSE ARTICLES, SERVICES, AND**
19 **MILITARY EDUCATION AND TRAINING TO**
20 **FOREIGN COUNTRIES AND INTERNATIONAL**
21 **ORGANIZATIONS.**

22 (a) STUDY.—The Comptroller General shall conduct
23 a study of the following:

24 (1) The benefits derived by each foreign coun-
25 try or international organization from the receipt of

1 defense articles, defense services, or military edu-
2 cation and training provided after December 31,
3 1989, pursuant to the drawdown of such articles,
4 services, or education and training from the stocks
5 of the Department of Defense under section 506,
6 516, or 552 of the Foreign Assistance Act of 1961
7 (22 U.S.C. 2318, 2321j, or 2348a) or any other pro-
8 vision of law.

9 (2) Any benefits derived by the United States
10 from the provision of defense articles, defense serv-
11 ices, and military education and training described
12 in paragraph (1).

13 (3) The effect on the readiness of the Armed
14 Forces as a result of the provision by the United
15 States of defense articles, defense services, and mili-
16 tary education and training described in paragraph
17 (1).

18 (4) The cost to the Department of Defense with
19 respect to the provision of defense articles, defense
20 services, and military education and training de-
21 scribed in paragraph (1).

22 (b) REPORTS.—(1) Not later than April 15, 2002,
23 the Comptroller General shall submit to Congress an in-
24 terim report containing the results to that date of the
25 study conducted under subsection (a).

- 1 (2) Not later than August 1, 2002, the Comptroller
- 2 General shall submit to Congress a final report containing
- 3 the results of the study conducted under subsection (a).

Passed the House of Representatives December 13,
2001.

Attest:

JEFF TRANDAHL,
Clerk.